



# Oregon State University

## REQUEST FOR PROPOSAL (RFP) #2022-008814

### HEAT PLANT REPURPOSE DESIGN SERVICES

ISSUE DATE: MAY 25, 2022

NON-MANDATORY PRE-PROPOSAL CONFERENCE:  
MAY 31, 2022 at 8:30 AM Pacific Time (PT) via Zoom

RFP DUE DATE/TIME:  
JUNE 16, 2022 at 2:00 PM Pacific Time (PT) via  
electronic submission to [bids@oregonstate.edu](mailto:bids@oregonstate.edu)

QUESTION DEADLINE: JUNE 9, 2022 at 12:00 PM Pacific Time (PT)

PROJECT NUMBER: 2387-22

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It is the Proposer's responsibility to continue to monitor the [OSU Business and Bid Opportunities](#) website for Addenda. Failure to acknowledge any Addenda in the Transmittal Letter may cause your Proposal to be considered non-responsive.

*OSU standards and policies govern this solicitation ([Procurement Thresholds and Methods, Procurement Solicitations and Contracts](#)) unless otherwise referenced or stated.*

## **1.0 INTRODUCTION**

**1.1** Oregon State University (“OSU” and/or “Owner”) is conducting a competitive **TWO-STEP** Request for Proposals (RFP) process to retain ONE (1) Firm to provide design professional services for the Heat Plant Repurpose Design Services (*the “Project”*).

**OSU WILL ONLY BE ACCEPTING SEALED PROPOSALS ELECTRONICALLY** - Proposals are to be submitted to [bids@oregonstate.edu](mailto:bids@oregonstate.edu) by the Due Date/Time.

**VIRTUAL NON-MANDATORY PRE-PROPOSAL CONFERENCE-** A virtual Non-Mandatory Pre-Proposal Conference will be held at 8:30 AM PT on May 31, 2022 via Zoom. Firms wishing to attend shall e-mail [constructioncontracts@oregonstate.edu](mailto:constructioncontracts@oregonstate.edu) no later than 30 minutes in advance to receive the Zoom link. The email subject line should contain the Solicitation Number/Name and Firm Name.

**MANDATORY SITE-VISIT** – A Mandatory Site-Visit shall take place on June 7, 2022 at 2:00 PM PT with attendees meeting outside the double doors on the West side of the Heat Plant (501 Benton Place). Parking and building location information can be found at [www.oregonstate.edu](http://www.oregonstate.edu).

Campus Safety Policies for Face Covering and Physical Distancing requirements related to COVID-19 are located at <https://covid.oregonstate.edu/safety-policies>.

All questions shall be submitted via e-mail to [constructioncontracts@oregonstate.edu](mailto:constructioncontracts@oregonstate.edu) by the Question Deadline in order to be addressed. The email subject line should contain the Solicitation Number/Name and Firm Name.

**1.2 Background.** Oregon State University in Corvallis, Oregon is located within the traditional homelands of the Mary's River or Ampinefu Band of Kalapuya. Following the Willamette Valley Treaty of 1855 (Kalapuya etc. Treaty), Kalapuya people were forcibly removed to reservations in Western Oregon. Today, living descendants of these people are a part of the Confederated Tribes of Grand Ronde Community of Oregon (<https://www.grandronde.org>) and the Confederated Tribes of the Siletz Indians (<https://ctsi.nsn.us>).

Founded in 1868 as Oregon's land grant institution, OSU serves the state, the nation and the world as a premier 21st-century research university. OSU is committed to exceptional research, discovery, innovation and engagement — and to integrating its research and engagement mission with the delivery of a high-quality, globally relevant and affordable education for the people of Oregon and beyond. OSU is one of only two land, sea, space, and sun grant universities in the U.S. and is the only university in Oregon to have earned both Carnegie Classifications for Very High Research Activity and Community Engagement.

The university's 570-acre main campus is located in the city of Corvallis, a vibrant college town of nearly 58,000 in the heart of Western Oregon's Willamette Valley. Corvallis consistently ranks among the safest, most highly educated and greenest small cities in the nation.

**1.3 Location.** 501 Benton Place Corvallis, OR 97331.

**1.4 Summary of Work.** The Heat Plant Repurpose project also includes renovation of the Benton Place corridor located between Washington Way and Jefferson Way (north/south) and between the Heat Plant/McAlexander Fieldhouse and Goss Stadium/Snell Hall (east/west). This project is within the Central Area of Campus, which is within the OSU Historic District.

The Heat Plant Repurpose project includes repurposing of the Heat Plant building into a science/physics classroom/lab building. The Physical Heating Plant (Heat Plant) original brick building was built in 1923, with a 1948 addition (west brick façade and east concrete block façade), a 1949 chemical storage shed addition attached at the NE corner and south face of McAlexander), and a 1959 addition (west brick façade and south/east corrugated metal façade). The original 175-foot smokestack was demolished in 1994. The adjacent underground tank was demolished in 2021. The existing building has approximately 15,000 SF plus 8,150 SF on a lower level. The volume of the building is such that a 2<sup>nd</sup> floor may be considered as well as a potential small addition to the south. To be confirmed as part of the programming process, the building is likely to include Physics department teaching/research dry/computational and laser labs, teaching spaces, student engagement, and associated offices/administration.

Key considerations of the Heat Plant portion of the project includes the following:

- Promote inclusive excellence and provide innovative and transformative learning and research experiences enabling all students and employees to advance inclusive excellence;
- Maximize square footage potential within the existing Heat Plant plus potential small addition to the south.
- Sustainability with advancement of OSU's carbon reduction goals;
- Seismic upgrade;
- Heat Plant is historically significant building within the OSU Historic District;
- Propel OSU's science research and teaching enterprise into the next generation of innovation, collaboration and interdisciplinary impact;
- Spotlight a thoughtful crossover between distinctive research and education domains to fuel new ideas;

The Benton Place corridor renovation portion of the project is one of the major projects identified in the OSU Transportation Plan. The vision of the corridor includes dedicated pedestrian and bicycle facilities to improve this north/south connection for students and better serve both the variety of uses along the corridor and campus as a whole. The corridor will include a cycle-track from the north side of Washington Way to provide a direct route for bicyclists. Surface parking west of the existing Benton Place to be removed to accommodate the cycle-track, as well as enhance pedestrian facilities around Goss Stadium to support OSU athletics and events.

Key considerations of the Benton Place portion of the project includes the following:

- Design to be consistent with OSU's Corvallis Campus Vision, Campus Master Plan, Historic Preservation Plan and Transportation Plan.
- Pedestrian connectivity, plaza, gathering spaces.
- Two-way cycle-track for bicyclists and connectivity to Washington Way and Jefferson Way.
- Secure covered bike parking garage.
- Public Safety
- Coordination and connection with the Washington Way project (under construction from Fall 2022 through end of 2023).

- Coordination and connection with the Community Slope project to the north (later phase construction dates yet to be determined).
- Coordination and connection with the Arts and Education Complex (AEC) project to the east (which includes a new Fire Lane from Benton Place to the soon to be renovated South Kerr Parking Lot). This project will be substantially complete in late 2023.
- Working closely with Campus Infrastructure, Transportation, Athletics, ROTC/McAlexander, Campus Infrastructure, AEC, and the adjacent Heat Plant Repurpose facility. Though this portion of the project is part of the Heat Plant Repurpose project, it is part of a larger campus wide vision and plan.

OSU is considering including improvements to the roof and exterior shell of McAlexander Fieldhouse. The full scope of work will be determined in the Schematic Design phase.

**1.5 Scope of Services.** Scope of Programming services will include: site visits, in-person and/or virtual meetings to interview key stakeholders with meeting minutes, test fits, land use & building code exploration, outline space utilization, assigned & gross square footage, building support requirements, preliminary room data sheets, initial project schedule, development of project goals and refinement of guiding principles that will be a key element to the next phase., and preliminary construction cost estimate.

Schematic Design services will include: site visits; in-person and/or virtual meetings to present schematic design concepts and updates; meeting minutes; land development code (including HRC) and building code review with preliminary fire life safety documents/plans; identification of administrative and permit processing requirements (including HRC) as relevant (including OSU Design & Construction Standards); update of room data sheets; development of schematic design studies and graphics to satisfy program requirements and design to meet construction budget, availability of utilities, effect of codes and ordinances, safety & energy requirements, access to all spaces for all people, historical character of the building and other factors and design criteria identified by Owner and Design Professional; develop general exterior materials and interior finish materials; develop drawings and outline specs. for Owner's approval and as enough documentation for a construction cost estimate; a construction cost estimate; develop of questions/materials for a pre-development meeting with the City of Corvallis; update and development of the project schedule; and a construction cost estimate with a design that is within budget.

Documents may include but are not limited to:

- 1) Code Review/Prelim Fire Life Safety Plan
- 2) Site Plan including civil and landscape design
- 3) Floor plans with room names and room square footage
- 4) Roof Plan
- 5) Primary exterior elevations
- 6) Primary building section(s)
- 7) Concept furniture plan
- 8) Outline specification
- 9) Preliminary Requirements for Sustainability Development form
- 10) Path of travel accessibility scoping recommendations
- 11) Room Data Sheets
- 12) Project Schedule
- 13) Construction Cost Estimate

Narratives for systems descriptions as necessary to describe and identify all systems associated within project scope, including, but not limit to:

- 1) Mechanical, Electrical, Plumbing
- 2) Preliminary energy analysis
- 3) Fire detection and protection systems required for intended occupancy of the building
- 4) Structural
- 5) Proposed building materials
- 6) Scope of finishes (general exterior materials and interior finish recommendations)
- 7) Furnishings and equipment (“FFE”)
- 8) Scope of communication systems and Audio/Visual equipment
- 9) Scope of access and security
- 10) Site work issues including exterior utility connections.

Scope of design services will also include Design Development, Construction Documents, Bidding/Permitting, and Construction Administration including Record Documentation and Project Closeout. Additionally, some support, in the form of graphic exhibits and text, will be required for any associated public outreach programs. The proposing firm is free to sub-contract as necessary to ensure a complete design team, including but not limited to structural, mechanical, electrical, civil engineering, landscape architecture, lab planning (laser and dry/computational labs), and cost estimating.

**1.6 Budget.** The overall project budget (including construction budget, furniture & equipment, design services, permit costs, and all soft costs) for the Benton Place Repurpose project (building renovation plus Benton Place corridor) is \$48M with a construction budget of \$35.8M. If the McAlexander Fieldhouse Exterior Refresh scope is added to the project, this portion of work has a project budget of \$5M with a construction budget of \$3.73M.

**1.7 Design Standards.** The design of the Project must follow current [OSU’s Design & Construction Standards](#), including OSU’s Requirements for Sustainable Development (RSD).

## **2.0 SCHEDULE**

Issue Date	May 25, 2022
<b>Non-Mandatory Pre-Proposal Conference</b>	<b>May 31, 2022 at 8:30 AM PT via Zoom</b>
<b>Mandatory Site Visit</b>	<b>June 7, 2022 at 2:00 PM PT</b>
Question Deadline	June 9, 2022 at 12:00 PM PT
Final Addendum Issuance (if necessary)	By June 13, 2022
Proposal Due Date/Time	June 16, 2022 at 2:00 PM PT

### **The following dates are tentative and subject to change without notice:**

Estimated notification of finalists (If Applicable)	By June 30, 2022
Presentations/Interviews (If applicable)	Week of July 18, 2022
Notice of Intent to Award	By July 22, 2022
Estimated Contract execution	By August 1, 2022
Estimated Notice to Proceed	By August 1, 2022

OSU will make every effort to adhere to the above schedule. It is however, subject to change.

### **3.0 QUESTIONS, SOLICITATION REVISION REQUESTS, CHANGE OR MODIFICATION, APPEALS**

#### **3.1 Questions.**

**3.1.1** All questions and contacts with OSU regarding any information in this RFP must be addressed in writing via email to [constructioncontracts@oregonstate.edu](mailto:constructioncontracts@oregonstate.edu) no later than the **Question Deadline** as stated in Section 2.0. If a Proposer is unclear about *any* information contained in this document or its exhibits (Project, scope, etc.), they are urged to submit those questions for formal clarification.

#### **3.2 Solicitation Process Revision Requests.**

**3.2.1** Proposers may submit a written request for change of particular solicitation process provisions to the **Construction Contracts Manager** at the address or email listed in this document. Such requests for change shall be received no later than the **Question Deadline** listed above.

**3.2.2** Such requests for change shall include the reasons for the request and any proposed changes to the solicitation process provisions.

#### **3.3 Change or Modification.**

**3.3.1** Any change or modification provided by the Owner for this RFP or the documents included as exhibits to this RFP shall be made by a duly issued Addendum made available to all firms on the [OSU Business and Bid Opportunities](#) website. It is the responsibility of each Proposer to visit the website and download any addenda. No information received in any manner different than as described herein shall serve to change the RFP in any way, regardless of the source of the information.

**3.3.2** OSU will not be responsible for any other explanation or interpretation of this RFP or the documents included as exhibits to this RFP.

#### **3.4. Appeals.**

**3.4.1** Appeals related to the OSU solicitation process and award decisions and actions shall be pursuant to OSU Standards ([Procurement Thresholds and Methods, Procurement Solicitations and Contracts](#)). All written appeals must be delivered to the **Construction Contracts Manager**, at the address given in this RFP.

### **4.0 PUBLIC RECORD**

**4.1** OSU will retain an electronic copy of this RFP and one electronic copy of each Proposal received, together with electronic copies of all documents pertaining to the award of a contract. These documents will be made a part of a file or record, which shall be open to public inspection

after OSU has announced its intent to award a contract. If a Proposal contains any information that is considered a trade secret under ORS 192.345(2), you must mark each trade secret with the following legend: **“This data constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”**

**4.2** 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.”

**4.2.1** Therefore, non-disclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determination made pursuant to the Public Records Law.

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

## **5.0 FORM OF AGREEMENT**

A Sample Design Professional Agreement is included as an exhibit and contains contract terms and conditions applicable to the work. The sample contract may contain certain notes or alternative provisions. Those alternative provisions will be included at the sole discretion of OSU.

## **6.0 RESERVED**

## **7.0 INSTRUCTIONS TO OFFERORS**

**7.1 Summary of Work.** The Work contemplated in this document shall be for OSU in connection with the Project described in Section **1.0** of this document.

**7.2 Pre-Proposal Conference and Site Visit.**

**7.2.1** The Pre-Proposal Conference will be administered virtually via Zoom. Proposers ***must*** contact the **Contract Administrator** to request virtual Conference access. This request must occur no later than thirty (30) minutes prior to the meeting time, as stated in this RFP.

**7.2.2** No statement made by any officer, agent, or employee of OSU in relation to the physical conditions pertaining to the Work site will be binding on OSU, unless included in writing in the documents included as exhibits to this RFP or an Addendum.

**7.2.3** Date and Time of a Pre-Proposal Conference is located on the cover sheet of this RFP.

**7.2.4** **The Proposer must attend the Mandatory Site Visit. Proposals will not be accepted from those firms who have not had a representative attend the Mandatory Site Visits. Attendance will be documented by OSU. Proposers who arrive more than five (5) minutes**

**after start time of the Site Visit will not have their attendance documented and will have their Proposal rejected if submitted.**

**7.2.5** Should on campus site visits occur, the COVID Safety & Success Policy is located here: <https://covid.oregonstate.edu/safety-policies>

### **7.3 Proposal Submission.**

**7.3.1** Submit **one (1) electronic version via email** to be received by the Due Date/Time listed in this document to [bids@oregonstate.edu](mailto:bids@oregonstate.edu) as stated in this RFP. **Electronic versions must be sized appropriately for transfer (under 10 mb).**

**7.3.2** All Proposals must be received by OSU before the Due Date/Time. OSU's official clock shall prevail in any time conflict. Any Proposal received after the Due Date/Time will be rejected and will be retained and made part of OSU's archive records in accordance with OSU Standards.

### **7.4 Proposal Submission Requirements.**

**7.4.1** Your Proposal must be contained in a document not to exceed Twenty (20) single sided pages including pictures, charts, graphs, tables and text you deem appropriate to be part of OSU's review of your Proposal. Resumes of key individuals proposed to be involved in this Project are exempted from the page limit and must be appended to the end of your Proposal. No supplemental information to the page limit will be allowed. Appended resumes of the proposed key individuals, along with a Transmittal letter, table of contents, front and back covers, references, exceptions and blank section dividers will not be counted in the page limit.

**7.4.2** Your Proposal must follow the format outlined below and include a Transmittal/Cover Letter signed by an officer of your firm(s) with the authority to commit the firm(s) and must also acknowledge receipt of all addenda. Include an email address for communication purposes.

**7.4.3** Any/all exceptions to the Terms and Conditions included in the Sample Contract shall be clearly identified and appended to the Proposal in order to be considered by OSU during the negotiation period.

**7.4.4** The electronic Proposal should be **should be sized appropriately for transfer (under 10 MB)** and formatted with page size of **8 ½ x 11 inches** with no fold-outs (except for any large format documents required by evaluation criteria). The basic text information of the Proposal should be presented in standard business font size, and reasonable margins.

**7.4.5** OSU may reject any Proposal not in compliance with all applicable OSU solicitation procedures and requirements, and may cancel this solicitation or reject for good cause, all Proposals upon a finding by OSU that it is in the public interest to do so.

**7.4.6** Note that throughout this procurement process, OSU will not accept Proposals that require OSU to pay the cost of production or delivery.



**7.4.7** Telephone and facsimile transmitted **Proposals will not be accepted**. Proposals received *after* the Due Date/Time **will not be considered**.

**7.4.8** Each Proposal shall be emailed to [bids@oregonstate.edu](mailto:bids@oregonstate.edu). Proposals must be received by the date/time and in the format specified herein. The email line should contain the Solicitation Number/Name and Firm Name. Only those Proposals received at this email address by the Proposal Due Date/Time shall be considered responsive. Proposals submitted directly to the **Contract Administrator** will NOT be considered responsive. It is highly recommended that the Proposer confirms receipt of the email with the **Contract Administrator or designee**. The **Contract Administrator** or designee may open the email to confirm receipt but will NOT verify the integrity of the attachment(s), answer questions related to the content of the Proposal, or address the overall responsiveness of the Proposal.

## **7.5 Acceptance or Rejection of Solicitation Responses by OSU.**

**7.5.1** The procedures for Contract awards shall be in compliance with the provisions of OSU standards and policies adopted by OSU.

**7.5.2** OSU reserves the right to reject any or all Proposals and to waive minor informalities in compliance with the provisions of OSU standards and policies adopted by OSU.

## **7.6 Withdrawal of Solicitation Response.**

**7.6.1** At any time prior to the Due Date/Time, a Proposer may withdraw its Proposal in accordance with OSU Standards. This will not preclude the submission of another Proposal by such Proposer prior to the Due Date/Time.

**7.6.2** After the Due Date/Time, Proposers are prohibited from withdrawing their Proposal, except as provided by OSU Standards.

**7.7 Evaluation Process.** The written response to this RFP is the first in a **potential** two-step process in the selection of a firm for this Project. The Proposals received in response to this RFP will be evaluated by a selection committee with the top scoring firms being invited to advance to further evaluation steps including virtual Proprietary Discussions and Presentations/Interviews should the committee determine they are necessary.

Presentations/Interviews will include a **Thirty (30) minute** presentation period, immediately followed by a separate **Thirty (30) minute** Q&A session.

After all of the Presentations/Interviews are completed, the members of the selection committee will discuss the strengths and weaknesses of the finalists. The members of the selection committee will then score the finalists based on all information received, presented and heard during the Presentations/Interviews. Optional Reference Checks may also be undertaken to aid in final scoring. Upon completion of final scoring, negotiations may commence with all Proposers submitting responsive proposals or all Proposers in the competitive threshold.

Final scoring of the Interviews will be **separate and not cumulative** from the short-listing.

**7.8 Evaluation Criteria.** The following items constitute the evaluation criteria for the selection committee to score Proposals. For ease in reviewing, provide tabs keyed to each of the following criteria:

**7.8.1 Experience and Qualifications of the Firm (15 points)**

- Provide a *brief* description of your firm and include information on the focus of the practice. List the relative projects your firm is currently contracted for and include what stage the projects are in terms of completion.
- Describe your firm's experience with design and construction of higher education learning environments, meeting innovative and forward thinking research needs, such as science (Physics or similar) teaching spaces including laser labs. Explain relevant experience working on projects of similar scope for public entities.
- Describe your firm's experience with managing projects with a CM/GC delivery method.
- Describe your firm's experience understanding, addressing, and prioritizing needs and requirements of diverse students, staff and visitors with disabilities.

**7.8.2 Experience and Qualifications of the Team (25 Points)**

- Identify key personnel, including project designer and project manager along with those of any subconsultants proposed.
- Include proposed key personnel's project experience, with specific project examples and identify their roles in the projects. Explain how each project example relates to the key design components for the Heat Plant Repurpose project.
- Indicate current availability, proposed percentage of project involvement per project phase and indicate whether the proposed team has worked together on previous projects.
- Identify the strengths and skills or special capabilities of each key team member and how these skills will benefit this project. Identify team members licensed in Oregon as architects, engineers, landscape architects, etc. Provide a structural engineer that is a Structural Engineer (SE) licensed in the state of Oregon, when required by Oregon Structural Specialty Code (OSSC).
- Delineate staff that will focus on programming, those that will focus on the design process and the individual(s) that will be the common denominator throughout the entire project.
- Include an organizational chart.

**7.8.3 Design Approach, Management, & Schedule (20 Points)**

- Describe your design approach and management process for this diverse project that include the Heat Plant building and Benton Place corridor. Provide examples of lessons learned on similar project informing approach for this project.
- Provide a milestone schedule from Programming through end of Construction. This

project may have schedule challenges. Give examples of how your team can work to meet aggressive timelines to keep the project on track. Give examples how your team can help individuals think creatively and collaboratively as we design.

#### **7.8.4 Design for Inclusive Excellence (15 Points)**

- Describe your firm's experience and approach toward design that promotes inclusive excellence and accommodating and prioritizing needs and requirements of students, staff and visitors with disabilities. In an effort to ensure that all who come to the Heat Plant building feel welcome, please describe your firm's experience and approach toward design that support equity, diversity, and inclusion.

#### **7.8.5 Workforce Diversity Plan (15 Points)**

(a) Provide a description and identification of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Emerging Small Business (ESB), or Disabled Service Veterans (DSV) certifications for your team and a description of your nondiscrimination practices. Provide historical information on MBE, WBE, ESB, or DSV Joint Ventures, subcontracting or mentoring plan, and utilization history for projects completed by your firm within the past three (3) years.

(b) Provide a narrative description of your current workforce diversity program/plan, and the plan for obtaining subcontracting, consulting, and supplier diversity for this Project. Include a description of the outreach program or plan, including a schedule of events and specific steps that will be taken to maximize broad based and inclusive participation and the plan to provide mentoring, technical or other business development services to subcontractors/subconsultants needing or requesting such services.

The Design Professional must perform the Work according to the means and methods described in the workforce plan described in its Proposal, unless changes are requested and approved in writing in advance by OSU or are required by applicable laws, ordinances, codes, regulations, rules or standards.

#### **7.8.6 FEE PROPOSAL (10 Points)**

Provide a **FEE PROPOSAL** for the Heat Plant Repurpose project as a lump sum fee amount plus a maximum not to exceed allowance for reimbursable expenses allowance for Programming and Schematic Design **ONLY**. Please clearly identify the amount for Basic Services for each phase and an overall Reimbursable Expenses allowance.

#### **COMPLETE THE DP RFP FEE FORM INCLUDED IN EXHIBIT 2 AS YOUR FEE PROPOSAL.**

Please include a breakdown of the costs for each phase showing the distribution between the Architect and each consulting team including a listing of the types of personnel participating in the work, an estimate of their hours and rates charged for their services based on the proposed scope listed in Section 1.0. Pricing shall include all design elements from Programming through Schematic Design (SD) and include separate line items broken out for Furniture, Fixtures & Equipment (FFE) design services (SD phase only) and the

potential McAlexander Fieldhouse Exterior Refresh portion of the project for Schematic Design Services only. (The exterior shell of McAlexander Fieldhouse would be considered added scope in the future.)

Scoring will be based solely on the total lump sum + maximum not to exceed allowance for reimbursable expenses total amount excluding the McAlexander Fieldhouse portion which is a potential addition to the project.

**NOTE:** Formula for scoring Fee Points will be as follows: Lowest Fee for each of the price related items will receive full points with higher cost price related items receiving proportionally lower points according to this formula: **(Low Fee or Fee%/ Fee or Fee%) x Points Available**

### 7.9 Point Summary Table.

Criteria	Point Value
Experience and Qualifications of the Firm	15 Points
Experience and Qualifications of the Team	25 Points
Design Approach, Management & Schedule	20 Points
Design for Inclusive Excellence	15 Points
Workforce Diversity Plan	15 Points
Fee Proposal	10 Points

### 7.10 Presentations/Interviews (50 Points) & Optional Reference Checks (10 Points)

#### 7.10.1 Presentations/Interviews (50 Points)

Presentations/Interviews **will** be conducted to aid in determining the Apparent Successful Proposer. Proprietary Discussions may also be conducted with all finalists prior to Presentations/Interviews. Information regarding the Proprietary Discussions and Presentations/Interviews will be provided to the short-listed firms following the initial review and scoring. Final scoring of the Presentations/Interviews will be **separate and not cumulative** from the short-listing.

#### 7.10.2 Optional Reference Checks (10 Points).

In addition to responding to the evaluation criteria above, provide the names, addresses, phone numbers and e-mail addresses of three (3) references. Do not include references from any firms or individuals included in your consulting team for this Proposal or any OSU personnel. OSU may check with these references and with other references associated with past work of your firm.

OSU **may** check with these references or other references associated with past work of your firm.

**7.11 Equity Contracting.** OSU will require the successful Proposer to comply with OSU Standards, policies, rules and procedures requiring good faith efforts in subcontracting with minority, women, emerging small business or service-disabled veteran owned business enterprises.

## **7.12 Negotiations.**

**7.12.1** OSU may commence General and/or Best and Final Offer (BAFO) Negotiations in accordance with OSU Standards ([Procurement Thresholds and Methods, Procurement Solicitations and Contracts](#)) following final scoring under either a one or two-step process.

**7.12.2** Any/all exceptions to the Term and Conditions included in the Sample Contract/Agreement shall be clearly identified and appended to the Proposal in order to be considered by OSU during the negotiation period.

**7.12.3** OSU reserves the right to deny contract term negotiations with the Apparent Successful Proposer if such contract terms were not received by OSU in the Solicitation response pursuant to Section **7.12.2** above.

**7.12.4** OSU reserves the right to defer decision(s) on requests for contract terms and conditions revisions until after a notice of intent to award is published.

**7.12.5** If OSU and the Apparent Successful Proposer are unable to reach agreement on contract terms and conditions, OSU may cease negotiations with the Apparent Successful Proposer and enter negotiations with the next highest scoring Proposer, etc.

## **8.0 MISCELLANEOUS**

### **8.1 Financial Responsibility.**

**8.1.1** OSU reserves the right to investigate, at any time prior to execution of the contract, the Proposers financial responsibility to perform the anticipated services. Submission of a Proposal will constitute approval for OSU to obtain any credit report information OSU deems necessary to conduct the evaluation. OSU will notify Proposers, in writing, of any other documentation required, which may include, but need not be limited to: recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity and credit information. Failure to promptly provide this information may result in rejection of the Proposal.

**8.1.2** OSU may postpone the selection of finalists or execution of a contract in order to complete its investigation and evaluation. Failure of a firm to demonstrate financial responsibility may render it non-responsible and constitute grounds for Proposal rejection.

**8.2 Project Termination.** OSU reserves the right to terminate the Project or contract during any phase in the Project.

**8.3 Insurance Provisions.** During the term of the resulting contract, the awardee 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 contract.

**8.4 Nondiscrimination.** By submission of a Proposal, the Proposer certifies under penalty of perjury that the Proposer will not discriminate against minority, women, emerging small business or service-disabled veteran owned business enterprises in obtaining any required subcontracts.

**8.5 AA/EEO Employer.** OSU is an AA/EEO employer.

**8.6 Compliance with Applicable Law.** Proposer agrees to comply with all federal, state, county, and local laws, ordinances, and regulations as well as all applicable OSU Standards and Policies while on campus.

**8.6.1 Smoke and Tobacco Free Campus.** Owner's grounds and premises are smoke and tobacco free. Contractor and Contractor's employees, agents, Subcontractors, if any, agree not to smoke or use tobacco products while on Owner property.

**8.6.2 Sexual Misconduct Policy.** OSU has policies that prohibit sexual misconduct against members of the university community and in keeping with those policies Contractor and Contractor's employees, agents, and Subcontractors are prohibited from engaging in sexual misconduct against members of the university community.

**8.6.3 Firearms Policy.** The Owner has adopted a policy that prohibits Contractor and Contractor's employees, agents and Subcontractors from possessing firearms on Owner's property.

**8.7 RESERVED**

**8.8 Execution of Agreement.**

**8.8.1** The Proposer shall be required to execute the Contract as provided, within any time period provided in an award notification. The Contract Documents shall be delivered to OSU in the manner stated in an award notification.

**8.8.2 Work/Services Commencement.** Work/Services shall not commence until execution of a Contract and subsequent issuance of a notice to proceed letter with the selected Proposer.

## **9.0 EXHIBITS**

Exhibit 1 – Sample Design Professional Agreement

Exhibit 2 – Supplemental Information: The Supplemental Information listed below is available at <https://oregonstate.box.com/s/4cd58wztevodvdxhhmao3w5q5ikz48zl>

- RFP Fee Form
- Heat Plant Images\_2022
- Heat Plant Book Plans
- Heat Plant Original Drawings (folder)
- Scope of Work with Adjacent Projects Overlay\_2022
- Benton PL ProjectMap\_2022
- Adjacent Projects
- Campus Vision Area

**END OF RFP**

DESIGN PROFESSIONAL'S AGREEMENT

EXHIBIT 1

PROJECT NAME

CONTRACT NUMBER

OREGON STATE UNIVERSITY

This DESIGN PROFESSIONAL'S AGREEMENT (the "Agreement") is made between

the "Design Professional": Design Professional Name  
Design Professional Address  
Design Professional Address

and the "Owner": Oregon State University  
Construction Contracts Administration  
644 SW 13<sup>th</sup> St.  
Corvallis OR 97333

(The Design Professional 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 Design Professional to provide [redacted] Services for the Project identified as [redacted] for Oregon State University at [redacted] City, Oregon (the "Project"); and

WHEREAS, the Design Professional, with the aid of certain consultants (the "Consultants"), is willing and able to perform such Services in connection with the Project;

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

I. RELATIONSHIP BETWEEN THE PARTIES

A. Project Background.

[redacted]

B. Scope of the Project. The scope of the Project includes the following:

[redacted]

C. Scope of Services. The scope of Services to be performed under this Agreement includes the following: Provide programming, schematic design, design development, construction documents, bidding/permitting, and construction administration which includes record documentation and project closeout services in support of the Project.

The scope is further described in the **Design Professional's** proposal dated XXXX, signed by XXXX attached hereto and incorporated herein by this reference as "**Exhibit 1**".

**D. Critical Date Schedule.** The **Design Professional** shall perform the **Services** according to the following critical date schedule:


**E. Effective Date.** This **Agreement** is effective on the date it has been signed by every **Party** hereto (the "**Effective Date**"). No **Services** shall be performed or payment made prior to the **Effective Date**.

**F. 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**" means additional **Services** performed by the **Design Professional** that are beyond the scope of the **Basic Services** described in **Section VII**, based on hourly rates for **Design Professional** personnel or **Consultants**, plus **Reimbursable Expenses**, in accordance with an agreed-upon schedule of charges, and performed by the **Design Professional** after the **Owner** has given prior written authorization to proceed with performance of the **Services** and the **Parties** have executed an amendment or supplement to this **Agreement**, as more particularly described in **Section VIII** of this **Agreement**.

"**Basic Services**" are those **Services** more particularly described in **Subsections A., B., C., D. and E. of Section VII.** of this **Agreement**.

"**Construction Budget**" means the **Construction Contract** amount, inclusive of **Direct Construction Cost**, general conditions costs and **CM/GC/Contractor** fee.

"**Construction Contract**" is defined as the contract entered into between the **Owner** and the **Contractor** to provide all **Work** necessary to construct the **Project**, including the original base contract for construction of the **Project**, and all exhibits to the contract for construction, any amendments to the **Construction Contract** and all approved change orders.

"**Construction Documents**" means drawings, specifications and other documents setting forth in detail the requirements for construction of the **Project**, as well as the documents pertaining to bidding and contracting for the construction of the **Project**.



**“Contractor”** is defined as the general contractor/construction manager (**“CM/GC”**) or the person or entity that is awarded the contract to construct the **Project**.

**“Design and Construction Standards”** means the OSU Construction Standards in effect at the time of the **Effective Date** of this **Agreement**. Current OSU Construction Standards can be found here: <http://fa.oregonstate.edu/cpd-standards>.

**“Direct Construction Cost”** means the cost to the **Owner** of all divisions of construction, including portable equipment only if designed or specified by the **Design Professional** for inclusion in the construction specifications.

**“Diverse Business”** shall include minority business enterprises (MBE), women owned business enterprises (WBE), emerging small businesses (ESB), and service disabled veteran owned businesses (SDVOB) as described by the State of Oregon ([www.oregon.gov/das/OPM/Pages/cobid.aspx](http://www.oregon.gov/das/OPM/Pages/cobid.aspx)).

**“Diverse Business Report”** means an accurate report by the **Design Professional** to the **Owner** describing Diverse Business participation . The Diverse Business Report shall include the total number of contracts and subcontracts awarded to state certified or self-certified diverse business enterprises with specific diversity category identified and the dollar value of their respective contracts and subcontracts during the course of the **Project**.

**“Punch List”** means a document prepared near the end of the **Construction Administration** phase **Services** listing **Work** not conforming to the **Construction Documents** that the **Contractor** or **CM/GC** must complete prior to final completion under the **Construction Contract**.

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

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

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

#### **G. Directives for Performance of the Services.**

1. The **Design Professional** shall provide, with the assistance of the **Consultants**, the professional **Services** more particularly described in **Section VII** below for this **Project**.
2. The **Design Professional** 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. The **Construction Budget** for the **Project** is currently estimated at \$ \_\_\_\_\_.  
**Design Professional shall design Project to \_\_\_% of Construction Budget.**

4. The **Design Professional** shall fully cooperate with **Owner** to meet all **Project** budgets. **Owner** understands that **Design Professional**, in providing opinions of probable construction cost, has no control over the cost or availability of labor, equipment, or materials, or over market conditions or **Contractor's** method of pricing, and that **Design Professional's** opinions of probable construction costs are made on the basis of **Design Professional's** professional judgment and experience. **Design Professional** makes no warranty, express or implied, that the bids or the negotiated cost of the **Work** will not vary from **Design Professional's** opinion of probable construction cost. In the event the **Design Professional's** opinion of probable construction cost exceeds the budget for the **Project** listed in **Sub-section 3** above by any amount during the design phase, or in the event the bids or negotiated cost of the **Work** exceed the budget for the **Project** listed earlier in this Section by more than 10 percent, **Design Professional**, upon notice from **Owner** and prior to the award of the **Construction Contract**, agrees to modify, at **Design Professional's** sole expense, **Design Professional's** schematic design documents, design development documents or construction documents (or with **Owners** approval those portions of those documents where opinions of probable construction costs or bids exceeded the budget or stipulated percentage). This redesign effort shall constitute **Design Professional's** sole responsibility with respect to its opinions of probable construction cost, and **Design Professional** agrees to cooperate with **Owner** in revising the **Project** scope and quality in order to reduce the opinion of probable construction cost, or the bids or negotiated price, so that they do not exceed the **Project** budget.

5. The **Design Professional** shall provide all **Services** for the **Project** in accordance with the terms and conditions of this **Agreement**. The **Design Professional's** performance of **Services** shall be as a professional Design Professional to the **Owner** to perform the professional services necessary for the **Project**, and to provide the technical documents and supervision required to achieve the **Owner's Project** objectives.

6. In administering this **Agreement**, the **Owner** may employ the services of an independent project manager and other consultants as needed to fulfill the **Owner's** objectives.

7. The **Design Professional** shall designate a project manager, who shall represent the **Design Professional** throughout all phases of the **Project**, and to whom all communication pertaining to the **Project** shall be addressed. The designated project manager shall be experienced and capable in effectively coordinating a multi-disciplined **Consultant** team.

8. The **Design Professional** shall utilize the key personnel and **Consultants** identified on the attached **Exhibit 2** in the performance of the **Services** for the **Project**. **The key personnel must include the project manager required in paragraph 7 above.** In addition to the full names, titles/positions and a summary of the duties and Services to be performed by the key personnel and **Consultants** that are included in the attached **Exhibit 2**, the **Design Professional** agrees to promptly provide such additional information on the professional background of each of the assigned key personnel and **Consultants** as may be requested by the **Owner**. The **Design**

**Professional** acknowledges that the **Owner's** award of this **Agreement** to the **Design Professional** was made on the basis of the unique background and abilities of the **Design Professional's** key personnel and **Consultants** originally identified in the **Design Professional's** solicitation response. Therefore, the **Design Professional** specifically understands and agrees that any attempted substitution or replacement of a key person or **Consultant** by the **Design Professional**, without the written consent of the **Owner**, shall constitute a material breach of this **Agreement**. In the event that key personnel or **Consultants** become unavailable to the **Design Professional** at any time, **Design Professional** shall replace the key personnel and **Consultants** with personnel or **Consultants** having substantially equivalent or better qualifications (including applicable professional licensing) than the key personnel or **Consultants** being replaced, as confirmed and approved by **Owner**. Likewise, the **Design Professional** shall remove any individual or **Consultant** from the **Project** if so directed by **Owner** in writing following discussion with the **Design Professional**, provided that **Design Professional** shall have a reasonable time period within which to find a suitable replacement. **The Design Professional represents and warrants that the key personnel and Consultants that are considered professional-in-charge (stamping architect(s) or engineer(s)) in their respective discipline and identified on the attached Exhibit 2 are fully licensed to perform the particular Services assigned to them on the Project.**

9. **Design Professional** shall make no news release, press release or statement to a member of the news media regarding this **Project** without prior written authorization from **Owner**.

## II. **DESIGN PROFESSIONAL'S STANDARD OF CARE; REPRESENTATIONS AND WARRANTIES**

By execution of this Agreement, the Design Professional agrees that:

**A. Standard of Care.** The **Design Professional** shall perform the **Services** in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions; and will perform such **Services** pursuant to the standard of care set forth in this **Section II**.

**B.** When applicable law requires that **Services** be performed by licensed professionals, the **Design Professional** shall or shall require its **Consultants** to provide those **Services** through qualified professionals licensed in Oregon. Wherever a deliverable is identified as "Engineered" or "Stamped", or any item is described as "Engineered", the deliverable shall have been at a minimum reviewed, agreed to, signed and stamped by a professional engineer ("PE") licensed in the state of Oregon. In addition, and when required by Oregon Structural Specialty Code, a Structural Engineer ("SE") licensed in the state of Oregon shall stamp applicable deliverables. The PE or SE, as applicable, signing a document shall be licensed and experienced in the appropriate branch of engineering for the deliverable. Where the PE or SE, as applicable, experience is not directly relatable, a subject matter expert may review and sign the delivery in addition to the PE or SE, as applicable sign off. Upon request from the **Owner**, the **Design Professional** shall provide full Curriculum Vitae's (showing their experience/expertise in the area) for all PE's and SE's, as applicable, and subject matter experts who sign off on deliverables. The **Owner** understands and agrees that the services of the **Design Professional**, and **Consultants** are performed for the benefit of the **Owner**.

**C. Performance Requirements.** In addition to performing the **Services** in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions, the **Design Professional** shall perform the **Services** in accordance with the following requirements:

1. All plans, drawings, specifications, and other documents prepared by the **Design Professional** shall be prepared in accordance with its standard of care set forth in this Agreement in an effort to accurately reflect, incorporate, and comply with all applicable laws, rules, and regulations and shall be complete and functional for the purposes intended (except as to any deficiencies which are due to causes beyond the control of **Design Professional**);
2. All plans, drawings, specifications, and other documents prepared by the **Design Professional** pursuant to this **Agreement** shall accurately reflect existing conditions for the scope of the **Services** to be performed;
3. The **Project**, if constructed in accordance with the intent established by such plans, drawings, specifications, and other documents, shall be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended;
4. The **Design Professional** shall be responsible for any negligent inconsistencies or omissions in the plans, drawings, specifications, and other documents prepared by the **Design Professional** and its **Consultants**. While **Design Professional** 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 **Design Professional** throughout the period of performance under this **Agreement** to use due care and perform with professional competence. **Design Professional** will, at no additional cost to **Owner**, and regardless of the time of discovery of errors and omissions, correct any and all errors and omissions in the plans, drawings, specifications, and other documents prepared by **Design Professional** and its **Consultants**. Except as provided in **Section VIII** of this **Agreement** and at no additional cost, **Design Professional** further agrees to render assistance to **Owner** in resolving other problems relating to the design of, or specified materials used in, the **Project**;
5. Any review or acceptance by the **Owner** of **Services**, plans, drawings, specifications and other documents prepared by the **Design Professional** will not relieve the **Design Professional** of any responsibility for complying with the standard of care set forth herein. The **Design Professional** is responsible for all **Services** to be performed under this **Agreement**, and agrees that it will be liable for all its negligent acts, errors, or omissions, if any, relative to the **Services**.
6. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided.
7. The Design Professional shall ensure that the **Project** complies with (1) all applicable codes; (2) the most current as of the date of permit submittal ADA Standards for Accessible Design, employing universal design principles as described in the **Design and Construction Standards**; (3) Requirements for Sustainable Development ("**RSD**"), as described in the **Design and Construction Standards**; and (4) applicable OSU Standards and policies. In addition the

Design Professional shall ensure that the Project allows for access to programs, activities, and services in the most integrated setting possible;

**D. Design Professional's Representations and Warranties.** Design Professional represents and warrants to Owner that:

1. **Design Professional** 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 **Design Professional** enforceable in accordance with its terms;
3. **Design Professional** 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 **Design Professional** is an experienced Design Professional firm having the skill, legal capacity, and professional ability necessary to perform all the **Services** required under this **Agreement** and to design or administer a project having this scope and complexity;
5. The **Design Professional** has the capabilities and resources necessary to perform the obligations of this **Agreement**;
6. The **Design Professional** either is, or in a manner consistent with the Standard of Care set forth in this **Agreement** will become, familiar with all current OSU Standards and policies, laws, rules, and regulations which are applicable to the design and construction of the **Project**.

### III. COMPENSATION

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

- A. Basic Services:** The **Design Professional** shall perform the **Basic Services**, directly or through the **Consultants**, on a time and materials basis not to exceed \$ [REDACTED].
  1. **Fee for Consultants Services:** Owner shall only reimburse **Design Professional** for the actual, direct costs of Services performed by its **Consultants**, and shall not reimburse **Design Professional** for any overhead or mark-up of costs added to the direct cost of a **Consultants Services** at any tier.
- B. Reimbursable Expenses:** The **Owner** shall reimburse the **Design Professional** for any allowable **Reimbursable Expenses**, up to a maximum amount of \$ [REDACTED].

**1. Reimbursable Expenses** for the **Project** mean actual direct expenditures (without overhead, fee, markup or profit) made by the **Design Professional** and its **Consultants** in the interest of the **Project** for the following items: long-distance communications; reproductions (when approved in advance by the **Owner**), postage and handling of plans, drawings, specifications and other documents (excluding reproductions for the office use of the **Design Professional** and its **Consultants**); mileage and travel expenses more particularly described in **Exhibit 3**; data processing and photographic production techniques; and renderings, models and mock-ups requested by the **Owner**. The **Reimbursable Expenses** will be reimbursed at cost, except travel expenses. Charges for travel expenses will be reimbursed at cost, but not in excess of the rate allowed Oregon State University employees. Travel expenses are only reimbursable when **Services** are rendered in excess of 25 miles from **Design Professional's** or **Consultant's** office. Reimbursement for reproductions must be pre-approved by the **Owner**.

**C. Additional Services:** The **Owner** will compensate the **Design Professional** for **Additional Services** performed by the **Design Professional**, whether directly or through its **Consultants**, beyond the scope of the **Basic Services** described in **Section VII**, based on hourly rates for **Design Professional** personnel or **Consultants**, plus **Reimbursable Expenses**, in accordance with the hourly rates identified in **Exhibit 4** for the duration of this **Agreement** (except in the case of a suspension and reactivation of performance beyond the date agreed to by the **Parties**, as more particularly described in **Section XX**, but only when the **Owner** has given prior written authorization and the **Parties** have executed an amendment to this **Agreement**).

- 1. Fee for Consultants Services:** **Owner** shall only reimburse **Design Professional** for the actual, direct costs of **Additional Services** performed by its **Consultants**, and shall not reimburse **Design Professional** for any overhead or mark-up of costs added to the direct cost of a **Consultants Additional Services** at any tier.
- 2.** The hourly rates contained in **Exhibit 4** shall also be used to determine amounts owed the **Design Professional** in the event this **Agreement** is terminated as provided in **Section XIX, D.1**, or suspended pursuant to **Section XX**. Any amounts so derived may not exceed the limitations for each phase as specified by **Section IV** hereof.

#### **IV. PAYMENTS**

Monthly progress payments shall be made following **Owner's** review and approval of the invoices and required documentation, acceptance of the **Services** performed, and approval of **Reimbursable Expenses** incurred during the preceding month to the following address:

University Financial Services  
OREGON STATE UNIVERSITY  
850 SW 35<sup>th</sup> St.  
Corvallis, OR 97333  
[FacServContracts@oregonstate.edu](mailto:FacServContracts@oregonstate.edu)



Invoices shall be submitted to the **Owner** no later than the 20<sup>th</sup> of the month for the work completed in the previous month. Payment may not be made for Reimbursable Expenses incurred in excess of 90 Days after actual charged incurred.

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

Per OSU Standards, overdue claims are those that have not been paid within forty-five (45) days on the later of the date of receipt of an accurate invoice and required supporting documentation or the date the claim is made certain by agreement of the parties or by operation of law. However, overdue account charges will not accrue during time of civil emergency or in the event of a natural disaster that prevents the timely payment of accounts. In such instances, accounts will be paid in as timely a manner as possible. The maximum overdue charge will be at a rate of two-thirds of one percent per month, but not more than eight percent per annum.

Payments to the **Design Professional** for such **Services** performed and invoiced will be made for each phase as follows, with final payment for each phase subject to written acceptance of the phase by the **Owner**. The total of all payments for **Basic Services** shall not exceed the maximum amount set forth in **Section III.A.** for **Basic Services**, and the total of all payments for **Reimbursable Expenses** shall not exceed the maximum amount set forth in **Section III.B.** for **Reimbursable Expenses**. The total of all such payments, for **Services** and **Reimbursable Expenses**, shall not exceed the **Maximum Compensation**. **Owner** reserves the right to retain up to five percent (5%) of the compensation limit set forth below for each phase, subject to **Owner's** acceptance of the **Services** and any deliverables for each phase. Notwithstanding "not to exceed" limits established below for each phase of **Services**, should an individual phase of design, beginning with **pre-design/schematic design**, be completed without reaching the not-to-exceed limit for that phase, the balance remaining will be transferred to the next phase of work in succession through **Project** completion through a fully executed amendment. At the completion of the **Project**, any remaining balance will revert to the **Owner** through a fully executed amendment.

**A. Pre-Design/Schematic Design Phase: not to exceed \$\_\_\_\_\_.**

**B. Design Development Phase: not to exceed \$\_\_\_\_\_.**

**C. Construction Documents Phase: not to exceed \$\_\_\_\_\_.**

**D. Bidding Phase: not to exceed \$\_\_\_\_\_.**

**E. Construction Administration Phase: not to exceed \$\_\_\_\_\_.**

No deduction shall be made from the **Design Professional's** fee on account of penalty, liquidated damages, or other sums withheld from payment to the **Contractor**.

Upon completion of all **Services** under this **Agreement** and precedent to **Owner's** obligation to make final payment, **Design Professional** shall certify, in writing, that the **Design Professional** has completed **Design Professional's** obligations under the **Agreement** by indicating "Final Billing" on final invoice to **Owner**.

**F. Diverse Business Report Requirement.** Design Professional shall deliver to Owner the **Diverse Business Report** described in **Section I.F.** Timely receipt of **Diverse Business Report** shall be a condition precedent to Owner's obligation to pay any final payments otherwise due.

1. Design Professional shall submit a **Diverse Business Report** as a condition of final payment. The **Diverse Business Report** shall include the total number of contracts and subcontracts awarded to **Diverse Business** enterprises as **Consultants** and the dollar value of their respective contracts and subcontracts during the course of the **Project**.

## **V. SERVICES OF DESIGN PROFESSIONAL'S CONSULTANTS**

The **Consultants** shall be paid by the **Design Professional** out of the **Maximum Compensation**, and the **Parties** understand and agree that the **Owner** has no direct or indirect contractual obligation or other legal duty to pay the **Consultants** or ensure that the **Design Professional** makes full and timely payment to the **Consultants** for **Consultant** services rendered on the **Project**. Services performed by the **Design Professional** through the **Consultants** shall be included on **Design Professional** invoices at the **Design Professional's** cost, without markup. The **Design Professional** shall provide to the **Owner** copies of the **Consultant's** invoices submitted to the **Design Professional**, along with the **Design Professional's** requests for payment that are submitted to the **Owner** under this **Agreement**.

## **VI. TIME OF PERFORMANCE**

This **Agreement** shall take effect on the **Effective Date** and **Design Professional** shall perform its obligations according to this **Agreement**, unless terminated or suspended, through final completion of **Project** construction and completion of all warranty work.

## **VII. DESIGN PROFESSIONAL'S SERVICES**

### **A. Pre-Design/Schematic Design Phase**

In consultation with the **Owner**, and in compliance with the **Design and Construction Standards**, the **Design Professional** shall:

1. identify applicable building codes, administrative, and permit processing requirements as relevant;
2. verify, by on-site inspection unless specifically stated otherwise by the **Owner**, existing conditions and systems, including but not necessarily limited to architectural, structural, mechanical and electrical systems, to confirm that these conditions and systems are of adequate condition and capacity to support the **Work** to be executed on the **Project**;
3. in consultation with **Consultant** team, **Owner** representatives, and other designated persons, use all available information to evaluate the program requirements, and with appropriate data and graphics propose a series of improvements deemed necessary and desirable to satisfy the program requirements, including; space needs, budget, availability of



utilities, effect of codes and ordinances, safety and energy requirements, access to all spaces for all people, historical character of the building, and any other factors and design criteria identified by Owner, Consultant team or Design Professional.;

4. based on the most recent Owner approved program requirements, develop schematic design studies consisting of drawings, and other documents for the **Owner's** approval;
5. provide documents suitable for submission to the City of **Corvallis** for the Oregon State University Pre-Development Plan Review, as required the Owner;
6. provide to the **Owner** the required documents for the approval of various governmental agencies having jurisdiction over the **Project**; **Owner** shall pay for all required appeals and plan review fees;
7. submit to the **Owner** an estimate, consistent with the requirements of **Section I.G.4** above and prepared by an **independent cost estimator**, of the probable **Construction Budget** of the **Project** based upon current area, volume or other appropriate unit costs, and compare and reconcile this **independent** cost estimate with a separate, **independent** cost estimate obtained by the **Owner**;
8. if the **Contractor** for the **Project** is a **CM/GC**, the **Design Professional** shall perform the following **Services** associated with preparation of the probable **Construction Budget** of the **Project**:
  - a. In lieu of performing the **Construction Budget** estimating **Services** described in **Section VII.A.7** above, provide cost verification **Services** related to the probable **Construction Budget** estimates that will be prepared by the **CM/GC**, including but not limited to the following:
    - 1) Review and verify the **Construction Budget** estimates provided by the **CM/GC** during, or at the end of, the schematic design phase of the **Project**; and
    - 2) Coordinate these cost verification **Services** with the **Construction Budget** estimating services to be provided by the **CM/GC**, in order to provide timely and accurate cost information to the **Owner**, in the most efficient manner reasonable under the circumstances.
  - b. Otherwise fully cooperate with the **CM/GC** for alignment of the scope of **Work** with the **Construction Budget**, constructability reviews, and otherwise during the design phase(s) and the construction phase(s) of the **Project**; and
  - c. In the event the **Construction Budget** estimates prepared by the **CM/GC** exceed the **Owner's Construction Budget**, revise the **Project** design to allow construction of the **Project** within **Owner's** budget.

**OR**

a. In performing the **Construction Budget** cost estimate described in **Section VII.A.7** above, coordinate the **Design Professional's** performance of those **Services** with the **CM/GC** that will be performing **Construction Budget** cost estimate verification services under the **CM/GC's** contract with the **Owner**; and

b. Otherwise collaborate fully with the **CM/GC** to reconcile the scope of Work and estimated cost to the **Construction Budget** during the Schematic Design phase of the **Project**.

9. submit to the **Owner** the following documents, information and other data:
- a. preliminary fire life safety review document and associated plans;
  - b. general exterior materials and interior finishes recommendations, if applicable;
  - c. a **Project** schedule delineating the estimated time required for the **Design Professional** to complete the design development, construction documents, permitting and construction administration phases of the **Project**;
  - d. recommendations by the **Consultants** (structural, mechanical, electrical) of the technical requirements necessary to implement the program requirements;
  - e. provide documentation indicating how **Design Professional** intends to meet **Owner RSD** on **Owner** provided form; and
  - f. preliminary plans, elevations, and other drawings necessary to describe the entire scope of the **Project**. These drawings may be used for local municipal review and campus review. The types of documents may include but are not limited to:
    - 1) Site Plan including civil and landscape design
    - 2) Floor plans with room names and room square footage
    - 3) Roof Plan
    - 4) Primary exterior elevations
    - 5) Primary building section(s)
    - 6) Concept furniture plan
    - 7) Outline specifications
    - 8) For Renovations only – Path of travel accessibility scoping recommendations.
  - g. provide narrative for systems descriptions as necessary to describe and identify all systems associated within Project scope, including, but not limited to (and as applicable):
    - 1) MEP
    - 2) Preliminary energy analysis
    - 3) Fire detection and protection systems required for intended occupancy of the building
    - 4) Structural
    - 5) Proposed building materials
    - 6) Scope of finishes
    - 7) Furnishings and equipment (“**FFE**”)

- 8) Scope of communication systems and Audio/Visual equipment
- 9) Scope of access and security
- 10) Site work issues including exterior utility connections.

10. verify, by on-site inspection unless specifically stated otherwise by the **Owner**, prior to completion of the schematic design phase, existing conditions as required to address significant constructability issues;

11. prepare **up to xxx** schematic design options illustrating the scale and relationship of **Project** components for approval by the **Owner**;

12. perform those design **Services**, in consultation with Consultant(s), during this phase of the design, as necessary for "**Works of Art**" to be identified and incorporated into the **Project**, pursuant to the State of Oregon "**1% For Art Program**", set forth in ORS 276.073 to 276.090, as amended, relating to acquisition of **Works of Art** to be part of the **Project** and consisting of consultations with the **Owner** on selection of artwork, commissioning and completion of the artwork and integration with the overall design of the **Project**;

13. perform those design **Services** as they relate to various governmental agency requirements and or provide relevant information during this phase of the design and or attend meetings with **Owner**, various governmental agencies and others as required in support of the **Project**; and

14. provide meeting agenda and presentations (to be pre-approved by Owner's Authorized Representative), and meeting minutes for review within 5 business days of the meeting (to be approved by the Owner's Authorized Representative prior to distribution) for all meetings with the **Owner**.

## **B. Design Development Phase**

Upon notification of the **Owner's** approval of the **Services** performed by the **Design Professional** under the pre-design/schematic design phase, and upon written authorization from the **Owner** to proceed, the **Design Professional**, in consultation with the **Owner** and in compliance with the **Design and Construction Standards**, shall:

1. prepare drawings and other documents to fix and describe the size and character of the entire **Project** as to architectural, site development, structural, mechanical, acoustical and electrical systems, materials and appearances, and such other essentials as may be appropriate and in accordance with governing codes and ordinances;
2. verify, by on-site inspection unless specifically stated otherwise by the **Owner**, prior to completion of the design development phase, existing conditions as required to address significant constructability issues;
3. submit to the **Owner**, for approval, one independent cost estimate of probable **Construction Budget** of the **Project** consistent with the requirements of **Section I.G.4** above and

based upon the current unit costs referred to above, as applied to the final design, and compare and reconcile this independent cost estimate with a separate, independent cost estimate obtained by the **Owner**;

4. if the **Contractor** for the **Project** is a **CM/GC**, the **Design Professional** shall perform the following **Services** associated with preparation of the probable **Construction Budget** of the **Project**:

a. Review and verify any adjustments made by the **CM/GC** to the previous estimates of probable **Construction Budget** for the **Work** based upon unit costs referred to above, which might be indicated by changes in requirements or general market conditions, and report the **Design Professional's** findings to the **Owner**.

**OR**

a. Fully cooperate and coordinate with the **CM/GC** in the **Design Professional's** preparation of the **Construction Budget** estimates provided for in Sub-section 4 above.

5. assist the **Owner** to file the required documents for the approval of various governmental agencies having jurisdiction over the **Project** and at the **Design Professional's** expense revise such documents if required for approval of the Plan by the Authorities Having Jurisdiction ("**AHJ**") (**Owner** shall pay for all required appeals and plan review fees);

6. submit to the **Owner** the following documents, information and other data:

a. preliminary recommendations for interior colors, finishes, and materials;

b. building finishes package;

c. **Project** furniture package;

d. color boards as may be required by Project scope;

e. mechanical systems design(s) including, but not limited to:

- 1) mechanical plans;
- 2) mechanical room layouts;
- 3) mechanical equipment schedule;
- 4) plumbing plans;
- 5) plumbing isometrics for water, sanitary and gas piping;
- 6) plumbing fixture schedule;
- 7) cutsheets;
- 8) building control systems

f. electrical systems design(s) including, but not limited to:

- 1) electrical plans;
- 2) lighting schedule;
- 3) cutsheets;

- 4) low voltage.
  - g. project manual including draft technical specifications;
  - h. recommendations for additive alternates equivalent to approximately 10% of the **Construction Budget**;
  - i. updated project schedule including identification of long lead time items, and recommendations for construction phasing to ensure continued operation of **Owner's** activities;
  - j. equipment layouts showing location, size, and configuration of all equipment in the **Project**. Develop the following to a degree that illustrates the building systems, materials, final appearances and nature of the structure of the building:
    - 1) structural;
    - 2) mechanical;
    - 3) plumbing;
    - 4) electrical;
    - 5) communication systems;
    - 6) audio/visual equipment;
    - 7) access/security;
  - k. completed code analysis including, but not limited to reference of applicable codes and editions. Note occupancy, construction type, egress conditions and other information required by code and or the **AHJ**. Prepare initial fire life safety sheet(s) with code review to **Owner** for issuance to the AHJ. Issue to AHJ upon request by **Owner**;
  - l. verification of compliance with **Design and Construction Standards**, guidelines and codes;
  - m. arc flash analysis report;
  - n. energy analysis including modeling and report;
  - o. fire protection and detection drawings; and
  - p. structural drawings including design loads.
7. perform those design **Services**, in consultation with Consultant(s), during this phase of the design, as necessary for **Works of Art** to be identified and incorporated into the **Project**, pursuant to the State of Oregon "**1% For Art Program**", set forth in ORS 276.073 to 276.090, as amended, relating to acquisition of **Works of Art** to be part of the **Project** and consisting of consultations with the **Owner** on selection of artwork, commissioning and completion of the artwork and integration with the overall design of the **Project**;
8. perform those design **Services** as they relate to various governmental agency requirements and or provide relevant information during this phase of the design and or attend

meetings with **Owner**, various governmental agencies and others as required in support of the **Project**;

9. provide meeting agenda and presentations (to be pre-approved by Owner's Authorized Representative), and meeting minutes for review within 5 business days of the meeting (to be approved by the Owner's Authorized Representative prior to distribution) for all meetings with the **Owner**.

### C. Construction Documents Phase

Upon notification of the **Owner's** approval of the **Services** performed by the **Design Professional** under the design development phase and upon written authorization from the **Owner** to proceed, the **Design Professional**, in consultation with the **Owner** and in compliance with the **Design and Construction Standards**, shall:

1. prepare working drawings and specifications, setting forth all necessary plans, elevations, and construction details, descriptions of materials and equipment, methods of installation, and standards of workmanship;
  - a. all revisions to drawings and specifications identified during design development and subsequent intermediate reviews shall be completed and incorporated prior to issuing construction documents for bidding purposes.
2. prepare **Construction Documents** as may be required to expedite the **Work** in phases so as to take maximum advantage of weather and availability of facilities for demolition and reconstruction;
3. prepare specifications setting forth descriptions of materials and equipment, methods of installation, and standards of workmanship, and a complete listing of all warranties required under the technical portions of the specifications;
4. develop all required bidding information, except for Division 00;
  - a. if the **Contractor** for the Project is a **CM/GC**, the **Contractor** will provide Division 00
  - b. The **Owner** may elect to provide Division 01 in any delivery method;
5. provide the **Owner** an electronic set of the 100% complete **Construction Documents** for completion review and approval prior to advertising the **Project** for bid;
6. in addition to the electronic set of 100% complete **Construction Documents** required in 5 above, provide **Owner** a separate electronic set specifically for bid and permit (plan check) submittal. Drawings, in .pdf format, shall be separated into sets by discipline as required by the **AHJ** for submission of a permit;
7. submit to the **Owner**, for approval, a second independent cost estimate of probable **Construction Budget** of the **Project**, consistent with the requirements of **Section I.G.4** above, as applied to the final design, and compare and reconcile this independent cost estimate with a separate, independent cost estimate obtained by the **Owner**;

8. if the **Contractor** for the Project is a **CM/GC**, the **Design Professional** shall perform the following **Services** associated with preparation of the probable **Construction Budget** of the **Project**:
  - a. Review and verify any adjustments made by the **CM/GC** to the previous estimates of probable **Construction Budget** for the **Work** based upon unit costs referred to above, which might be indicated by changes in requirements or general market conditions, and report the **Design Professional's** findings to the **Owner**.

**OR**

  - a. Fully cooperate and coordinate with the **CM/GC** in the preparation of the **Construction Budget** estimates provided for in Sub-section 7 above.
9. assist **Owner** to file the required documents for the approval of various governmental agencies having jurisdiction over the **Project** (**Owner** shall pay for all required plan review fees);
10. prepare bidding documents with approximately 10% additive alternates, in addition provide deductive alternates as required based on **Design Professional's** understanding of current bid climate;
11. submit to the **Owner** the following documents, information and other data:
  - a. final recommendations for interior colors, materials, and finishes;
  - b. structural calculations;
  - c. heat gain/loss and HVAC system design calculations;
  - d. electrical system design load calculations;
  - e. if the **Contractor** for the Project is not a **CM/GC**, provide updated project schedule; otherwise, coordinate with **CM/GC** to provide updated project schedule;
  - f. final updates to **RSD** spreadsheet; and
  - g. color boards and material samples;
  - h. written confirmation to Owner that **Construction Documents** are in compliance with **OSU Design and Construction Standards**;
12. perform those design **Services** during this phase of the design for **Works of Art** to be identified and incorporated into the Project, pursuant to the **1% For Art Program**, set forth in ORS 276.073 to 276.090, as amended, relating to acquisition of **Works of Art** to be part of the **Project** and consisting of consultations with the **Owner** on selection of artwork, commissioning and/or completion of the artwork and integration with the overall design of the **Project**;



13. perform those design **Services** as they relate to various governmental agency requirements and or provide relevant information during this phase of the design and or attend meetings with **Owner**, various governmental agencies and others as required in support of the **Project**; and

14. provide meeting agenda and presentations (to be pre-approved by Owner's Authorized Representative), and meeting minutes for review within 5 business days of the meeting (to be approved by the Owner's Authorized Representative prior to distribution) for all meetings with the **Owner**.

#### **D. Bidding Phase**

Upon notification of the **Owner's** approval of the **Services** performed by the **Design Professional** under the construction documents phase, and upon written authorization from the **Owner** to proceed, the **Design Professional** shall:

1. assist the **Owner/CM/CG** in the bidding and award process;
2. if requested by the **Owner**, review the bids and assist in recommending the award of **Construction Contract(s)** for the **Work**;
3. coordinate with the **Owner** to ensure that all plan review/building permit criteria are reflected in the final bid documents including completion of forms required by **AHJ**;
4. attend the pre-bid conference and site visits, as applicable, at the **Project** site; and
5. If the **Contractor** for the **Project** is not a **CM/GC**, and if the lowest acceptable bid exceeds the **Construction Budget** authorized by the **Owner** by 10%, then at the **Owner's** request, and at no additional cost to the **Owner**, the **Design Professional** shall modify the drawings and specifications in order that new bids may be solicited and a **Construction Contract** award may be made within the **Construction Budget**, consistent with the requirements of **Section I.G.4** above.
6. If the **Contractor** for the **Project** is a **CM/GC**, the **Design Professional** shall perform the following **Services** associated with this bidding phase and preparation of the probable **Construction Budget** of the **Project**:
  - a. Assist the **Owner** and the **CM/GC** in soliciting subcontractor bids; and
  - b. In the event the **CM/GC's** subcontractor bids exceed the **Owner's Construction Budget** by 10%, the **Design Professional** shall, upon request of the **Owner**, and at no additional cost to the **Owner**:
    - i. revise the **Project** design to allow construction of the **Project** within **Owner's** budget;
    - ii. cooperate with and participate as necessary for the **CM/GC** to rebid or negotiate with subcontractors;



- iii. revise **Project** program, scope or quality as required to reduce construction costs;  
or
  - vi. work with **Owner** to find another mutually acceptable alternative.
7. perform those design **Services** as they relate to various governmental agency requirements and or provide relevant information during this phase of the design and or attend meetings with **Owner**, various governmental agencies and others as required in support of the **Project**;
8. provide conformed set of **Construction Documents** updated to include all addenda, incorporation of all **AHJ** plan check comments and selected alternates;
9. from the conformed set of **Construction Documents**, provide a 2-dimensional CAD drawing (internally referred to as "bookplan drawing") in a simple format for each floor (and roof) – in coordination with **Owner** Space Management Office and as further detailed in the **Design and Construction Standards**.

#### **E. Construction Administration Phase**

Commencing with the **Owner's** issuance of a notice-to-proceed for construction of the **Project**, the **Design Professional** shall:

1. attend the pre-construction conference at the **Project** site, or virtually, as applicable;
2. provide general administration of the **Work** as contemplated by the provisions of the **Construction Contract** including assisting the **Owner** with evaluation of the feasibility of the **Contractor**-provided **Project** time schedule;
3. make periodic visits to the **Project** site with such frequency as to ascertain the progress and quality of the **Work**, attend progress meetings with the **Contractor**, determine in general if the **Work** is proceeding in accordance with the **Construction Documents**, and submit a written report to the **Owner** within five (5) business days after each visit, with copies of each report to the **Contractor**;
4. arrange for periodic visits of **Consultants** to make similar determinations with respect to mechanical and other **Work**, as applicable;
5. review and approve or take appropriate action regarding shop drawings and samples submitted by the **Contractor** with reasonable promptness as to not cause delay in the **Work**;;
6. prepare any responses to requests for information, architectural supplemental information, supplemental drawings, or large-scale details needed to clarify the **Construction Documents**;
7. respond promptly to requests from the **Contractor** for assistance with unforeseen problems so as to minimize the **Owner's** exposure to claims for delay;

8. check proposed costs of any modifications to the **Construction Contract** and recommend acceptance or rejection to the **Owner** (**Owner** will prepare written change orders);
9. endeavor to guard the **Owner** against defects and deficiencies in the **Work** of the **Contractor**;
10. notify the **Owner** of any **Work** which does not conform to the **Construction Documents** and recommend to the **Owner** that the **Contractor** stop the **Work** whenever, in the **Design Professional's** opinion, it may be necessary for the proper performance of the **Construction Contract**.
11. provide confirmation to the **Owner** in writing when the final **Punch List** has been fulfilled to the **Design Professional's** satisfaction;
12. conduct on-site observations to assist the **Owner** in determining the date of final completion;
13. assist the **Owner** in the implementation of the **1% For Art Program**, as applicable;
14. upon completion of the **Work**, the **Design Professional** shall, at no additional cost to the **Owner**, update CAD drawings and submit the appropriate electronic files in PDF format, AutoCAD format, and BIM (REVIT) model - compatible with AutoCAD Release latest version, drawings reflecting significant changes in the **Work** made during construction based on marked-up **Contractor** supplied as-built documentation, drawings and other data furnished by the **Contractor** to the **Design Professional** (the "**Record Documents**"), as further detailed in the **Design and Construction Standards**;
15. review the completed **Project** near the end of any applicable warranty period(s) in order to identify defects of materials or workmanship and issue a written report to the **Owner**; and
16. perform those design **Services** as they relate to various governmental agency requirements and or provide relevant information during this phase of the design and or attend meetings with **Owner**, various governmental agencies and others as required in support of the **Project**.

## VIII. ADDITIONAL SERVICES

- A. **Copies of Construction Documents.** The **Design Professional** shall furnish hard copies of all **Construction Documents** upon the written request of the **Owner**. The **Owner** shall reimburse the **Design Professional** at the actual cost of reproduction.
- B. **Conditions Required to Support Additional Compensation.** The **Design Professional** shall be paid, subject to executed amendments, for extra expenses and services involved if:

1. substantial changes are ordered by the **Owner** after the **Owner** has acknowledged the acceptance of one or more of the planning phases described above (except changes which are ordered for the purpose of maintaining the **Construction Budget** of the **Project** within the allowance specified in **Section I**);
2. damage occurs as a result of fire or other casualty to the structure;
3. the **Contractor** becomes delinquent or insolvent and the delinquency or insolvency creates additional work for the **Design Professional**;
4. the **Design Professional's** attendance is required at **AHJ** public and planning board presentations;
5. the **Owner** requests detailed demolition drawings of existing structure(s) or if documentation must be made for salvage of existing materials, except as may be required to ensure that new construction may be fit to existing construction;
6. the **Owner** requests the selection, specification, coordination, and or installation of new or existing furniture, fixtures or equipment ("**FFE**") outside the scope of the **Project**;
7. the **Owner** requests **Additional Services** not identified under the **Basic Services** provision of this **Agreement**, such as study models, renderings, etc.;
8. the **Owner** requests that the **Design Professional** perform **Services** related to:
  - a. preparation of other Owner requested agency forms;
  - b. preparation of way finding or donor signage.

## **IX. SURVEY, BORINGS AND TESTS**

The **Owner** shall, so far as the **Services** under this **Agreement** may require, furnish the **Design Professional** the following information:

- A. Survey.** A complete and accurate survey of the **Project** site, giving the grades and lines of streets, pavements, and adjoining properties and/or scale drawings reasonably representing existing conditions;
- B. Project Site Conditions; Utilities.** The rights, restrictions, easements, boundaries, and contours of the **Project** site and full information as to sewer, water, gas and electrical service, existing utility tunnels, lines, etc. on site;
- C. Geotechnical Reports.** Geotechnical investigation reports with recommendations for soil bearing capacities.

The **Owner** will pay for chemical, mechanical or other tests when required. The **Owner** does not warrant the accuracy of any of the information so provided. The **Design Professional** will not be held responsible for errors due to inaccuracy of any of the information so provided.

#### **X. DESIGN PROFESSIONAL'S RESPONSIBILITIES IN REGARD TO ASBESTOS AND OTHER HAZARDOUS SUBSTANCES**

The **Owner** anticipates that the **Services** under this **Agreement** will not involve the removal of and destruction of asbestos, asbestos-related materials, hazardous substances or other hazardous materials (collectively the "**Hazardous Substances**"). The **Owner** shall contract separately for the identification and removal of any **Hazardous Substances**, either prior to the commencement of this **Project** or at such time as such **Hazardous Substances** are detected. The **Design Professional** 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**, consultant hired by the **Owner**, the contractor, or subcontractor which the **Owner** selects relating to the abatement of such **Hazardous Substances**.

#### **XI. INSURANCE PROVISIONS**

During the term of this **Agreement**, **Design Professional** 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. **Design Professional** shall ensure that each of its **Consultants** and subcontractors complies with the requirements of this **Section XI**:

- A. Workers' Compensation** - All employers, including **Design Professional**, that employ subject workers who work under this **Agreement** in the State of Oregon shall comply with ORS 656.017 and provide the required Oregon workers' compensation coverage, unless such employers are exempt under ORS 656.126. All employers, including **Design Professional**, that employ workers who work under this **Agreement** outside of Oregon shall provide Worker's Compensation coverage under the laws applicable to such workers.
- B. Commercial General Liability** - **Design Professional** shall secure Commercial General Liability insurance with a limit of not less than \$2,000,000 each occurrence and \$4,000,000 aggregate for bodily injury, up to and including death, property damage liability, personal/advertising injury, products and completed operations coverage and contractual liability coverage for the indemnity provided under this **Agreement**. The policy shall include a waiver of subrogation clause and a separation of insureds clause (cross liability). **Design Professional** shall ensure that each of its **Consultants** and subcontractors secures and maintains Commercial General Liability insurance with a limit not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate.
- C. Automobile Liability** - **Design Professional** shall secure Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per accident, for bodily injury and property damage, including coverage for all owned, hired, or non-owned vehicles, as applicable. This coverage may be written in combination with the Commercial General Liability Insurance. .

**D. Professional Liability/Errors & Omissions - Design Professional** shall provide the **Owner** with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by any negligent error, omission, or any act for the **Project**, its plans, drawings, specifications or project manual, and all related work product of the **Design Professional**. The policy may be either a practice based policy or a policy pertaining to the specific **Project**. Professional Liability insurance to be provided shall have limits of not less than \$3,000,000 each claim, incident or occurrence and \$3,000,000 annual aggregate. **Design Professional** shall ensure that each of its major **Consultants** and subcontractors (including structural, civil, mechanical, plumbing, electrical engineering, survey, geotechnical and materials testing) secures and maintains Professional Liability/Errors & Omissions with limits not less than \$2,000,000 each claim, incident or occurrence and \$2,000,000 annual aggregate. All other **Consultants** and subcontractors not listed above shall have limits not less than \$1,000,000 each claim, incident or occurrence and \$1,000,000 annual aggregate.

**E. "Tail" Coverage.** If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of the **Agreement** for a duration of thirty-six (36) months or the maximum time period available in the marketplace if less than thirty-six (36) months. **Design Professional** will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for thirty-six (36) months following **Owner's** acceptance of and final payment for the **Design Professional's Services**. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this **Agreement**. This will be a condition of the final acceptance of **Work** or **Services** and related warranty, if any.

**F. Certificate of Insurance.** Upon request by the Owner, OR [Prior to the signature by the Owner to this Agreement], **Design Professional** shall furnish to the appropriate university official Certificates of Insurance and required endorsements as evidence of the insurance coverages required under this **Agreement**. The insurance policies will be endorsed/amended so that the insurance company or companies shall give a thirty (30) calendar day notice (without reservation) if the applicable policy is suspended, voided, canceled or materially changed, or if the aggregate limits have been reduced, except when cancellation is for non-payment, then a ten (10) days' notice may be given, to the **Owner's** Representative set forth in **Section XXX** below. The certificate(s) should state specifically that the insurance is provided for this **Agreement**. Policies will be endorsed to show required cancellation provisions, and copies of the endorsement will be attached to the certificate of insurance. Insuring companies are subject to acceptance by the **Owner**.

**G. Additional Insureds.** All policies, except for Workers' Compensation and Professional Liability/Errors & Omissions, shall be endorsed so that the **Owner**, and its officers, trustees, agents, and employees are Additional Insureds with respect to the **Design Professional's Services** to be provided under this **Agreement**.

**H. Waiver of Subrogation.** Except as respects to Professional Liability/Errors and Omissions, the **Design Professional** agrees to waive all rights of subrogation against the **Owner** and its trustees, officers, employees and agents for losses arising from the work performed under this Agreement.

## XII. INDEMNITY

**A. Indemnification.** Design Professional shall indemnify, hold harmless and defend the Owner and its trustees, officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees and costs, of whatsoever nature (Claims) resulting in any way from, arising out of, or relating to the activities, including professional services, of the Design Professional or the Design Professional's Consultants, partners, joint venturers, subcontractors, officers, agents or employees, or caused by any willful or negligent error, omission, or act of the Design Professional, or any person employed by it, or anyone for whose acts the Design Professional is legally liable while acting under or pursuant to this Agreement or any supplement or amendment hereto. The Design Professional's obligation to indemnify and hold harmless the Owner and its trustees, officers, employees and agents does not include a duty to defend for Claims arising from professional services.

**B. Owner Defense Requirements.** Notwithstanding the foregoing defense obligations of the Design Professional, neither the Design Professional nor any attorney engaged by the Design Professional 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 Design Professional is prohibited from defending the Owner, that Design Professional is not adequately defending the Owner's interests, 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 Design Professional if the Owner elects to assume its own defense.

**C. Consultants Agreements.** Each agreement with Consultants at every tier shall provide that the Owner is and shall be a third-party beneficiary of such subcontract, purchase order and similar agreement, and that the Owner shall have the right, but not the obligation, to assert claims directly against Consultants for breach of contract, breach of express warranties, breach of implied warranties, including but not limited to warranties of merchantability and of fitness for a particular purpose, negligence and other claims arising out of or related to the work or the Project. The Owner and Design Professional acknowledge and agree that the purpose of this Section is to enable the Owner, at its discretion, and in addition to the Design Professional, to assert claims for damages and indemnification directly against Consultants that are or may be responsible for breach of the contract, defects in the work, and other damaged incurred by the Owner arising out of or related to the work or the Project.

### **XIII. LIMITATION OF LIABILITIES**

Except for any liability of the Design Professional arising under or related to the Design Professional's failure to perform according to the standard of care or any other liability arising under or related to the Design Professional's representations and warranties under Section II of this Agreement, or as otherwise provided by 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.

### **XIV. RESERVED**



## XV. OWNERSHIP AND USE OF WORK PRODUCT OF DESIGN PROFESSIONAL

**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 **Design Professional** intend that such **Work Product** is "Work made for Hire", of which the **Owner** shall be deemed the author. The **Design Professional** 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 **Design Professional** shall execute such further documents and instruments as the **Owner** may reasonably request in order to fully vest such rights in the **Owner**. The **Design Professional** 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. Design Professional's Use of Work Product.** The **Design Professional**, 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 **Design Professional** 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 **Design Professional's** involvement or prior written consent, the **Owner** shall indemnify, in an amount up to two times the **Maximum Compensation** to be paid under this **Agreement**, the **Design Professional** 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 **Design Professional** for any such liability arising out of the wrongful acts of the **Design Professional** or the **Design Professional's** officers, employees, **Consultants**, subcontractors, or agents.

## XVI. 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, **Design Professional** shall not enter into any new design professional 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 additional provisions **Owner** may require, **Design Professional** shall include in any permitted **Consultant** agreement under this **Agreement** a requirement that the **Consultant** be bound by **Sections XI-INSURANCE, XII-INDEMNITY, XIII - LIMITATION OF LIABILITIES, XV-OWNERSHIP AND USE OF WORK PRODUCT OF DESIGN PROFESSIONAL, XVIII-MEDIATION, XIX-TERMINATION OF AGREEMENT; NON-AVAILABILITY OF FUNDS, XX-SUSPENSION OF AGREEMENT, XXII-FOREIGN CONTRACTOR, XXIII-COMPLIANCE WITH APPLICABLE LAWS, XXIV-GOVERNING LAW; VENUE; CONSENT TO JURISDICTION, XXV-INDEPENDENT CONTRACTOR STATUS OF DESIGN PROFESSIONAL, XXVI-ACCESS TO RECORDS and XXIX-NO WAIVER** of this **Agreement**.

## XVII. NO THIRD PARTY BENEFICIARIES

**Owner** and **Design Professional** 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**.

## **XVIII. MEDIATION**

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

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

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

**A. Mutual Agreement.** The **Owner** and the **Design Professional**, by mutual written agreement, may terminate this **Agreement** at any time. **Design Professional**

**B. Termination by Owner for Convenience.** **Owner** may terminate this **Agreement** in whole or in part whenever **Owner** determines that termination of the **Agreement** is in the best interest of the **Owner** or the public. The **Owner** shall provide the **Design Professional** with seven (7) Days prior written notice of a termination for **Owner's** convenience or when in the public's interest..

**C. Termination by Owner for Cause.** **Owner** may terminate this **Agreement**, in whole or in part, immediately upon notice to **Design Professional**, 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 the **Design Professional'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. **Design Professional** no longer holds any license or certificate that is required to perform the **Services**;
4. **Design Professional** 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 fails to perform the **Services** so as to endanger **Design Professional's** performance under this **Agreement** in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of **Owner's** notice, or such longer period of cure as **Owner** may specify in such notice.

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

1. Pursuant to **Sub-sections A, B, C.1 or C.2** above, the **Owner**, using the schedule of hourly rates set forth in **Section III**, and within the limitations specified in **Section V** shall compensate the **Design Professional** for all **Services** performed prior to the termination date, together with reimbursable expenses then due, and such amounts shall immediately become due and payable.
2. Pursuant to **Sub-sections C.3 or C.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 **Design Professional** 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 in electronic format 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 **Design Professional** shall be responsible to the **Owner** for the quality of its **Services** and work product through the date of termination.

**XX. SUSPENSION OF AGREEMENT**

**A. Suspension of Agreement by Owner.** The **Owner** may suspend the **Parties'** performance of this **Agreement** in the event any of the following circumstances arise:

1. **Owner** fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient, as contemplated by OSU's budget and OSU determination, in its assessment and ranking of the policy objectives explicit or implicit in OSU's budget, to pay for the **Design Professional'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. **Design Professional**, or one of **Design Professional's Consultants** currently performing **Services**, no longer holds any license or certificate that is required to perform the **Services**; or
4. The public interest otherwise requires suspension of performance of the **Agreement**, as reasonably determined by the **Owner**.

**B. Suspension is not Termination.** Any suspension of performance under this provision constitutes a temporary stoppage of performance of the **Agreement**, and does **not** constitute a termination of the **Agreement** pursuant to **Section XIX** of this **Agreement**. In the event that the condition(s) causing the suspension have been rectified and suspension is no longer required, the **Parties** will take all actions necessary to reactivate performance of the **Agreement**. In the event that the **Owner** determines that the conditions causing suspension of the **Agreement** are not likely to be rectified in a reasonable amount of time, the **Owner** retains the right to terminate this **Agreement**, pursuant to **Section XIX**. In the event of a suspension of performance pursuant to this Section of the **Agreement**, the **Design Professional** agrees to remain contractually obligated to perform the **Services** under this **Agreement** for the same hourly rates set forth in **Section III.C** of this **Agreement** for a period of three years after the **Effective Date** of the **Agreement**. If the **Agreement** is reactivated and the **Design Professional** is required to perform **Services** beyond this date or such other time period agreed to by the **Parties**, the **Parties** may negotiate updated hourly rates for the **Design Professional** and any **Consultants** and amend this **Agreement** accordingly.

**C. Payments at the time of Suspension.** If any **Services** performed by the **Design Professional** are suspended, the **Design Professional** shall be paid for the **Services** rendered, under the provisions and limitations of **Section I.G** and **Section IV**, in proportion to the amount of **Services** performed at the time of suspension if the suspension does not result from a design error of the **Design Professional**, a bid overrun, or other breach or default by the **Design Professional**.

#### **XXI. SMOKE FREE CAMPUS; SEXUAL HARRASSMENT; FIREARMS**

**A. Smoke and Tobacco Free Campus.** **Design Professional** acknowledges and agrees **Owner's** grounds and premises are smoke and tobacco free. **Design Professional** and **Design Professional's** employees, agents, **Consultants**, if any, agree not to smoke or use tobacco products while on **Owner** property.

**B. Sexual Misconduct Policy.** The **Owner** has policies that prohibit sexual misconduct against members of the university community and in keeping with those policies **Design Professional** and **Design Professional's** employees, agents, and **Consultants** are prohibited from engaging in sexual misconduct against members of the university community.

**C. Firearms Policy.** The **Design Professional** acknowledges **Owner** has adopted a policy that prohibits the possession of firearms on **Owner's** Property and agrees that **Design Professional's** employees, agents and **Consultants** will comply with such policy.

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

**Design Professional** must provide **Design Professional's** Social Security number unless **Design Professional** provides a federal tax ID number. This number is requested pursuant to ORS 305.385 and OAR 150-305.0010. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

#### **XXIII. FOREIGN CONTRACTOR**

If **Design Professional** is not domiciled in or registered to do business in the State of Oregon, **Design Professional** 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**. **Design Professional** shall demonstrate its legal capacity to perform the **Services** under this **Agreement** in the State of Oregon prior to entering into this **Agreement**.

#### **XXIV. COMPLIANCE WITH APPLICABLE LAW**

**Design Professional** shall comply with all OSU Standards and policies, and federal, state, county, and local laws, ordinances, and regulations applicable to the **Services** to be provided under this **Agreement**. **Design Professional** specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. **Design Professional** also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659a.142, and all regulations and administrative rules established pursuant to those laws. Failure or neglect on the part of **Design Professional** to comply with any or all such laws, ordinances, rules, and regulations shall not relieve **Design Professional** of these obligations nor of the requirements of this **Agreement**. **Design Professional** further agrees to make payments promptly when due, to all persons supplying to such **Design Professional** 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 **Owner** 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 **Design Professional** fails or refuses to make any such payments required herein, the **Owner** may pay such claim. Any payment of a claim in the manner authorized in this Section shall not relieve the **Design Professional** or **Design Professional'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 accessible to people with physical limitations. **Owner** requires that all spaces in designs for new facilities and in remodel projects will be accessible to people with physical limitations.

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

This **Agreement** is to 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 **Design Professional** 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 **Owner** 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. **DESIGN PROFESSIONAL, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

#### **XXVI. INDEPENDENT CONTRACTOR STATUS OF DESIGN PROFESSIONAL**

**A. Design Professional as Independent Contractor.** Design Professional 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 **Design Professional's** performance. **Design Professional** is responsible for determining the appropriate means and manner of performing the **Services**.

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

## XXVII. ACCESS TO RECORDS

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

## XXVIII. SEVERABILITY

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.

## XXIX. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by an act that prevents the Party from performing its obligations under this Agreement where such cause is beyond the Party's reasonable control and the nonperforming party has been unable to avoid or overcome the act by the exercise of due diligence. Such acts or events include without limitation fire, riot, acts of nature, pandemic, epidemic or other health emergency as declared by a health authority, acts of God, terrorist acts, and other acts of political sabotage or war. The nonperforming 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.

**XXX. 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.

**XXXI. NOTICE; PARTIES' REPRESENTATIVES**

Except as otherwise expressly provided in this **Agreement**, any notices to be given hereunder shall be given in writing by email followed by personal delivery, or mailing the same, postage prepaid, to **Design Professional** 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 seven (7) 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 **Design Professional** and the **Owner** for purposes of notice and for other specific purposes provided for under this **Agreement** are:

**Design Professional:**

**Principle's Name, Title**  
**Design Professional Name**  
**Design Professional Address**  
**Design Professional Address**

**Owner:**

**Bruce Daley, Associate Vice President for Capital Planning and  
Facilities Services**  
Oregon State University  
850 SW 35<sup>th</sup> St.  
Corvallis OR 97331

**With a Copy to:**

**OSU Project Manager, Project Manager**  
**Capital Planning & Development**  
Oregon State University  
850 SW 35<sup>th</sup> St.  
Corvallis, OR 97331

**And a Copy to:**

**Construction Contracts Administration**  
Oregon State University  
644 SW 13<sup>th</sup> Ave.  
Corvallis, OR 97333

**XXXII. CONFIDENTIALITY**

**Design Professional** 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 **Design Professional** from establishing a claim or defense in an adjudicatory proceeding. **Design Professional** shall require the **Consultants** to execute similar agreements to maintain the confidentiality of information of **Owner**.

### **XXXIII. CONFLICT OF INTEREST**

Except with **Owner's** prior written consent, **Design Professional** shall not engage in any activity or accept any employment, interest or contribution that would or would reasonably appear to compromise **Design Professional'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.

### **XXXIV. 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** Design Professional's Standard of Care; Representations and Warranties, **XII** Indemnity, **XIII** Limitation of Liabilities, **XV** Ownership and Use of Work Product of Design Professional, **XIX** Termination of Agreement; **Non-Availability of Funds**, **XXV** Governing Law; Venue; Consent to Jurisdiction, **XXVII** Access to Records, **XXXII** Confidentiality, and **XXXIV** Survival and as otherwise explicitly set forth in this Agreement

### **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.

### **XXXVI. MERGER CLAUSE**

THIS **AGREEMENT** AND ANY ATTACHED EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE **PARTIES** ON THE SUBJECT MATTER HEREOF. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS **AGREEMENT**. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS **AGREEMENT** SHALL BIND EITHER **PARTY** UNLESS IN WRITING AND SIGNED BY THE **PARTY** TO BE BOUND. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIED INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. **DESIGN PROFESSIONAL**, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS **AGREEMENT** AND THE **DESIGN PROFESSIONAL** AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS HEREOF, the **Parties** have duly executed this **Agreement** as of the **Effective Date**.

**Design Professional Name**, Design Professional

By \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Date \_\_\_\_\_

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

Oregon State University, **Owner**

By: \_\_\_\_\_

Bruce Daley

Title: Associate Vice President for Capital Planning  
and Facilities Services

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

SAMPLE

**EXHIBIT 1**

**DESIGN PROFESSIONAL PROPOSAL**

SAMPLE



**EXHIBIT 2**

**DESIGN PROFESSIONAL'S KEY PERSONNEL AND CONSULTANTS**

**Key Personnel**

Principal: \_\_\_\_\_

Senior Architectural Designer: \_\_\_\_\_

Architectural Designer: \_\_\_\_\_

Urban Designer: \_\_\_\_\_

Sr. Project Manager: \_\_\_\_\_

Project Manager: \_\_\_\_\_

Production Personnel/Project Architect: \_\_\_\_\_

Senior Interior Designer: \_\_\_\_\_

Interior Designer: \_\_\_\_\_

Clerical: \_\_\_\_\_

**Consultants**

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

**EXHIBIT 3**

**REIMBURSABLE EXPENSE RATES**

Reimbursable Expenses shall be reimbursed by the Owner at the following rates:

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

	Air fare (coach class only) and car rental
	At cost for economy
Personal car mileage	\$0.56 per mile
Lodging	Cost
Meals: (documentation not required) (reimbursable only when associated with overnight travel)	
Breakfast	\$15
Lunch	\$15
Dinner	\$30
Printing, photography, long distance telephone charges and other direct expenses	At cost

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

**EXHIBIT 4**

**HOURLY RATES**

**DESIGN PROFESSIONAL:**

Principals \$ \_\_\_/hr  
Senior Architectural Designer \$ \_\_\_/hr  
Architectural Designer \$\_\_\_ - \_\_\_/hr

Urban Designer \$\_\_\_ - \_\_\_/hr  
Sr. Project Manager \$\_\_\_ - \_\_\_/hr  
Project Manager \$\_\_\_ - \_\_\_/hr

Production Personnel/Project Architect \$\_\_\_ - \_\_\_/hr  
Senior Interior Designer \$ \_\_\_/hr  
Interior Designer \$\_\_\_ - \_\_\_/hr  
Clerical \$\_\_\_/hr

**CONSULTANTS:**

\_\_\_\_\_

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

\_\_\_\_\_

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

EXHIBIT 2

SUPPLEMENTAL INFORMATION

Available at:

<https://oregonstate.box.com/s/4cd58wztevodvdxhhmao3w5q5ikz48zl>