



Oregon State University

REQUEST FOR PROPOSAL (RFP) #2025-018229

JOB ORDER CONTRACTING SERVICES FOR OREGON STATE UNIVERSITY AND OREGON STATEWIDE COOPERATIVE JOB ORDER CONTRACTING PROGRAM

ISSUE DATE: March 28, 2025

NON-MANDATORY PRE-PROPOSAL CONFERENCE:
April 8, 2025, at 10:00 AM Pacific Time (PT) via Zoom
Attendees must register by using the following Link:
[Pre-Proposal Conference Registration Link](#)

RFP DUE DATE/TIME:
April 29, 2025, at 2:00 PM Pacific Time (PT) via
electronic submission to bids@oregonstate.edu

QUESTION DEADLINE: April 15, 2025 at 5:00 PM Pacific Time (PT)

CONTRACT ADMINISTRATOR:

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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.

This RFP Consist of Three Sections:

SECTION ONE: (RFP Overview and Terms and Conditions)

- **Part A:** RFP Overview, instructions to proposers, evaluation criteria, map regions, Contract categories, adjustment factors, Link to CTC's, etc.
- **Part B:** OSU General Conditions for Public Improvement Contracts
- **Part C:** General Terms and Conditions for JOC including Ordering Procedures

SECTION TWO: (Proposal Forms Checklist, Proposal Forms, Pricing, Sample Agreement)

Part A: Evaluation Criteria and Scoring Proposal Forms

- Proposal Form Checklist
- Proposal Forms

Part B: Pricing Adjustment Factors and Combined Adjustment Factor

- Price Proposal Instructions
- Responding Adjustment Factors
- Combined Adjustment Factor Calculation

Part C: Sample Agreement

SECTION THREE: (Requirements for Cooperative Contract)

- **Exhibit A:** OMNIA Response for Piggyback Contract
- **Exhibit B:** Master Intergovernmental Cooperative Purchasing Agreement, Example
- **Exhibit C:** Principal Procurement Agency Certificate, Example
- **Exhibit D:** Advertising Compliance Requirement

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SECTION 1: PART A

RFP Overview, instructions to proposers, evaluation criteria, map regions, Contract categories, adjustment factors, Link to Construction Task Catalog®, and Technical Specifications.

Section Reference: Part A

SECTION 1: PART A	3
1.0 INTRODUCTION	5
1.1	5
1.2 Background	5
1.3 Location(s)	6
1.4 Summary of Work	6
1.5 Scope of Services	6
1.6 Budget	7
1.7 Overview and Purpose For Statewide Cooperative Job Order Contracting Program	7
2.0 SCHEDULE	8
3.0 QUESTIONS, SOLICITATION REVISION REQUESTS, CHANGE OR MODIFICATION, APPEALS	8
3.1 Questions	8
3.2 Solicitation Process Revision Requests	9
3.3 Change or Modification	9
3.4 Appeals	9
4.0 PUBLIC RECORD	9
4.1	9
4.2	9
4.3	10
5.0 FORM OF AGREEMENT	10
6.0 PREVAILING WAGES	10
6.1	10
6.2	10
6.3	10
7.0 INSTRUCTIONS TO OFFERORS	11
7.1 Summary of Work	11
7.2 Pre-Proposal Conference	15
7.3 Proposal Submission	15
7.4 Proposal Submission Requirements	16
7.5 Acceptance or Rejection of Solicitation Responses by OSU	16
7.6 Withdrawal of Solicitation Response	17
7.7 Evaluation Process	17
7.8 Evaluation Criteria	17
7.9 Point Summary Table	19
7.10 Proposal Pricing Construction Task Catalog® and Adjustment Factors	20
7.11 Unbalancing of Proposals	24

7.12 Competitive Range 24

7.13 Equity Contracting..... 25

7.14 Negotiations 25

8.0 MISCELLANEOUS 26

8.1 JOC System License Fee (Oregon State University Main Campus and Regional
JOC Programs) 26

8.2 Administrative Fee (Oregon Statewide Cooperative JOC Program) 26

8.3 Financial Responsibility 28

8.4 Project Termination..... 28

8.5 Insurance Provisions..... 28

8.6 Nondiscrimination 28

8.4 AA/EEO Employer..... 28

8.5 Compliance with Applicable Law..... 28

8.6 Smoke and Tobacco Free Campus..... 28

8.7 Sexual Misconduct Policy 28

8.8 Firearms Policy 29

8.9 Apprenticeship Requirements..... 29

8.10 Background Checks 29

8.11 Federal Funding Pricing..... 30

8.12 Additional Terms and Conditions..... 30

8.13 Execution of Agreement..... 30

8.14 Order of Precedence 30

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1.0 INTRODUCTION

1.1

Oregon State University (hereinafter referred to as the “University” and “OSU”) is soliciting proposals from qualified companies to establish a contract for Job Order Contracting Services for University owned buildings and facilities. The University is also seeking qualified companies to establish an Oregon Statewide Cooperative Job Order Contracting Program for public and non-profit Agencies. Companies interested in responding can obtain the solicitation documents at the following link: <https://bid.oregonstate.edu/>

OSU WILL ONLY BE ACCEPTING SEALED PROPOSALS ELECTRONICALLY - Proposals are to be submitted to bids@oregonstate.edu by April 25, 2025 @ 2:00 PM PT.

VIRTUAL PRE-PROPOSAL CONFERENCE- A virtual Pre-Proposal Conference will be held on APRIL 08, 2025 at 10:00 AM Pacific Time (PT) via Zoom. Attendees must register by using the following link: [Pre-Proposal Conference Registration Link](#)

All questions shall be submitted via e-mail to 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.

OMNIA Partners is the largest and most experienced purchasing organization for public and private sector procurement. Through the economies of scale created by OMNIA Partners public sector subsidiaries and affiliates, National IPA and U.S. Communities, our participants now have access to more competitively solicited and publicly awarded cooperative agreements. The lead agency contracting process continues to be the foundation on which we are founded. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education, and non-profits.

OMNIA Partners provides shared services and supply chain optimization to government, education, and the private sector. With corporate pricing and sales commitments from the Contractor, OMNIA Partners

provides marketing and administrative support for the Contractor that directly promotes the Contractor's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis. Participating Public Agencies benefit from pricing based on aggregate spend and the convenience of a contract that has already been advertised and publicly competed. The Contractor benefits from a contract that generally allows Participating Public Agencies to directly purchase goods and services without the Contractor's need to respond to additional competitive solicitations. As such, the Contractor must be able to accommodate a statewide demand for services, dependent on the regions the Contractor submits for, and to fulfill obligations as a statewide Contractor and respond to the OMNIA Partners documents (incorporated into Section 2 with additional details in Section 3 Exhibit A).

1.3 Location(s)

See Section One: Part A 7.1.4 Regional Map and County Breakdown for Oregon State University and Oregon Statewide Cooperative JOC Program

1.4 Summary of Work

The University is soliciting proposals from qualified companies to establish a contract for Job Order Contracting Services for University owned and or operated buildings and facilities. The University is also seeking qualified companies to establish a Statewide Oregon Cooperative Job Order Contracting Program Through OMNIA Partners. Established contracts will be for a three (3) year period. The University reserves the right to exercise an option to renew for two (2) additional 1-year periods. The awarded contractor(s) (each a "Contractor") shall provide all necessary equipment, materials, supplies, necessary insurance, supervision, and competent, suitable and qualified personnel to perform the work required.

1.5 Scope of Services

The purpose of this RFP is to ultimately enter into a contract with one or more qualified Contractor(s) to provide Job Order Contracting Services for Oregon State University and Oregon Statewide Cooperative Job Order Contracting Program. Job Order Contracting (JOC) is a competitively solicited indefinite quantity (IDIQ) construction contract awarded to contractor(s) to accomplish construction, repair, alteration, modernization, rehabilitation, and construction of infrastructure, buildings, structures, or other real property. The Estimated Annual Value is based on the anticipated estimated annual use and the contract term is three (3) years with two (2) bilateral one (1) year options for a total of five (5) years. The RFP Documents include a Construction Task Catalog (CTC) containing repair and construction Tasks with preset Unit Prices. All Unit Prices are based on local labor, material, and equipment prices for the direct cost of construction. Once contracts are awarded, the University and OMNIA Partners Participating Public Agencies will order individual scopes of work (each a "Project") from CTC's by issuing a Purchase Order against the contract.

The University is using Gordian's cooperative contract for Job Order Contracting Services, available through the OMNIA Partners portfolio, to implement this program. The system includes Gordian's proprietary ezIQC, eGordian, and Bid Safe IQCC applications (IQCC Applications) and construction cost data (Construction Task Catalog), which will be used by the Contractor(s) to prepare and submit Cost Proposals, subcontractor lists, and other requirements specified by the University and OMNIA Partners Participating Public Agencies. The Contractor's use, in whole or in part, of Gordian's IQCC Applications and Construction Task Catalog and other proprietary materials provided by Gordian for any purpose other than to execute

work under this contract for the University and Participating Public Agencies are strictly prohibited unless otherwise stated in writing by Gordian.

Proposers will offer price adjustments (Adjustment Factors) to be applied to the CTC Unit Prices. The Adjustment Factors represent either an increase to (such as 1.1000) or a decrease from (such as 0.9800) the preset Unit Prices. The amount to be paid for the Project ordered will be determined by multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The CTC and the Proposer's Adjustment Factors will be incorporated into the awarded contract.

Under JOC, the Contractor(s) furnishes management, labor, materials, equipment, and incidental design support needed to perform the work of the Project.

In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, Contractor may conduct sales promotions involving price reductions for a specified lesser period. Contractor may offer Participating Agencies competitive pricing which is lower than the not-to-exceed price set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract.

1.6 Budget

While no minimum volume is guaranteed to the Contractor, the estimated annual volume of Job Order Contracting Products and Services purchased through the University is approximately \$3 to \$7.5 Million Annually. This projection is based on the current annual volumes for the University.

1.7 Overview and Purpose For Statewide Cooperative Job Order Contracting Program

OSU, as the Principal Procurement Agency, defined in Section Three Attachment A, has partnered with OMNIA Partners, Public Sector ("OMNIA Partners") to make the resultant contract (also known as the "Master Agreement" in materials distributed by OMNIA Partners) from this solicitation available to other public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' cooperative purchasing program. OSU is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners (a "Participating Public Agency") and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of a Master Intergovernmental Cooperative Purchasing Agreement, a form of which is attached hereto on Section Three Attachment B, or as otherwise agreed to. Section 3 Attachment A contains additional information about OMNIA Partners and the cooperative purchasing program.

The purpose of this RFP is to establish a group of Job Order Contracting Services for Oregon State University and Oregon Statewide Cooperative Job Order Contracting Program for Participating Public Agencies throughout the State of Oregon, allowing the University and OMNIA Partners Participating Public Agencies access to complete construction, repair, alteration, modernization, rehabilitation, and construction of infrastructure buildings, structures, or other real property at competitively solicited prices. Awarded Contractors will perform an ongoing series of individual projects for the University and OMNIA Partners Participating Public Agencies at different locations primarily within a designated Geographic Region.

For the Oregon Statewide Cooperative Job Order Contracting Program, while no minimum volume is guaranteed to the Contractor, the estimated annual volume of Job Order Contracting Products and Services purchased under the Master Agreement through OMNIA Partners is approximately \$50M. This projection is based on the current annual volumes among OMNIA Partners Participating Public Agencies anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between the Supplier and OMNIA Partners.

By submitting a proposal, Proposers understand and agree to participate in the OMNIA Partners program. More information about OMNIA Partners is included in (Section Three Attachment A). The questions in Section Three, Attachment A are for informational purposes as they have additionally been incorporated into Section Two Submittal Requirements and Forms, Proposal Form 14. Responses to the questionnaires, located in Section Two, should highlight experience, demonstrate a strong presence in the market, describe how Proposer will educate its sales force and staff about the Master Agreement, describe how products and services will be distributed to Participating Public Agencies, include a plan for marketing the products and services across the state, and describe how volume will be tracked and reported to The Gordian Group; it is understood that Proposers will be of varying sizes and capacities and all qualified Contractors are encouraged to submit. Proposers are to provide a response to the OMNIA Partners program.

2.0 SCHEDULE

Issue Date	MARCH 28, 2025
Pre-Proposal Conference	APRIL 8, 2025 @ 10:00 AM PT
Question Deadline	APRIL 15, 2025 @ 5:00 PM PT
Final Addendum Issuance (if necessary)	April 17, 2025
Proposal Due Date/Time	April 29th, 2025 @ 2:00 PM PT
<u>The following dates are tentative and subject to change without notice:</u>	
Notice of Intent to Award	May 27, 2025
Estimated Contract execution and notice to proceed	June 16, 2025

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 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 **Chief Procurement Officer** 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 **Chief Procurement Officer**, 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 Job Order Contracting Services Master Agreement (the "Contract") in Section 2 Part C, 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 PREVAILING WAGES

6.1

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

The Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates (PWR) as outlined in Sections C.1 and C.2 of the General Conditions. The resulting Supplement is subject to the following BOLI wage rate requirements, which are incorporated herein by reference:

- 6.1.2 January 5, 2025 PWR Apprenticeship Rates
- 6.1.3 January 5, 2025 Prevailing Wage Rates for Public Works Contracts in Oregon
- 6.1.4 October 5, 2024 Definitions of Covered Occupations for Public Works Contracts in Oregon

These BOLI wage rates are available here: https://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx.

6.2

Individual Projects may be subject to federal funding. When a Project is subject to federal funding, the Purchase Order issued by the University or a Participating Agency will provide additional information regarding compliance with the Davis-Bacon Act including, but not limited to a General Decision Number.

6.3

In compliance with ORS 279C.830(1)(b), when a Project subject to both the Davis-Bacon Act and BOLI Prevailing Wages, the Contractor shall pay workers not less than the higher of the applicable state or federal rates.

7.0 INSTRUCTIONS TO OFFERORS

7.1 Summary of Work

The Work contemplated in this document shall be for OSU in connection with the services described in Section 1.0 of this document.

7.1.2 Project Delivery Order Procedures

Detailed Scope of Work and a Request for Proposals to the Contractor. The University or OMNIA Partners Participating Public Agency, with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the University or OMNIA Partners Participating Public Agency in developing a final scope of work. The University or OMNIA Partners Participating Public Agency will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC System to prepare a Cost Proposal for the Purchase Order including a Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. Gordian will assist the University or OMNIA Partners Participating Public Agency with Cost Proposal review, and if the Cost Proposal is found to be reasonable, the University or OMNIA Partners Participating Public Agency will issue a Purchase Order to Contractor. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor will perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.

7.1.3 Scope of Services

The purpose of this document is to ultimately enter into a contract with one or more qualified contractors to provide Job Order Contracting Services for Oregon State University with OMNIA Partners (Statewide Program) contracting for public agencies. The submission of a proposal hereunder shall be considered evidence that the contractor is satisfied with respect to the conditions to be encountered, and the character, quantity, and quality of the work to be performed. Contractors' employees shall be properly trained in operating the specific equipment used by the contractor. Upon request, the contractor shall provide a copy of their written safety program for review by the University. Awarded contractor will also be required to attend an on-boarding meeting at the beginning of the contract to review the University's goals, procedures, and policies of the contract. No contract is automatically renewed at the end of any contract term.

Proposals for Job Order Contracting Services for Oregon State University may be submitted for the following categories:

- General Construction
- Mechanical, Electrical, and Plumbing (MEP)
- Civil/Site Construction
- Roofing and Weatherproofing

Proposals for Oregon Statewide Cooperative Job Order Contracting Program for Public Agencies in Oregon may be submitted for the following categories:

- General Construction
- Mechanical, Electrical, and Plumbing (MEP)
- Civil/Site Construction

General Construction Category: The scope of work for the General Construction category may include the evaluation, incidental design or sketches, and renovation of existing facilities or the construction of new additions to existing facilities. The work may include the remodel of individual classrooms, offices, restrooms for ADA compliance, storage and common areas, administrative offices, clinical and lab areas, athletic areas, and similar sites or facilities involving one or multiple construction trades. New construction may include additions, such as classrooms, administrative, athletic, storage, land development, etc. that involves and requires multiple construction trades such as demolition, mechanical, plumbing, electrical, carpentry, flooring, painting as well as utilities, masonry, and site work. The University intends on acquiring multiple service providers in the various subcategories under the General Construction Category including General Contractors, Mitigation/Demolition Contractors and Contractors that provide Crane Services.

Mechanical, Electrical, and Plumbing (MEP) Category: Proposers are encouraged to respond for all or specific individual trades within the umbrella of the MEP category.

Mechanical: The scope of work for the Mechanical contract may include but not be limited to the inspection, evaluation, and assessing, of existing mechanical, HVAC distribution and return, and related equipment. The scope of work may include work on existing systems or the demolition of existing systems and installation of new systems. The work may also include services relating to installing, maintaining, and repairing the specified systems as well as conducting preventive maintenance programs to maintain the systems in good working order. Contracts may be awarded to individual HVAC/Mechanical contractors or a combination there of.

Electrical: Projects for the Electrical contract may include the inspection, evaluation, and assessing of existing electrical systems, such as: low voltage, security systems, electronic locks, ADA door operations, safety upgrades, lighting, distribution systems, and related equipment. Projects may include work on existing systems or the demolition of existing systems and installation of new systems. Projects may also include services relating to installing, maintaining, and repairing the specified systems as well as conducting preventive maintenance programs to maintain their electrical systems in good working order. Contracts may be awarded to individual Electrical contractors or a combination there of.

Plumbing: Projects for the Plumbing contract may include the inspection, evaluation, and assessing of existing plumbing, fire suppression, water supply, sewer infrastructure, natural and liquid propane gas distribution systems, and related equipment. Projects may include work on existing systems or the demolition of existing systems and installation of new systems. Projects may also include services relating to installing, maintaining, and repairing the specified systems as well as conducting preventive maintenance programs to maintain the systems in good working order. Contracts may be awarded to individual plumbing contractors or a combination there of.

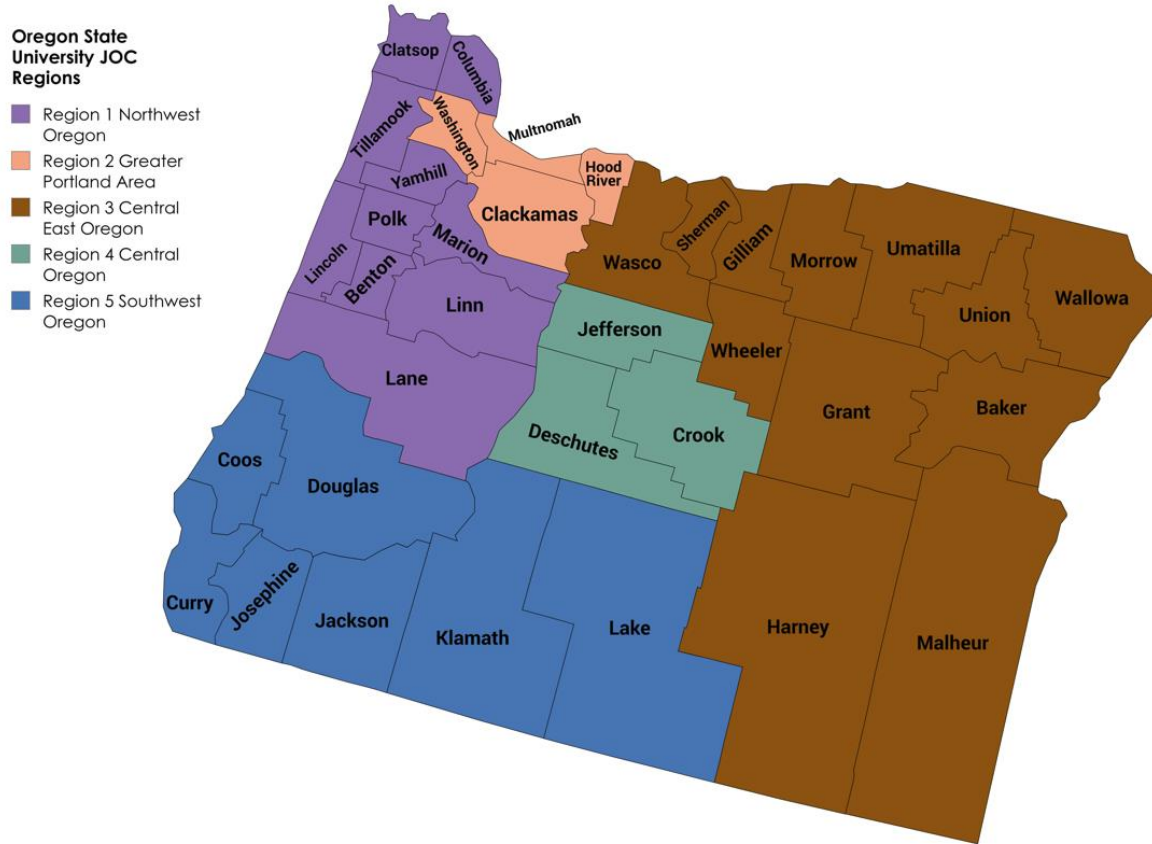
Civil/Site Category: The scope of work for the Civil/Site contract may include the inspection,

evaluation, and assessing of existing facilities and job sites, and may include work on existing facilities and new projects. Typical Projects may include but are not limited to; sitework like excavation, landscaping, irrigation, asphalt paving of roads and parking lots, concrete paving and maintenance, work on bridges, railroads, airports, wastewater treatment plants, and landfills. Contracts may be awarded to individual Civil/Site contractors or a combination there of.

Roofing and Weatherproofing: The Scope of work for the Roofing and Weather Proofing Contract may include comprehensive roofing and weatherproofing services. The services may include, but are not limited to, the assessment, repair, replacement, and maintenance of roofing systems, as well as the implementation of weatherproofing measures to ensure the integrity and longevity of the building envelope. Qualified Contractors must have proven experience in roofing and weatherproofing services. Contracts may be awarded to individual Roofing and Weatherproofing contractors or a combination there of.

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7.1.4 Regional Map and County Break Down for Oregon State University and Oregon Statewide Cooperative Job Order Contracting Program



County Breakdown of Regions

Region 1 Northwest Oregon

Clatsop	Columbia	Tillamook	Yamhill
Polk	Marion	Lincoln	Benton
Linn	Lane		

Region 2 Greater Portland Area

Washington	Clackamas	Hood River	Multnomah
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Region 3 Central East Oregon

Wasco	Sherman	Gilliam	Wheeler
Morrow	Umatilla	Union	Wallowa
Grant	Baker	Harney	Malheur

Region 4 Central Oregon

Jefferson	Crook	Deschutes	
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Region 5 Southwest Oregon

Coos	Douglas	Curry	Josephine
Jackson	Klamath	Lake	

7.2 Pre-Proposal Conference

7.2.1 The Pre-Proposal Conference will be administered virtually via Zoom. Attendees must register prior to the conference by following this link: [Pre-Proposal Conference Registration Link](#)

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

7.2.4 Attendance at this conference is not mandatory. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the Request for Proposal. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to OSU at this conference and followed up with submitted questions. OSU will then determine the appropriate action necessary, if any, and may issue a written addendum/amendment to the Request for Proposal. Oral statements or instructions will not constitute an addendum/amendment to this Request for Proposal.

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 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.

7.3.3 All Proposers must be registered and licensed with the Oregon Construction Contractors Board and have on file with the Construction Contractors Board the required public works bond

prior to submitting Proposals. Failure to be licensed and have the bond in place will be sufficient cause to reject Proposals as non-responsive.

7.4 Proposal Submission Requirements

7.4.1 Follow the instructions and use the proposal forms available in Section 2 of the RFP to provide information in your proposal response. Your proposal response must be contained in a single electronic document, including any pictures, charts, graphs, tables, and text you deem appropriate for OSU's review. Resumes of key individuals proposed to be involved must not exceed two pages per individual. All proposal forms must be completed and included in your submission. If one or more proposal forms are missing from your submission, your Proposal may be rejected for being incomplete.

7.4.2 The electronic Proposal 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.

7.4.3 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.

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

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

7.4.6 Each Proposal shall be emailed to 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 only step in the selection of a firm for this Project. The Proposals received in response to this RFP will be evaluated by a selection committee. The members of the selection committee will discuss the strengths and weaknesses of all Proposers. The members of the selection committee will then score the Proposers based on all information received and presented in the Proposals. Optional Reference Checks may be undertaken to aid in final scoring. Upon completion of final scoring, an Intent to Award will be issued identifying the Apparent Successful Proposer and negotiations may commence with the Apparent Successful Proposer in order to finalize a contract in accordance with Section 7.14 below. In order to comprehensively evaluate the proposals received, OSU may seek additional information or clarification from one or more of the Contractors. Interviews may not be necessary but in the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. OSU shall not reimburse the offeror for the costs associated with the interview process.

7.8 Evaluation Criteria

The following items constitute the evaluation criteria for the selection committee to score Proposals. For ease in reviewing, Proposal Forms are being provided in **Section Two of the RFP Documents**.

7.8.1 Experience on Similar Projects (20 points)

Use *Proposal Form 1* to describe your firm's experience with similar or comparable projects during the past five years. Describe the function(s) performed by your firm. Including references for each of the projects. Specifically include experience working with higher education institutions and public agencies. 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.

7.8.2 Key Personnel (15 Points)

Use *Proposal Forms 2, 3, and 4* to identify the personnel in your firm who would be assigned to the JOC Program, their specific roles in this JOC Program, and their previous experience in those roles. Provide contact information (including email) for each identified key person.

7.8.3 Reference Checks (10 Points)

In addition to responding to the evaluation criteria above, OSU may check with the references provided or other references associated with past work of your firm. 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.

7.8.4 Firm Background and Description (10 Points for the Job Order Contracting Services for Oregon State University Main Campus and Regional JOC Programs; and 25 Points for the Oregon Statewide Cooperative JOC Program)

Use *Proposal Forms 5, 6, 7 and 8* to provide information regarding your company's profile. Also, on a separate document provide a brief description of your firm. Include an organizational chart.

7.8.5 Workplan and Staff Availability (10 Points)

Use *Proposal Form 9* to provide a proposed work plan and schedule for accomplishing the multiple projects that is achievable by your firm's staffing availability.

7.8.6 Workforce Diversity Plan (15 Points) (NOTE: This scoring section applies only to the Job Order Contracting Services for Oregon State University Main Campus and Regional JOC Programs and is not considered in the evaluation for the Oregon Statewide JOC program.)

Use *Proposal Form 10* to indicate if your company holds certification in any of the classified areas and include proof of such certification with your response.

Use *Proposal Form 11* to 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.

Use *Proposal Form 12* to provide a narrative description of your current workforce diversity program/plan, and the plan for obtaining subcontracting, consulting, and supplier diversity for this Opportunity. 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.

7.8.7 Additional Required Proposal Forms (No evaluation points applied to this information)

- *Proposal Form 13: Agreement to Work in all Areas of the State*
- *Proposal Form 14: OMNIA Partners Questionnaire*
- *Proposal Form 15: Federal Funds Certification Form*
- *Proposal Form 16: FEMA Special Conditions*
- *Proposal Form 17: Signature Form*
- *Proposal Form 18: Acknowledgement of Addenda*

7.8.8 Proposal Pricing the Combined Adjustment Factor (20 Points)

Provide Adjustment Factors for the Job Order Contracting opportunity in which you will be responding.

Use Cost *Proposal Forms 1 and 2* if responding to the Oregon State University Main Campus Job Order Contracting Program.

Use Cost *Proposal Forms 3 and 4* if responding to the Oregon State University Regional Job Order Contracting Opportunity.

Use Cost *Proposal Forms 5 and 6* if responding to the Oregon Statewide Cooperative Job Order Contracting Opportunity.

All forms must be completed in their entirety. For evaluation purposes only, the weighing of your adjustment factors will be used to determine a respondent's combined adjustment factor.

Oregon State University Main Campus JOC Adjustment Factors and Weights:

Adjustment Factor 1 X .70 = weighted average

Adjustment Factor 2 X .20 = weighted average

Adjustment Factor 3 X .10 = weighted average

Combined Adjustment Factor = Sum of the weighted average

Oregon State University Regional JOC Adjustment Factors and Weights:

Adjustment Factor 1 X .70 = weighted average

Adjustment Factor 2 X .20 = weighted average

Adjustment Factor 3 X .10 = weighted average

Combined Adjustment Factor = Sum of the weighted average

Oregon Statewide Cooperative JOC Adjustment Factors and Weights:

Adjustment Factor 1 X .60 = weighted average

Adjustment Factor 2 X .10 = weighted average

Adjustment Factor 3 X .20 = weighted average

Adjustment Factor 4 X .05 = weighted average

Adjustment Factor 5 X .05 = weighted average

Combined Adjustment Factor = Sum of the weighted average

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:

$$(Low\ Fee\ or\ Fee\% / Fee\ or\ Fee\%) \times Points\ Available$$

7.9 Point Summary Table

Criteria	Point Value for Oregon State University Job Order Contracting Program	Point Value for Oregon State Cooperative Job Order Contracting Program
Experience on Similar Projects	20 Points	20 Points
Key Personnel	15 Points	15 Points
Reference Checks	10 Points	10 Points
Firm Background and Description	10 Points	10 Points
Workplan and Staff Availability	10 Points	25 Points
Workforce Diversity Plan	15 Points	0 Points – Not considered
Proposal Pricing The Combined Adjustment Factor	20 Points	20 Points

7.10 Proposal Pricing Construction Task Catalog® and Adjustment Factors

7.10.1 Construction Task Catalog® (CTC)

The CTC is a comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. CTC's and Technical Specifications have been created for The Oregon State University Main Campus JOC Program, The Oregon State University Regional JOC Program as well as the Oregon Statewide Cooperative JOC Program. Multiple CTC's have been created for regions as identified above in **Article 7.1.4 Regional Map and County Break Down for Oregon Statewide Cooperative JOC Program**.

7.10.2

Links to the Oregon State University Main Campus JOC Program CTC and Technical Specifications:

Title	Link
<i>Oregon State University Main Campus CTC</i>	https://fortive.box.com/s/nn1wy9zkkvq5wiox5dxxjzvbklfl2vr
<i>Oregon State University Main Campus Technical Specifications</i>	https://fortive.box.com/s/nw6gd3y2c4rfs4d3t2wgcg9phr3p3imth

7.10.3

Links to the Oregon State University Regional JOC Program and Oregon Statewide Cooperative JOC Program CTC's and Technical Specifications:

Title	Link
<i>Region 1 Northwest Oregon CTC</i>	https://fortive.box.com/s/vu08hqdnzst5fkfhvgcn268mguywwg30
<i>Region 2 Greater Portland Area CTC</i>	https://fortive.box.com/s/s6gahub74wyquev1vx9ftmiv1rpmxoja
<i>Region 3 Central East Oregon CTC</i>	https://fortive.box.com/s/mfgo4vnta90iicd2tg4aeg93qdc7f8xh
<i>Region 4 Central Oregon CTC</i>	https://fortive.box.com/s/q9g9ard7myhz8bfx0pi1r4woaitzek44
<i>Region 5 Southwest Oregon CTC</i>	https://fortive.box.com/s/sukdy884rc5qls5yhxhn64au70vnw1w3
<i>Technical Specifications</i>	https://fortive.box.com/s/nw6gd3y2c4rfs4d3t2wgcg9phr3p3imth

7.10.4 Adjustment Factors

Each Proposer must submit Adjustment Factors to be applied to every task in the CTC. The proposal shall be an adjustment “decrease from” (e.g. 0.9800) or “increase to” (e.g. 1.1000) the Unit Prices listed in the CTC.

The Proposer's Adjustment Factors shall include all of the Proposer's direct and indirect costs including, but not limited to, its costs for overhead, profit, bond premiums above the reimbursable amount, insurance, mobilization, Purchase Order Proposal development, and all contingencies in

connection therewith. See pages 00-1 – 00-6 of the CTC for a complete explanation of what is included in the Unit Prices and what is not.

Adjustment Factors must be specified to the fourth decimal place. For example:

1	.	1	0	0	0
---	---	---	---	---	---

Or

0	.	9	8	0	0
---	---	---	---	---	---

All Unit Prices listed in the Construction Task Catalog® are priced at a net value of 1.0000. The Adjustment Factors shall be an increase or decrease to all the Unit Prices listed in the Construction Task Catalog®. For example, 1.1000 would be a 10% increase to the Unit Prices and 0.9500 would be a 5% decrease to the Unit Prices. Proposers who submit separate Adjustment Factors for separate Unit Prices will be considered non-responsive and their Proposal will be rejected.

7.10.5 Adjustment Factors for Oregon State University Main Campus JOC Program:

1. **Adjustment Factor 1 Oregon State University, Main Campus, Normal Working Hours Prevailing Wage:** The first Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours, Monday through Friday 7:00 am to 4:00 pm except University holidays, and are performed on projects that require prevailing wage rates.
2. **Adjustment Factor 2 Oregon State University Main Campus Other Than Normal Working Hours Prevailing Wage:** The second Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours, Monday through Friday 4:01 pm to 6:59 am and all-day Saturday, Sunday and University holidays, and are performed on projects that require prevailing wage rates. **Other Than Normal Working Hours Adjustment Factor must be equal to or equal or greater than the Normal Working Hours Adjustment Factor.**
3. **Adjustment Factor 3 Oregon State University Main Campus Non Pre-Priced Adjustment Factor:** The third Adjustment Factor is for work tasks not identified in the Construction Task Catalog. IDIQ includes a provision for establishing of prices for Work requirements which are within the general scope of IDIQ but were not included in the CTC at the time of Contract award. These Tasks are referred to as "Non Pre-priced Tasks (NPP)". NPP Tasks may require new specifications and drawings and may subsequently be incorporated into the CTC. The Proposers will offer an Adjustment Factor to be applied to the actual material, equipment, and labor cost for NPP work Tasks. **The Non Pre-priced Task Adjustment Factor must be greater than or equal to 1.0000.**

For bid evaluation purposes only, the following work distributions shall be used to determine the Combined Adjustment Factor used for the Award Criteria Figure:

Oregon State University Main Campus Adjustment Factors		Weight
1	Oregon State University, Main Campus, Normal Working Hours Prevailing Wage	70%
2	Oregon State University, Main Campus, Other Than Normal Working Hours Prevailing Wage	20%
3	Oregon State University, Main Campus, Non Pre-priced Adjustment Factor	10%

7.10.6 Adjustment Factors for Oregon State University Regional JOC Program

1. **Adjustment Factor 1 Oregon State University, Regional JOC Program, Normal Working Hours Prevailing Wage:** The first Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours, Monday through Friday 7:00 am to 4:00 pm except University holidays, and are performed on projects that require prevailing wage rates.
2. **Adjustment Factor 2 Oregon State University Regional JOC Program, Other Than Normal Working Hours Prevailing Wage:** The second Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours, Monday through Friday 4:01 pm to 6:59 am and all-day Saturday, Sunday and University holidays, and are performed on projects that require prevailing wage rates. **The Other Than Normal Working Hours Adjustment Factor must be equal to or greater than the Normal Working Hours Adjustment Factor.**
3. **Adjustment Factor 3 Oregon State University Regional JOC Program, Non Pre-Priced Adjustment Factor:** The third Adjustment Factor is for work tasks not identified in the Construction Task Catalog. IDIQ includes a provision for establishing of prices for Work requirements which are within the general scope of IDIQ but were not included in the CTC at the time of Contract award, Section One Part C, Article 2 Procedure for Ordering Work. These Tasks are referred to as "Non Pre-priced Tasks (NPP)". NPP Tasks may require new specifications and drawings and may subsequently be incorporated into the CTC. The Proposers will offer an Adjustment Factor to be applied to the actual material, equipment, and labor cost for NPP work Tasks. **The Non Pre-priced Task Adjustment Factor must be greater than or equal to 1.0000.**

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For bid evaluation purposes only, the following work distributions shall be used to determine the Combined Adjustment Factor used for the Award Criteria Figure:

Oregon State University Regional JOC Program Adjustment Factors		Weight
1	Oregon State University, Regional JOC Program, Normal Working Hours Prevailing Wage	70%
2	Oregon State University, Regional JOC Program, Other Than Normal Working Hours Prevailing Wage	20%
3	Oregon State University, Regional JOC Program, Non Pre-priced Adjustment Factor	10%

7.10.7 Adjustment Factors for Statewide Cooperative JOC Program

1. **Adjustment Factor 1 Oregon Statewide Cooperative JOC Program, Normal Working Hours Prevailing Wage Rate Projects:** The first Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours, Monday through Friday 7:00 am to 4:00 pm except Owner holidays, and are performed on projects that require prevailing wage rates.
2. **Adjustment Factor 2 Oregon Statewide Cooperative JOC Program, Other Than Normal Working Hours Prevailing Wage Rate Projects:** The second Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours, Monday through Friday 4:01 pm to 6:59 am and all-day Saturday, Sunday and University holidays, and are performed on projects that require prevailing wage rates. **The Other Than Normal Working Hours Adjustment Factor must be equal to or greater than the Normal Working Hours Adjustment Factor.**
3. **Adjustment Factor 3 Oregon Statewide Cooperative JOC Program, Normal Working Hours Non Prevailing Wage Rate Projects:** The third Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours, Monday through Friday 7:00 am to 4:00 pm except Owner holidays, and are performed on projects that require non prevailing wage rates.
4. **Adjustment Factor 4 Oregon Statewide Cooperative JOC Program, Other Than Normal Working Hours Non Prevailing Wage Rate Projects:** The fourth Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours, Monday through Friday 4:01 pm to 6:59 am and all-day Saturday, Sunday and University holidays, and are performed on projects that require non prevailing wage rates. **The Other Than Normal Working Hours Adjustment Factor must be equal to or greater than the Normal Working Hours Adjustment Factor.**
5. **Adjustment Factor 5 Oregon Statewide Cooperative JOC Program, Non Pre-Priced Adjustment Factor:** The third Adjustment Factor is for work tasks not identified in the Construction Task Catalog. IDIQ includes a provision for establishing of prices for Work requirements which are within the general scope of IDIQ but were not included in the CTC at the time of Contract award. These Tasks are referred to as "Non Pre-priced Tasks (NPP)". NPP Tasks may require new specifications and drawings and may subsequently be incorporated into the CTC. The

Proposers will offer an Adjustment Factor to be applied to the actual material, equipment, and labor cost for NPP work Tasks. **The Non Pre-priced Task Adjustment Factor must be greater than or equal to 1.0000.**

An Administrative Fee for the Oregon Statewide Cooperative JOC Program of 7.5% shall be included in the Adjustment Factors see Article 8.2 Administrative Fee (Oregon Statewide Cooperative JOC Program)

For bid evaluation purposes only, the following work distributions shall be used to determine the Combined Adjustment Factor used for the Award Criteria Figure:

	Statewide Cooperative Adjustment Factors	Weight
1	Oregon Statewide Cooperative JOC Program, Normal Working Hours - Prevailing Wage Rate Projects	60%
2	Oregon Statewide Cooperative JOC Program, Other Than Normal Working Hours – Prevailing Wage Rate Projects	10%
3	Oregon Statewide Cooperative JOC Program Normal Working Hours Non-Prevailing Wage Rate Projects	20%
4	Oregon Statewide Cooperative JOC Program, Other Than Normal Working Hours – Non Prevailing Wage Rate Projects	5%
5	Oregon Statewide Cooperative JOC Program, NON-PRE-PRICED	5%

7.11 Unbalancing of Proposals

A Proposal may be rejected if it is determined that the Proposer has mathematically unbalanced their Proposal to gain a competitive advantage. The Proposal will be considered to be unbalanced if any Adjustment Factor is found to not cover the Contractor’s reasonable actual cost. Those costs would include a reasonable prorated share of their anticipated profit, overhead cost, and other indirect costs that the Proposer anticipates for the performance of the Project as determined by the evaluation committee.

7.12 Competitive Range

If a wide margin is found in the Adjustment Factors submitted in response to the solicitation; being too high or too low, then the evaluation committee may establish a Competitive Range for the solicitation. If it is determined that a Proposer’s Combined Adjustment Factor is too far outside the Competitive Range, then the Proposer may be rejected. The Proposer shall be notified that they were determined to be outside the Competitive Range after award of the contracts. Experiences with OSU and entities that evaluation committee members represent may be taken into consideration when evaluating qualifications and experience.

7.13 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.

7.14 Negotiations

- 7.14.1 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.
- 7.14.2 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.
- 7.14.3 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.
- 7.14.4 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.
- 7.14.5 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.

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8.0 MISCELLANEOUS

8.1 JOC System License Fee (Oregon State University Main Campus and Regional JOC Programs)

The University selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS") JOC Applications, construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under the contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the University. The Contractor shall be required to execute Gordian's General Terms of Use and pay a JOC System License Fee to obtain access to the Gordian JOC Solution™. The JOC System License Fee applies to all Job Orders issued to the Contractor under the terms of the JOC services for the Oregon State University Main Campus and Regional JOC Programs. The JOC System License Fee shall be equal to 1% of the Job Order Price. Contractor shall include the JOC System License Fee in the Adjustment Factors.

- Within two business days of receipt of a Purchase Order from the University, the Contractor must provide notification to Gordian by forwarding a copy of the Purchase Order to Gordian.
- Within two business days of receiving initial payment from the University, the Contractor must provide notification to Gordian of the initial payment by forwarding a copy of the submitted invoice to Gordian.

Upon the Contractor's receipt of the initial payment from the University, Gordian will invoice the Contractor for the JOC System License Fee. Contractor shall remit payment to Gordian within thirty (30) days of the date of the invoice. Any amounts arising in relation to money not paid when due will be subject to a late charge to the contractor of (1.5%) per month on the unpaid balance or the maximum rate allowed by law, whichever is less.

Contractor shall remit the JOC System License Fee to Gordian at the following address:

The Gordian Group, Inc.
PO Box 74008498
Chicago, IL 60674-8498

8.2 Administrative Fee (Oregon Statewide Cooperative JOC Program)

The University selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for the Oregon Statewide Cooperative JOC Program for purchase of construction by public entities ("Entities") other than the University. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS") JOC Applications, construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by an agency. The Contractor shall be required to pay an Administrative Fee to obtain access to the Gordian JOC Solution™. The administrative fee applies to all Job Orders issued to the Contractor under the terms of the Oregon Statewide Cooperative JOC Program for Public Agencies in Oregon.

The Contractor must include an Administrative Fee in calculating the responding Adjustment Factors for the Oregon Statewide Cooperative JOC Program for Public Agencies in Oregon. The Administrative Fee will be calculated at the rate of 7.50% of the total Purchase Order Price.

If the Contract is utilized by Omnia Partners Participating Agencies E, the Contractor agrees to pay Gordian a 7.50% administrative fee. Unless otherwise agreed with Gordian, Contractor shall make progress payments for the administrative fee in proportion to the percentage of construction completed to be invoiced at milestones reasonably established by Gordian. Contractor shall pay all Gordian invoices within thirty (30) days of date of invoice and payment will be sent as specified by Gordian. Administrative Fees not paid by the specified deadline shall bear an interest rate of 1.5% charged to the contractor per month until paid.

The Contractor shall keep Gordian reasonably informed of the construction status of each active construction project, which shall include responding to Gordian inquiries regarding construction status within 5 days. Additionally, the Contractor shall:

- Within two business days of receipt of a Purchase Order from an OMNIA Partners Participating Agency, the Contractor must provide notification to Gordian by forwarding a copy of the Purchase Order to Gordian.
- Within two business days of receiving initial payment from an OMNIA Partners Participating Agency, the Contractor must provide notification to Gordian of the initial payment by forwarding a copy of the submitted invoice to Gordian.

The University and OMNIA Partners designate Gordian as its JOC Consultant. The Administrative Fee payments must be made payable to The Gordian Group and sent to the following address:

The Gordian Group, Inc.
PO Box 74008498
Chicago, IL 60674-8498

The University, OMNIA Partners or Gordian may request records from the Contractor for all purchases through this Contract and payment of all Administrative Fees. If a discrepancy exists between the purchasing activity and the Administrative Fees paid, the University, OMNIA Partners or Gordian will provide written notification to the Contractor of the discrepancy and allow the Contractor ten (10) days from the date of notification to resolve the discrepancy. In the event the Contractor does not resolve the discrepancy to the satisfaction of the University, OMNIA Partners or Gordian, reserve the right to engage a third party to conduct an independent audit of the Contractor's records and, in the event Contractor is not in compliance with this Contract, Contractor will, in addition to any Administrative Fees due, reimburse the appropriate party for the cost and expense related to such audit.

The University, OMNIA Partners, and Contractor hereby acknowledge Gordian, as the designated JOC Consultant. In the event any court action is brought to enforce payment of the Administrative Fees set forth above by any party or third-party beneficiary of this Contract, the prevailing party will be entitled to an award of reasonable attorneys' fees and collection costs.

8.3 Financial Responsibility

8.3.1 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.

8.3.2 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.

8.4 Project Termination

8.4.1 OSU reserves the right to terminate this RFP, any given Project and or the contract(s) at any time.

8.5 Insurance Provisions

During the term of the resulting contract, the awardee(s) 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.

8.6 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.

8.4 AA/EEO Employer

OSU is an AA/EEO employer.

8.5 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 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.

8.7 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.

8.8 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.

8.9 Apprenticeship Requirements

If any Project exceeds \$3,000,000.00, the awarded Contractor(s) will be required to employ apprentices (as that term is defined in ORS 660.010) to perform twelve percent (12%) or more of the work hours that workers in apprenticeable occupations (as that term is defined in ORS 660.010) perform; and (ii) require in each subcontract with a value of \$750,000 or more that the Subcontractor employ apprentices to perform twelve percent (12%) or more of the work hours that workers in apprenticeable occupations perform on the subcontract. Additional apprenticeship requirements are provided in the Sample Contract.

8.10 Background Checks

Some OSU Buildings are designated as critical, occupied or security-sensitive facilities. Thus, the selected Contractor(s) shall conduct criminal background checks, including sex offender registration checks, (for both: Oregon at a minimum, and national for Contractor employees that formerly lived outside of the state of Oregon) on each Contractor employee and agent with satisfactory results before referral or placement at any Owner work location. Contractor must perform the criminal background checks within the twelve (12) months immediately preceding referral or placement at any Owner work location.

Disqualifying crimes include 1) felony convictions of any kind within the last eight (8) years, 2) all crimes involving weapons of any kind ever committed, 3) all person to person crimes involving physical injury to another person ever committed, 4) sexual offenses of any kind ever committed, including stalking, and 5) child abuse, molestation, child pornography or other crimes involving child endangerment, including neglect and abandonment of any kind ever committed.

Contractor shall require Contractor's employees and agents to self-disclose to Contractor any new convictions that occur within three business days of the conviction. Contractor shall reassess the individual's assignment under the Contract.

The Owner, at its discretion, may require Contractor to reassign a Contractor employee or agent to no longer perform work under the Contract or for the Owner if, at any time, Owner believes that the Contractor employee or agent may create a danger to health or safety of the university community.

Contractor is solely responsible for complying with all applicable federal, state or local laws, rule and regulations, including but not limited to the Fair Credit Reporting Act and equal opportunity laws and regulations, when conducting background checks. The costs and Fair Credit Reporting Act obligations for criminal background checks are the responsibility of Contractor.

Contractor shall maintain a security log including a list of Contractor employees working in, accessing, or who will enter Owner critical, occupied or security-sensitive facilities; verification of each Contractor employee's satisfactory and unsatisfactory results of criminal background checks; each Contractor employee's site assignment; and each revocation of a Contractor employee's site assignment. Contractor shall update and maintain the security log during the duration of the contract and twenty-four (24) months after. Contractor shall provide Owner with access to the security log for audit and copying purposes within twenty-four (24) hours of Owner's request.

Contractor shall require Contractor's subcontractors and agents providing services under the Contract to

comply with this provision. The Owner may audit Contractor's background check processes at any time to ensure compliance with this section. Failure of Contractor to comply with this section is a material breach of the resulting Contract and may result in the Owner seeking monetary damages or pursue other remedies, Contractor termination by the Owner without further liability or obligation, or both. Contractor shall indemnify, defend and hold harmless the Owner and its directors, agents, trustees and employees from all claims, suits, and actions arising out of or related to any and all claims relating to the conducting of such checks and any adverse action that may be taken as a result of such checks.

8.11 Federal Funding Pricing

Due to products and services potentially being used in response to an emergency or disaster recovery situation in which federal funding may be used, pricing for federally funded projects should not include cost plus a percentage of cost or pricing based on time and materials; if time and materials is necessary, a ceiling price that the contract exceeds at its own risk will be needed. Products and services provided in a situation where a Participating Public Agency is eligible for federal funding, Contractor is subject to and must comply with all federal requirements applicable to the funding including, but not limited to, the CFR 200 language included in this solicitation and language located in the Federal Funds Certifications Exhibit.

8.12 Additional Terms and Conditions

Additional terms and Conditions to a Purchase Order may be proposed by the University, Participating Public Agencies, or Contractors. Acceptance of these additional terms and conditions is optional to all parties to the Purchase Order. The purpose of these additional terms and conditions is to formerly introduce job or industry specific requirements of law. Additional terms and conditions can include specific policy requirements and standard business practices of the issuing Participating Public Agency.

8.13 Execution of Agreement

8.13.1 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.

8.13.2 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.

8.14 Order of Precedence

8.14.1 The precedence of the contract documents shall be as follows:

- Purchase Order or Notice to Proceed which may include plans, drawings, additional terms and conditions, and supplemental technical specifications.
- Section One Part A
- Section One Part B
- Section Two Part A
- Section Two Part B
- Section Two Part C
- Section One Part C
- Section Three Exhibit A
- Section Three Exhibit B
- Section Three Exhibit C
- Section Three Exhibit D
- Section Three Exhibit E

SECTION 1: PART B

**OREGON STATE UNIVERSITY
 GENERAL CONDITIONS
 MASTER CONTRACT FOR
 CONSTRUCTION RELATED SERVICES - JOB ORDER CONTRACTING**

MARCH 28, 2025

INSTRUCTIONS: The attached **Oregon State University, Master Contract for Construction Related Services General Conditions ("General Conditions")** apply to all designated master contracts. Changes to the General Conditions (including any additions, deletions or substitutions) should only be made by attaching Supplemental General Conditions. The text of these General Conditions should not otherwise be altered.

SECTION REFERENCE: PART B

SECTION 1: PART B	31
SECTION A: GENERAL PROVISIONS	34
A.1 DEFINITION OF TERMS.....	34
A.2 SCOPE OF SERVICES	36
A.3 INTERPRETATION OF CONTRACT DOCUMENTS.....	36
A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE	38
A.5 INDEPENDENT CONTRACTOR STATUS	38
A.6 RETIREMENT SYSTEM STATUS AND TAXES	39
A.7 GOVERNMENT EMPLOYMENT STATUS.....	39
SECTION B: ADMINISTRATION OF THE CONTRACT	39
B.1 OWNER’S ADMINISTRATION OF THE CONTRACT	39
B.2 CONTRACTOR’S MEANS AND METHODS; MITIGATION OF IMPACTS.....	40
B.3 MATERIALS AND WORKMANSHIP.....	40
B.4 PERMITS	41
B.5 COMPLIANCE WITH GOVERNMENT REGULATIONS.....	41
B.6 SUPERINTENDENCE.....	42
B.7 INSPECTION.....	42
B.8 SEVERABILITY	43
B.9 ACCESS TO RECORDS.....	43
B.10 WAIVER	43
B.11 SUBCONTRACTS AND ASSIGNMENT	44
B.12 SUCCESSORS IN INTEREST	44
B.13 OWNER’S RIGHT TO DO WORK	44

B.14 OTHER CONTRACTS.....	45
B.15 GOVERNING LAW.....	45
B.16 LITIGATION.....	45
B.17 ALLOWANCES.....	45
B.18 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES.....	46
B.19 SUBSTITUTIONS.....	47
B.20 USE OF PLANS AND SPECIFICATIONS.....	47
B.21 FUNDS AVAILABLE AND AUTHORIZED.....	48
B.22 NO THIRD-PARTY BENEFICIARIES.....	48
SECTION C WAGES AND LABOR.....	48
C.1 MINIMUM WAGE RATES ON PUBLIC WORKS.....	48
C.2 PAYROLL CERTIFICATION AND FEE REQUIREMENTS.....	48
C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS.....	49
C.4 PAYMENT FOR MEDICAL CARE.....	50
C.5 HOURS OF LABOR.....	50
SECTION D CHANGES IN THE SERVICES.....	50
D.1 CHANGES IN SERVICES.....	50
D.2 DELAYS.....	53
D.3 CLAIMS REVIEW PROCESS.....	55
SECTION E PAYMENTS.....	56
E.1 SCHEDULE OF VALUES.....	56
E.2 APPLICATIONS FOR PAYMENT.....	57
E.3 PAYROLL CERTIFICATION REQUIREMENT.....	60
E.4 DUAL PAYMENT SOURCES.....	60
E.5 RETAINAGE.....	60
E.6 FINAL PAYMENT.....	62
SECTION F JOB SITE CONDITIONS.....	63
F.1 USE OF PREMISES.....	63
F.2 PROTECTION OF WORKERS, PROPERTY AND THE PUBLIC.....	63
F.3 CUTTING AND PATCHING.....	64
F.4 CLEANING UP.....	64
F.5 ENVIRONMENTAL CONTAMINATION.....	64
F.6 ENVIRONMENTAL CLEAN-UP.....	65
F.7 FORCE MAJEURE.....	66
SECTION G INDEMNITY, BONDING, AND INSURANCE.....	66
G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY.....	66
G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND.....	67
G.3 INSURANCE.....	67
SECTION H SCHEDULE OF SERVICES.....	72
H.1 CONTRACT PERIOD.....	72
H.2 SCHEDULE.....	72
H.3 PARTIAL OCCUPANCY OR USE.....	73
SECTION I CORRECTION OF SERVICES.....	73
I.1 CORRECTION OF SERVICES BEFORE FINAL PAYMENT.....	73
I.2 WARRANTY SERVICES.....	74
SECTION J SUSPENSION AND/OR TERMINATION OF THE SERVICES.....	75

J.1 OWNER’S RIGHT TO SUSPEND THE SERVICES.....	75
J.2 CONTRACTOR’S RESPONSIBILITIES	75
J.3 COMPENSATION FOR SUSPENSION	76
J.4 OWNER’S RIGHT TO TERMINATE CONTRACT	76
J.5 TERMINATION FOR CONVENIENCE.....	77
J.6 ACTION UPON TERMINATION.....	77
SECTION K CONTRACT CLOSE OUT	77
K.1 RECORD DOCUMENTS.....	77
K.2 OPERATION AND MAINTENANCE MANUALS	78
K.3 COMPLETION NOTICES.....	78
K.4 TRAINING	78
K.5 EXTRA MATERIALS.....	79
K.6 ENVIRONMENTAL CLEAN-UP	79
K.7 CERTIFICATE OF OCCUPANCY	79
K.8 OTHER CONTRACTOR RESPONSIBILITIES	79
K.9 SURVIVAL.....	79

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OREGON STATE UNIVERSITY
GENERAL CONDITIONS FOR MASTER CONTRACT FOR CONSTRUCTION RELATED SERVICES
("General Conditions")

SECTION A: GENERAL PROVISIONS

A.1 DEFINITION OF TERMS

In the Contract Documents, the following terms shall be as defined below:

AMENDMENT, means a writing which, when fully executed by the Parties to this Contract, constitutes a change to Purchase Order Price, Purchase Order Completion Time, or the Contract.

APPLICABLE LAWS, means federal, state and local laws, codes, rules, regulations and ordinances applicable to the Services and to the Contract.

ARCHITECT/ENGINEER, means the Person appointed by the Owner to make drawings and specifications and, to provide contract administration of the Services contemplated by the Contract to the extent provided herein or by supplemental instruction of Owner (under which Owner may delegate responsibilities to the Architect/Engineer), in accordance with ORS Chapter 671 (Architects) or ORS Chapter 672 (Engineers) and administrative rules adopted thereunder.

CLAIM, means a demand by Contractor pursuant to Section D.3 for review of the denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Purchase Order Completion Time or other relief, submitted in accordance with the requirements and within the time limits established for review of Claims in these General Conditions.

CONSTRUCTION SCHEDULE, means the schedule prepared by the Contractor in CPM format and approved by the Owner, and all adjustments thereto approved by the Owner, that describes sequence and timing of the Services.

CONTRACT, means the written agreement between the Owner and the Contractor comprised of the Contract Documents which describe the Services to be done and the obligations between the parties.

CONTRACT DOCUMENTS, means the Solicitation Document General Conditions, Supplemental General Conditions if any, Purchase Orders, the accepted Offer, Plans, Specifications, new Purchase Orders, Solicitation Document and addenda thereto, Instructions to Offerors, and Supplemental Instructions to Offerors, and any other Amendment, the Construction Schedule prepared and approved in accordance with the Construction Documents, and all other required submittals.

CONTRACT PERIOD, as set forth in the Contract Documents, means the total period of time beginning with the full execution of a Purchase Order and, if applicable, the issuance of a Notice to Proceed and concluding upon Final Completion.

PURCHASE ORDER PRICE, means the total of

the awarded Offer amount, as increased or decreased by the price of approved alternates, as indicated in the Contract Documents.

PURCHASE ORDER COMPLETION TIME,

means any incremental period of time allowed under the Contract to complete any portion of the Services as reflected in the project schedule.

CONTRACTOR, means the Person awarded the Contract for the Services contemplated.

CPM, means a critical path method format to be used for the Construction Schedule.

DAYS, are calendar days, including weekdays, weekends and holidays, unless otherwise specified.

DIRECT COSTS, means, unless otherwise provided in the Contract Documents, the cost of materials, including sales tax, cost of delivery; cost of labor, including social security, Medicare and unemployment insurance, and fringe benefits required by agreement or custom; worker's compensation insurance; project specific insurance (including, without limitation, Builder's Risk Insurance and Builder's Risk Installation Floater); bond premiums, rental cost of equipment, and machinery required for execution of the Services; and the additional costs of field personnel directly attributable to the Services.

FINAL COMPLETION, means the final completion of all requirements under the Contract, including Contract Closeout as described in Section K but excluding Warranty Services as described in Section I.2, and the final payment and release of all retainage, if any, released.

FINAL PAYMENT, means the last payment to the Contractor, including retainage, in connection with the Services.

FORCE MAJEURE, means an act, event or

occurrence caused by fire, riot, war, acts of God, nature, sovereign, or public enemy, strikes, freight embargoes or any other act, event or occurrence that is beyond the control of the party to this Contract who is asserting Force Majeure.

MWESB REPORT, means an accurate report by the Contractor to the Owner identifying all Minority, Women and Emerging Small Business (MWESB) enterprises, as those terms are defined in ORS 200.005, receiving contracts throughout the course of the Services. An initial MWESB report is required (see Section E.2.9) and MWESB Reports are required annually (see Section E.2.9) and as a condition of final payment (see Section K.1). The initial report shall include the total number of contracts and subcontracts awarded to MWESB enterprises and the dollar value of their respective contracts and subcontracts. The annual reports shall include the total number of contracts and subcontracts awarded to MWESB enterprises, the dollar value of each, and the expenditure toward each contract and subcontract during the previous twelve (12) months. The final report shall include the total number of contracts and subcontracts awarded to MWESB enterprises and the dollar value of their respective contracts and subcontracts including all Purchase Orders and Amendments incorporated during the course of the project. The reports shall only include enterprises certified with the State of Oregon as MWESB enterprises and shall include individual identification of each enterprise as a Minority business enterprise, a Women business enterprise, and/or an Emerging Small Business Enterprise, as applicable.

NOTICE TO PROCEED, means the official written notice from the Owner stating that the Contractor is to proceed with the Services defined in the Contract Documents. Notwithstanding the Notice to Proceed, Contractor shall not be authorized to proceed with the Services until all initial Contract requirements, including the Contract,

performance bond and payment bond, and certificates of insurance, have been fully executed and submitted to Owner in a suitable form.

OFFER, means a bid in connection with Instructions to Bidders or a proposal in connection with a Request for Proposals.

OFFEROR, means an entity who submits a response to a solicitation document.

OVERHEAD, means those items which may be included in the Contractor's markup (general and administrative expense and profit) and that shall not be charged as Direct Cost of the Services, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman (i.e., superintendents and project managers), expenses of Contractor's offices and supplies at the job site (e.g. job trailer) and at Contractor's principal place of business and including expenses of personnel staffing the job site office and Contractor's principal place of business, and Commercial General Liability Insurance and Automobile Liability Insurance.

OWNER, means Oregon State University (OSU). Owner may elect, by written notice to Contractor, to delegate certain duties to more than one party, including without limitation, to an Architect/Engineer. However, nothing in these General Conditions is intended to abrogate the separate design professional responsibilities of Architects under ORS Chapter 671 or of Engineers under ORS Chapter 672.

PERSON, means a natural person or entity doing business as a sole proprietorship, a partnership, a joint venture, a corporation, a limited liability company or partnership, or any other entity possessing the legal capacity to contract.

PLANS, means the drawings which show the location, type, dimensions, and details of the

Services to be done under the Contract.

PROJECT, means the total design, development and construction of which the Services performed under the Contract Documents may be the whole or a part.

PUNCH LIST, means the list of Services yet to be completed or deficiencies which need to be corrected in order to achieve Final Completion of the Contract.

PURCHASE ORDER, means a writing which, when fully executed by the Owner, constitutes a written agreement between the Owner and the Contractor comprised of the Contract Documents which describe the Services to be performed and the obligations between the Parties. It will include a Detailed Scope of Work, the Purchase Order Price and the Purchase Order Completion Time.

RECORD DOCUMENT, means the as-built Plans, Specifications, testing and inspection records, product data, samples, manufacturer and distributor/supplier warranties evidencing transfer of ownership to Owner, operational and maintenance manuals, shop drawings, MWESB Reports, correspondence, certificate(s) of occupancy, and other documents listed in Subsection B.9.1 of these General Conditions, recording all Services performed.

SERVICES, means the furnishing of all materials, equipment, labor, transportation, services and incidentals necessary to successfully complete any individual item or the entire Contract and the carrying out of duties and obligations imposed by the Contract Documents.

SOLICITATION DOCUMENT, means a document used in a formal procurement soliciting two or more qualified sources by public notice for the same specifications and requirements

SPECIFICATION, means any description of the

physical or functional characteristics of the Services, or of the nature of a supply, service or construction item. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications generally will state the results or products to be obtained and may, on occasion, describe the method and manner of doing the Services to be performed. Specifications may be incorporated by reference and/or may be attached to the Contract.

SUBCONTRACT, means a contract between the Contractor and a subcontractor for the performance of a portion of the Services.

SUBCONTRACTOR, means a Person having a direct contract with the Contractor, or another Subcontractor, to perform one or more items of the Services.

SUBSTANTIAL COMPLETION, means the date

when the Owner accepts in writing the construction, alteration or repair of the improvement to real property constituting the Services or any designated portion thereof as having reached that state of completion when it may be used or occupied for its intended purpose. Substantial Completion of facilities with operating systems occurs only after thirty (30) continuous Days of successful, trouble-free operation of the operating systems as provided in Section K.3.2.

SUBSTITUTIONS, means items that in function, performance, reliability, quality, and general configuration are the same or better than the product(s) specified. Approval of any substitute item shall be solely determined by the Owner. The decision of the Owner is final.

SUPPLEMENTAL GENERAL CONDITIONS, means those conditions that remove from, add to, or modify these General Conditions. Supplemental General Conditions may be included in the Solicitation Document or may be a separate attachment to the Contract.

A.2 SCOPE OF SERVICES

The Services contemplated under this Contract includes all labor, materials, transportation, equipment and services for, and incidental to, the completion of all construction work in connection with the project described in the Contract Documents. The Contractor shall perform all Services necessary so that the project can be legally occupied and fully used for the intended use as set forth in the Contract Documents.

A.3 INTERPRETATION OF CONTRACT DOCUMENTS

A.3.1 Unless otherwise specifically defined in the Contract Documents, words which have well-known technical meanings or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Contract Documents are intended to be complementary. Whatever is called for in one is interpreted to be called for in all. However, in the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following descending order of precedence:

- (a) Contract Purchase Orders and Amendments, with those of later date having precedence over those of an earlier date;

- (b) The Supplemental General Conditions;
- (c) General Conditions;
- (d) Oregon State University Job Order Contract General Terms and Conditions for JOC Including Job Order Procedures;
- (e) Purchase Orders;
- (f) Division One (General Requirements) of the Specifications;
- (g) Detailed Schedules of finishes, equipment and other items included in the Specifications;
- (h) Plans and Specifications (other than Division One and the Detailed Schedules to the Specifications);
- (i) Large-scale drawings on Plans;
- (j) Small-scale drawings on Plans;
- (k) Dimension numbers written on Plans which shall prevail and take precedence over dimensions scaled from Plans;
- (l) The Solicitation Document, and any addenda thereto;
- (m) The Master Contract.

A.3.2 In the case of an inconsistency between Plans and Specifications or within either document not clarified by addendum, the better quality or greater quantity of Services shall be provided in accordance with the Owner's interpretation in writing.

A.3.3 If the Contractor finds discrepancies in, or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner. Matters concerning and interpretation of requirements of the Contract Documents will be decided by the Owner, who may delegate that duty in some instances to the Architect/Engineer. Responses to Contractor's requests for interpretation of Contract Documents will be made in writing by Owner (or the Architect/Engineer) within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner (or Architect/Engineer) will be consistent with the intent of and reasonably inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner (or Architect/Engineer).

A.3.4 References to standard specifications, manuals, codes of any technical society, organization or association, to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws or regulations in effect in the jurisdiction where the project is occurring on the first published date of the Solicitation Document, except as may be otherwise specifically stated.

A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE

- A.4.1 It is understood that the Contractor, before submitting an Offer, has made a careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Services required; and has made a careful examination of the location and conditions of the Services and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the Services. No oral agreement or conversation with any officer, agent, or personnel of the Owner, or with the Architect/Engineer either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
- A.4.2 Should the Plans or Specifications fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Services, Contractor shall have the duty to make inquiry of the Owner and Architect/Engineer as to what is required prior to performance of the Services. Absent Specifications to the contrary, the materials or processes that would normally be used to produce first quality finished Services shall be considered a part of the Contract requirements.
- A.4.3 Any design errors or omissions noted by the Contractor shall be reported promptly to the Owner, and confirmed in writing including without limitation, any nonconformity with Applicable Laws.
- A.4.4 If the Contractor believes that adjustments to cost or Purchase Order Completion Time is involved because of clarifications or instructions issued by the Owner (or Architect/Engineer) in response to the Contractor's notices or requests for information, the Contractor must submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt by Contractor of the clarifications or instructions issued. If the Owner denies Contractor's request for additional compensation, additional Purchase Order Completion Time, or other relief that Contractor believes results from the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

A.5 INDEPENDENT CONTRACTOR STATUS

The service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee or agent of the Owner as those terms are used in ORS 30.265.

A.6 RETIREMENT SYSTEM STATUS AND TAXES

Contractor represents and warrants that it is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment received under this Contract. Contractor will not be eligible for any benefits from these Contract payments of federal Social Security, employment insurance, workers' compensation or the Public Employees' Retirement System, except as a self-employed individual. Unless the Contractor is subject to backup withholding, Owner will not withhold from such payments any amount(s) to cover Contractor's federal or state tax obligations.

A.7 GOVERNMENT EMPLOYMENT STATUS

A.7.1 If this payment is to be charged against federal funds, Contractor represents and warrants that it is not currently employed by the Federal Government. This does not preclude the Contractor from holding another contract with the Federal Government.

A.7.2 Contractor represents and warrants that Contractor is not an employee of the State of Oregon for purposes of performing Services under this Contract

SECTION B: ADMINISTRATION OF THE CONTRACT

B.1 OWNER'S ADMINISTRATION OF THE CONTRACT

B.1.1 The Owner shall administer the Contract as described in the Contract Documents (1) during construction (2) until Final Payment is due and (3) during the one-year period for correction of Services. The Owner will act as provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.

B.1.2 The Owner will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Services completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Services, and (3) to determine in general if Services is being performed in a manner indicating that the Services, when fully completed, will be in accordance with the Contract Documents. The Owner will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Services. The Owner will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Services. Inspection of the progress, quantity, or quality of the Services done by the Owner, any Owner representative, and public agency, the Architect/Engineer, or any inspector, shall not relieve the Contractor of any responsibility for the compliance of all Services with the Contract Documents.

B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall communicate with each other about matters arising out of or relating to the Contract. Communications by and with the

Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

- B.1.4 Based upon the Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

B.2 CONTRACTOR'S MEANS AND METHODS; MITIGATION OF IMPACTS

B.2.1 The Contractor shall supervise and direct the Services, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Services under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.

B.2.2 The Contractor is responsible to protect and maintain the Services during the course of construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which may affect cost, schedule, or quality.

B.2.3 The Contractor is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Services. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.

B.3 MATERIALS AND WORKMANSHIP

B.3.1 The intent of the Contract Documents is to provide for the construction and completion in every detail of the Services described. All Services shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.

B.3.2 The Contractor is responsible to perform the Services as required by the Contract Documents. Defective Services shall be corrected at the Contractor's expense.

B.3.3 Services done and materials furnished shall be subject to inspection and/or observation and testing by the Owner to determine if they conform to the Contract Documents. Inspection of the Services by the Owner does not relieve the Contractor of responsibility for the Services in accordance with the Contract Documents.

B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner to have safe access to

the Services including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.

B.3.5 The Contractor shall furnish Samples of materials for testing by the Owner and include the cost of the Samples in the Purchase Order Price.

B.4 PERMITS

Contractor shall obtain and pay for all necessary permits, licenses and fees, except for those specifically excluded in the Supplemental General Conditions, for the construction of the Services, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental Services, etc., as required for the project. Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities.

B.5 COMPLIANCE WITH GOVERNMENT REGULATIONS

B.5.1 Contractor shall comply with Applicable Laws pertaining to the Services and the Contract.

Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following, as applicable:

(i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapters 659 and 659A; as amended; (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

B.5.2 Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations, and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts.

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by Applicable Laws or this Contract when performing the Services.

B.5.3 Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Services as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.021 to 701.068 at the time they submit their bids to the Contractor.

B.5.4 Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Services under this Contract holds a valid landscape

contractor's license issued pursuant to ORS 671.560.

B.5.5 The following notice is applicable to Contractors who perform excavation Services.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0100. You may obtain copies of the rules by calling the center at (503)232-1987.

B.5.6 Failure to comply with any or all of the requirements of B.5.1 through B.5.5 shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

B.6 SUPERINTENDENCE

Contractor shall keep on the site, during the progress of the Services, a competent superintendent and any necessary assistants who shall be satisfactory to the Owner and who shall represent the Contractor on the site. Directions given to the superintendent by the Owner shall be confirmed in writing to the Contractor.

B.7 INSPECTION

B.7.1 Owner shall have access to the Services at all times.

B.7.2 Inspection of the Services will be made by the Owner at its discretion. The Owner will have authority to reject Services that does not conform to the Contract Documents. Any Services found to be not in conformance with the Contract Documents, in the discretion of the Owner, shall be removed and replaced at the Contractor's expense.

B.7.3 Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Services required by the Contract Documents or by Applicable Laws or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Services. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.

B.7.4 As required by the Contract Documents, Services done or material used without required inspection or testing and/or without providing timely notice to the Owner may be ordered removed at the Contractor's expense.

B.7.5 If directed to do so any time before the Services is accepted, the Contractor shall uncover portions of the completed Services for inspection. After inspection, the Contractor shall restore such portions of Services to the standard required by the Contract. If the Services uncovered is unacceptable or was done without required testing or inspection or sufficient notice to the

Owner, the uncovering and restoration shall be done at the Contractor's expense. If the Services uncovered is acceptable and was done with sufficient notice to the Owner, the uncovering and restoration will be paid for pursuant to a new Purchase Order.

B.7.6 If any testing or inspection reveals failure of the portions of the Services to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's and Architect/Engineer's services and expenses, shall be at the Contractor's expense.

B.7.7 When the United States government participates in the cost of the Services, or the Owner has an agreement with other public or private organizations, or if any portion of the Services is being performed for a third party or in close proximity to third party facilities, representatives of these organizations shall have the right to inspect the Services affecting their interests or property. Their right to inspect shall not make them a party to the Contract and shall not interfere with the rights of the parties of the Contract. Instructions or orders of such parties shall be transmitted to the Contractor, through the Owner.

B.8 SEVERABILITY

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

B.9 ACCESS TO RECORDS

B.9.1 Contractor shall keep, at all times on the Services site, one record copy of the complete Contract Documents, including the Plans, Specifications, and addenda, in good order and marked currently to record field changes and selections made during construction, and one record copy of Shop Drawings, Product Data, Samples and similar submittals, and shall at all times give the Owner access thereto.

B.9.2 Contractor shall retain and the Owner and its duly authorized representatives shall have access, for a period not less than ten (10) years, to all Record Documents, financial and accounting records, and other books, documents, papers and records of Contractor which are pertinent to the Contract, including records pertaining to Overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. If for any reason, any part of the Services or this Contract shall be subject to litigation, Contractor shall retain all such records until all litigation is resolved and Contractor shall continue to provide Owner and/or its agents with full access to such records until such time as all litigation is complete and all periods for appeal have expired and full and final satisfaction of any judgment, order or decree is recorded and Owner receives a record copy of documentation from Contractor.

B.10 WAIVER

Failure of the Owner to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to

enforce any other provision of this Contract.

B.11 SUBCONTRACTS AND ASSIGNMENT

B.11.1 Contractor shall require each Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound by the terms and conditions of these General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Owner thereunder, unless (1) the same are clearly inapplicable to the subcontract at issue because of legal requirements or industry practices, or (2) specific exceptions are requested by Contractor and approved in writing by Owner. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with sub-subcontractors at any level.

B.11.2 At Owner's request, Contractor shall submit to Owner prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor. If Owner disapproves such form, Contractor shall not execute the form until the matters disapproved are resolved to Owner's satisfaction. Owner's review, comment upon or approval of any such form shall not relieve Contractor of its obligations under this Agreement or be deemed a waiver of such obligations of Contractor.

B.11.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under this Contract, in whole or in part, without the prior written approval of the Owner. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

B.12 SUCCESSORS IN INTEREST

The provisions of this Contract shall be binding upon and shall accrue to the benefit of the parties to the Contract and their respective permitted successors and assigns.

B.13 OWNER'S RIGHT TO DO WORK

Owner reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor shall coordinate work with the other contractors or forces, cooperate with all other contractors or forces, carry out the Services in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Services with the work of the others in an acceptable manner and perform it in proper sequence to that of the others. The Owner will resolve any disagreements that may arise between or among Contractor and the other contractors over the method or order of doing all work (including the Services). In case of unavoidable interference, the Owner will establish work priority (including the Services) which generally will be in the sequence that the contracts were awarded.

B.14 OTHER CONTRACTS

In all cases and at any time, the Owner has the right to execute other contracts related to or unrelated to the Services of this Contract. The Contractor of this Contract shall fully cooperate with any and all other contractors without additional cost to the Owner in the manner described in section B.13.

B.15 GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflict of laws.

B.16 LITIGATION

Any Claim between Owner and Contractor that arises from or relates to this Contract and that is not resolved through the Claims Review Process in Section D.3 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, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION B.16.

B.17 ALLOWANCES

B.17.1 The Contractor shall include in the Purchase Order Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct.

B.17.2 Unless otherwise provided in the Contract Documents:

- (a) When finally reconciled, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Purchase Order Price but not in the allowances;
- (c) Whenever costs are more than or less than allowances, the Purchase Order Price shall be adjusted accordingly by Amendment. The amount of the Amendment shall reflect (i) the difference between actual costs and the allowances under Section B.17.2(a) and (2) changes in Contractor's costs under Section B.17.2(b).
- (d) Unless Owner requests otherwise, Contractor shall provide to Owner a proposed fixed price for any allowance work prior to its performance.

B.18 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

B.18.1 The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Owner if approval authority has not been delegated to the Architect/Engineer), a schedule and list of Submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review Submittals. Owner reserves the right to finally approve the schedule and list of Submittals. Submittals include, without limitation, Shop Drawings, product data, and samples which are described below:

- (a) Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Services by the Contractor or a Subcontractor (including any sub-subcontractor), manufacturer, supplier or distributor to illustrate some portion of the Services.
- (b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Services.
- (c) Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Services will be judged.

B.18.2 Shop Drawings, Product Data, Samples and similar Submittals are not Contract Documents. The purpose of their Submittal is to demonstrate for those portions of the Services for which Submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of Submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's Submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational Submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

B.18.3 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar Submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Services or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect/Engineer without action.

B.18.4 Approving and submitting shop drawings, product data, samples and similar Submittals, the Contractor represents that the Contractor has determined and verified materials, field

measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such Submittals with the requirements of the Services and of the Contract Documents.

- B.18.5 The Contractor shall perform no portion of the Services for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar Submittals until the respective Submittal has been approved by the Architect/Engineer.
- B.18.6 The Services shall be in accordance with approved Submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's review or approval of Shop Drawings, Product Data, Samples or similar Submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and (i) the Architect/Engineer has given written approval to the specific deviation as a minor change in the Services, or (ii) a new Purchase Order has been executed by Owner authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar Submittals by the Architect/Engineer's review or approval thereof.
- B.18.7 In the event that Owner elects not to have the obligations and duties described under this Section B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner.

B.19 SUBSTITUTIONS

The Contractor may make Substitutions only with the written consent of the Owner, after evaluation by the Owner and only in accordance with a new Purchase Order. Substitutions shall be subject to the requirements of the bid documents. By making requests for Substitutions, the Contractor: represents that the Contractor has personally investigated the proposed substitute product; represents that the Contractor will provide the same warranty for the Substitution that the Contractor would for the product originally specified unless approved otherwise; certifies that the cost data presented is complete and includes all related costs under this Contract including redesign costs, and waives all claims for additional costs related to the Substitution which subsequently become apparent; and will coordinate the installation of the accepted Substitution, making such changes as may be required for the Services to be completed in all respects.

B.20 USE OF PLANS AND SPECIFICATIONS

Plans, Specifications and related Contract Documents furnished to Contractor by Owner or Owner's Architect/Engineer shall be used solely for the performance of the Services under this Contract. Contractor and its Subcontractors and suppliers are authorized to use and reproduce applicable portions of such documents appropriate to the execution of the Services, but shall not claim any ownership or other interest in them beyond the scope of this Contract, and no such interest shall attach. Unless otherwise indicated, all common law, statutory and other reserved rights, in addition to copyrights, are retained by Owner.

B.21 FUNDS AVAILABLE AND AUTHORIZED

If Owner fails to receive funding, appropriations, allocations or other expenditure authority as contemplated by Owner's budget and Owner determines, in its assessment and ranking of the policy objectives explicit or implicit in Owner's budget, Owner may determine it is necessary to and may terminate this Master Contract and or any Amendments.

B.22 NO THIRD-PARTY BENEFICIARIES

Owner and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract 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 Contract.

SECTION C WAGES AND LABOR

C.1 MINIMUM WAGE RATES ON PUBLIC WORKS

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), are included as attachments to or are incorporated by reference in the Contract Documents. Pursuant to ORS 279C.830(1)(c), Contractor shall pay workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all subcontracts. If the Services is subject to both the state prevailing wage rate law and the federal Davis-Bacon Act, Contractor shall pay the higher of the applicable state or federal prevailing rate of wage. Contractor shall provide written notice to all workers of the number of hours per day and days per week such workers may be required to work.

C.2 PAYROLL CERTIFICATION AND FEE REQUIREMENTS

C.2.1 In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Owner, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read the certified statement, that the Contractor or Subcontractor knows the contents of the certified statement, and, that to the Contractor's or Subcontractor's best knowledge and belief, the certified statement is true. The certified statements shall set out accurately and completely the payroll records for the prior week, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on the project shall be submitted once a month, by the fifth business day of the following month. The Contractor and Subcontractors shall preserve the certified statements for a period of ten (10)

years from the date of completion of the Contract.

C.2.2 Pursuant to ORS 279C.845(7), the Owner shall retain 25 percent of any amount earned by the Contractor on this public works project until the Contractor has filed the certified statements required by section C.2.1. The Owner shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.

C.2.3 Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-tier Subcontractor on this public works project until the first-tier Subcontractor has filed with the Owner the certified statements required by C.2.1. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement. Within 14 days after the first-tier Subcontractor files the required certified statement the Contractor shall pay the first-tier Subcontractor any amount retained under this subsection.

C.2.4 In accordance with statutory requirements and administrative rules promulgated by the Commissioner of the Bureau of Labor and Industries, the fee required by ORS 279C.825(1) will be paid by Owner to the Commissioner.

C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS

C.3.1 As a condition to Owner's performance hereunder, the Contractor shall:

C.3.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Services provided for in this Contract.

C.3.1.2 Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.

C.3.1.3 Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Owner, or assign any sums due by Owner, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Owner.

C.3.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

C.3.2 As a condition to Owner's performance hereunder, if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor of a Subcontractor by any person in connection with the project as such claim becomes due, the proper officer(s) representing the Owner may pay the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract. Payment of claims in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

C.3.3 Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten (10) Days out of such amounts as are paid to the Contractor by the public contracting agency under such contract.

C.3.4 All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

C.4 PAYMENT FOR MEDICAL CARE

As a condition to Owner's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such services and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

C.5 HOURS OF LABOR

As a condition to Owner's performance hereunder, no person shall be employed to perform Services under this Contract for more than ten (10) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

- (a) For all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive Days, Monday through Friday; or
- (b) For all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the work week is four consecutive Days, Monday through Friday; and
- (c) For all Services performed on Saturday and on any legal holiday specified in ORS 279C.540.

This section C.5 will not apply to Contractor's Services under this Contract to the extent Contractor is currently a party to a collective bargaining agreement with any labor organization.

This Section C.5 shall not excuse Contractor from completion of the Services within the time required under this Contract.

SECTION D CHANGES IN THE SERVICES

D.1 CHANGES IN SERVICES

D.1.1 The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written agreement and then only after any necessary approvals have been obtained. An Amendment is required, which shall not be effective until its execution by the parties to this Contract and all approvals required by public contracting laws have been obtained.

D.1.2 It is mutually agreed that changes in Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction. Within the general scope of this Contract, the Owner may at any time, without notice to the sureties and without impairing the Contract, require changes consistent with this Section D.1. All changes to the Services shall be documented and Amendments shall be executed under the conditions of the Contract Documents. Such changes may include, but are not limited to:

- (a) Modification of specifications and design.
- (b) Increases or decreases in quantities.
- (c) Increases or decreases to the amount of Services.
- (d) Addition or elimination of any Services item.
- (e) Change in the duration of the project.
- (f) Acceleration or delay in performance of Services.
- (g) Deductive changes,
- (h) Changed conditions.

Deductive changes are those that reduce the scope of the Services, and shall be made by mutual agreement whenever feasible. In cases of suspension or partial termination under Section J, Owner reserves the right to unilaterally impose a deductive change and to self-perform such Services, for which the provisions of B.13 (Owner's Right to Do Services) shall then apply. Adjustments in compensation shall be made under the provisions of D.1.3, in which costs for deductive changes shall be based upon a Direct Costs adjustment together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Owner.

D.1.3 The Owner and Contractor agree that adjustments to or deletions from Services shall be administered and compensated utilizing a new Purchase Order pursuant to the Contract. Any necessary adjustment of Purchase Order Completion Time that may be required as a result of adjustments to or deletions from the Services must be agreed upon by the parties before the start of the extra Services unless Owner authorizes Contractor to start the extra Services before agreement on Purchase Order Time adjustment. Contractor shall submit any request for additional compensation (and additional Purchase Order Completion Time if Contractor was authorized to start extra Services before an adjustment of Purchase Order Completion Time was approved) as soon as possible but no later than thirty (30) Days after receipt of Owner's request for extra Services Contractor agrees that this thirty (30) Day notice period is adequate time for it to request and document the amount of additional compensation or adjustment of Purchase Order Completion Time. If Contractor's request for additional compensation or adjustment of Purchase Order Completion Time is not made within the thirty (30) Day time limit, Contractor agrees its requests pertaining to that extra Services shall be barred. The thirty (30) Day time limit for making requests shall not be extended for any reason, including without limitation Contractor's claimed inability to determine the amount of additional compensation or

adjustment of Purchase Order Completion Time, unless an extension is granted in writing by Owner. If the Owner denies Contractor's timely request for additional compensation or adjustment of Purchase Order Completion Time, Contractor may proceed to file a Claim under Section D.3 of the General Conditions. No other reimbursement, compensation, or payment will be made, except as provided in Section D.1.5 of the General Conditions for impact claims.

- D.1.4 If any adjustment to Services under Section D.1.3 causes an increase or decrease in the Contractor's cost of, or the Purchase Order Completion Time required for the performance of any other part of the Services under this Contract, Contractor shall submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt of Owner's request for adjustments to or deletions from the Services by Contractor.

The thirty (30) Day time limit applies to claims of Subcontractors, suppliers, or manufacturers who may be affected by Owner's request for adjustments to or deletions from the Services and who request additional compensation or an extension of Purchase Order Completion Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the thirty (30) Day time limit, and including their requests with Contractor's requests. If the request involves Services to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the adjustments to compensation and Purchase Order Completion Time requested. The Contractor shall analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor's analysis and evaluation of those requests with Contractor's requests for adjustments to compensation or Purchase Order Completion Time that Contractor submits to the Owner. Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor's requests submitted to Owner within the time period and by the means described in this section shall constitute a waiver of these Subcontractor claims. The Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract. The consideration of such requests and claims under this section does not give any Person, not a party to the Contract the right to bring a claim against Owner, whether in this claims process, in litigation, or in any dispute resolution process.

If the Owner denies the Contractor's request for adjustment to compensation or Purchase Order Completion Time, and the request is timely as set forth herein, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

- D.1.5 Contractor agrees that no request or Claim for additional costs or an adjustment of Purchase Order Completion Time shall be allowed if made after receipt of Final Payment application under this Contract. Final Payment application must be made by Contractor within the time required under Section E.6.4.

- D.1.6 It is understood that changes in the Services are inherent in construction of this type. The number of changes, the scope of those changes, and the effect they have on the progress of the original Services cannot be defined at this time. The Contractor is notified that numerous changes may be required and that there will be no compensation made, unless and only to the

extent otherwise provided in the Contract Documents, to the Contractor directly related to the number of changes. Each change will be evaluated for extension of Purchase Order Completion Time and increase or decrease in compensation based on its own merit.

D.2 DELAYS

D.2.1 Delays in construction include “Avoidable Delays”, which are defined in Section D.2.1.1, and “Unavoidable Delays”, which are defined in Section D.2.1.2. The effect of Avoidable Delays is described in Section D.2.2 and the effect of Unavoidable Delays is described in Section D.2.3.

D.2.1.1 Avoidable Delays include any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that:

- (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (b) Affect only a portion of the Services and do not necessarily prevent or delay the prosecution of other parts of the Services or the completion of the whole Services within the Purchase Order Completion Time.
- (c) Do not impact activities on the accepted CPM Construction Schedule.
- (d) Are associated with the reasonable interference of other contractors employed by the Owner that do not necessarily prevent the completion of the whole Services within the Purchase Order Completion Time.

D.2.1.2 Unavoidable Delays include delays other than Avoidable Delays that are:

- (a) To the extent caused by any actions of the Owner, or any other employee or agent of the Owner, or by separate contractor employed by the Owner.
- (b) To the extent caused by any site conditions that differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be inherent to the construction activities defined in the Contract Documents. The Contractor agrees to notify the Owner immediately of differing site conditions before the area has been disturbed. The Owner will investigate the area and make a determination as to whether the conditions differ materially from either the conditions stated in the Contract Documents or those that could reasonably be expected in execution of this particular Contract. If Contractor and Owner agree that a differing site condition exists, any adjustment to compensation or Purchase Order Completion Time will be determined based on the process set forth in Section D.1.5 for adjustments to or deletions from Services. If the Owner disagrees that a differing site condition exists and denies Contractor’s request for additional compensation or Purchase Order Completion Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.
- (c) To the extent caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the

Contractor or its Subcontractors.

(d) To the extent caused by adverse weather conditions. Any adverse weather conditions must be substantiated by documentary evidence that weather conditions were abnormal for the specific time period claimed, could not have been anticipated by the Contractor, and adversely impacted the Project in a manner that could not be avoided by rescheduling the Services or by implementing measures to protect against the weather so that the Services could proceed. A rain, windstorm, high water, or other natural phenomenon for the specific locality of the Services, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Services, shall not be construed as abnormal. The parties agree that rainfall greater than the following levels cannot be reasonably anticipated:

- (i) Daily rainfall equal to, or greater than, 0.50 inch during a month when the monthly rainfall exceeds the normal monthly average by twenty-five percent (25 %) or more.
- (ii) daily rainfall equal to, or greater than, 0.75 inch at any time.

The Office of the Environmental Data Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce nearest the Project site shall be considered the official agency of record for weather information.

D.2.2 Contractor agrees it is not be entitled to additional compensation or additional Purchase Order Completion Time for Avoidable Delays.

D.2.3 In the event of Unavoidable Delays, based on principles of equitable adjustment, Contractor may be entitled to the following:

- (a) Contractor may be entitled to additional compensation or additional Purchase Order Completion Time, or both, for Unavoidable Delays described in Section D.2.1.2 (a) and (b).
- (b) Contractor may be entitled to additional Purchase Order Completion Time for Unavoidable Delays described in Section D.2.1.2(c) and (d).

In the event of any requests for additional compensation or additional Purchase Order Completion Time, or both, as applicable, arising under this Section D.2.3 for Unavoidable Delays, other than requests for additional compensation or additional Purchase Order Completion Time for differing site conditions for which a review process is established under Section D.2.1.2 (b), Contractor must submit a written notification of the delay to the Owner within two (2) Days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Purchase Order Completion Time extension or the additional compensation, or both, as applicable, resulting from the delay. Within seven (7) Days after the cause of the delay has been mitigated, or in no case more than thirty (30) Days after the initial written notification, the Contractor agrees to submit to the Owner, a complete and detailed request for additional compensation or additional Purchase Order Completion Time, or both, as applicable, resulting from the delay. If the Owner denies Contractor's request for additional compensation or adjustment of Purchase Order Completion Time, the Contractor may proceed to file a Claim

under Section D.3, Claims Review Process, provided Contractor has complied with the requirement in this Section D.2.3. Contractor agrees any Claim it may have is barred if Contractor does not comply with the requirements herein.

If Contractor does not timely submit the notices required under this Section D.2, then unless otherwise prohibited by law, Contractor's Claim shall be barred.

D.3 CLAIMS REVIEW PROCESS

D.3.1 All Contractor Claims shall be referred to the Owner for review. Contractor's Claims, including Claims for adjustments to compensation or Purchase Order Completion Time, shall be submitted in writing by Contractor to the Owner within five (5) Days after a denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Purchase Order Completion Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these General Conditions. Within thirty (30) Days after the initial Claim, Contractor shall submit to the Owner a complete and detailed description of the Claim (the "Detailed Notice") that includes all information required by Section D.3.2. Contractor agrees that, unless the Claim is made in accordance with these time requirements, Contractor voluntarily waived all rights to prosecute its Claim.

D.3.2 The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Purchase Order Completion Time adjustment requested for the Claim. If the Claim involves Services to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Owner. The Owner will not consider direct claims from Subcontractors, suppliers, manufacturers, or others not a party to this Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Owner.

D.3.3 The Owner will review all Claims and take one or more of the following preliminary actions within ten (10) Days of receipt of the Detailed Notice of a Claim: (1) request additional supporting information from the Contractor; (2) inform the Contractor and Owner in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part and identify the reasons for rejection; (4) based on principles of equitable adjustment, recommend approval of all or part of the Claim; or (5) propose an alternate resolution.

D.3.4 The Owner's decision shall be final and binding on the Contractor unless appealed by written notice to the Owner within fifteen (15) Days of receipt of the decision. The Contractor must present written documentation supporting the Claim within fifteen (15) Days of the notice of appeal. After receiving the appeal documentation, the Owner shall review the materials and render a decision within thirty (30) Days after receiving the appeal documents.

D.3.5 The decision of the Owner shall be final and binding unless the Contractor delivers to the

Owner its request for mediation, which shall be a non-binding process, within fifteen (15) Days of the date of the Owner's decision. The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) Days of the commencement of the mediation through the mediation process set forth herein.

In the event that a lawsuit must be filed within this sixty (60) Day period in order to preserve a cause of action, the parties agree that, notwithstanding the filing, they shall proceed diligently with the mediation to its conclusion prior to actively prosecuting the lawsuit, and shall seek from the Court in which the lawsuit is pending such stays or extensions, including the filing of an answer, as may be necessary to facilitate the mediation process. Further, in the event settlements are reached on any issues through mediation, the plaintiff shall promptly cause to be entered by the Court a stipulated general judgment of dismissal with prejudice, or other appropriate order limiting the scope of litigation as provided in the settlement.

D.3.6 Should the parties arrive at an impasse regarding any Claims or disputed Claims, it is agreed that the parties shall participate in mediation as specified in Section D.3.5. The mediation process will be considered to have been commenced as of the date one party delivers to the other its request in writing to mediate. The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Owner's administrative rules governing the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

D.3.7 Unless otherwise directed by Owner, Contractor shall proceed with the Services while any Claim, or mediation or litigation arising from a Claim, is pending. Regardless of the review period or the final decision of the Owner, the Contractor shall continue to diligently pursue the Services as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease or Delay Services, in whole or in part, without a written stop work order from the Owner.

SECTION E PAYMENTS

E.1 SCHEDULE OF VALUES

The Contractor shall submit, at least ten (10) Days prior to submission of its first application for progress payment, a schedule of values ("Schedule of Values") for the contracted Services. This schedule shall provide a breakdown of values for the contracted Services and will be the basis for progress payments. The breakdown shall demonstrate reasonable, identifiable, and measurable components of the Services. Unless objected to by the Owner, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Owner, Contractor shall revise the schedule of values and resubmit the same for approval of Owner.

E.2 APPLICATIONS FOR PAYMENT

E.2.1 Owner shall make progress payments on the Contract monthly as Services progresses, in accordance with the requirements of this Section E.2. Applications for payment shall be based upon estimates of Services completed and the Schedule of Values. As a condition precedent to Owner's obligation to pay, all applications for payment shall be approved by the Owner. A progress payment shall not be considered acceptance or approval of any Services or waiver of any defects therein. Owner shall pay to Contractor interest for overdue invoices at the rate of two-thirds of one percent per month on the progress payment, not including retainage, due the Contractor. Overdue invoices will be those that have not been paid within forty five (45) days from the latest of:

- (a) The date of the receipt of the accurate invoice;
- (b) The date Owner receives the correct application for payment if no invoice is received;
- (c) The date all goods and services have been received; or
- (d) The date a Claim is made certain by agreement of the parties or by operation of law.

Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within fifteen (15) Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within seven (7) Days of being notified by the Owner, shall not cause a payment to be made later than specified in this section unless interest is also paid. Payment of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and the Contractor.

Owner reserves the right, instead of requiring the Contractor to correct or resubmit a defective or improper application for payment, to reject the defective or improper portion of the application for payment and pay the remainder of the application for such amounts which are correct and proper.

Owner, upon written notice to the Contractor, may elect to make payments to the Contractor only by means of Electronic Funds Transfers (EFT) through Automated Clearing House (ACH) payments. If Owner makes this election, the Contractor shall arrange for receipt of the EFT/ACH payments.

E.2.2 Contractor shall submit to the Owner an application for each payment and, if required, receipts or other vouchers showing payments for materials and labor including payments to Subcontractors. Contractor shall include in its application for payment a schedule of the percentages of the various parts of the Services completed, based on the Schedule of Values which shall aggregate to the payment application total, and shall include, on the face of each copy thereof, a certificate in substantially the following form:

"I, the undersigned, hereby certify that the above bill is true and correct, and the payment therefore, has not been received.

Signed: _____
Dated: _____"

E.2.3 Generally, applications for payment will be accepted only for materials that have been installed. Under special conditions, applications for payment for stored materials will be accepted at Owner's sole discretion. Such a payment, if made, will be subject to the following conditions:

(a) The request for stored material shall be submitted at least thirty (30) Days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.

(b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.

(c) The material shall be stored in a bonded warehouse and Owner shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.

(d) The Contractor shall name the Owner as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Owner.

(e) Payments shall be made for materials and equipment only. The submitted amount in the application for payment shall be reduced by the cost of transportation from the storage site to the project site and for the cost of an inspector to verify delivery and condition of the goods at the storage site. The cost of storage and inspection shall be borne solely by the Contractor.

(f) Within sixty (60) Days of the application for payment, the Contractor shall submit evidence of payment covering the material and/or equipment stored and of payment for the storage site.

(g) Payment for stored materials and/or equipment shall in no way indicate acceptance of the materials and/or equipment or waive any rights under this Contract for the rejection of the Services or materials and/or equipment not in conformance with the Contract Documents.

(h) All required documentation shall be submitted with the respective application for payment.

E.2.4 The Owner reserves the right to withhold all or part of a payment, or may nullify in whole or part any payment previously made, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:

- (a) Services that is defective and not remedied, or that has been demonstrated or identified as failing to conform with Applicable Laws or the Contract Documents,
- (b) Third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by the Contractor;
- (c) Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Owner may issue checks made payable jointly to Contractor and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under Section C.3.2.);
- (d) Reasonable evidence that the Services cannot be completed for the unpaid balance of the Purchase Order Price;
- (e) Damage to the Services, Owner or another contractor;
- (f) Reasonable evidence that the Services will not be completed within the Purchase Order Completion Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- (g) Failure to carry out the Services in accordance with the Contract Documents; or
- (h) Assessment of liquidated damages, when withholding is made for offset purposes.

E.2.5 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- (a) Take that portion of the Purchase Order Price properly allocable to completed Services as determined by multiplying the percentage completion of each portion of the Services by the share of the total Purchase Order Price allocated to that portion of the Services in the Schedule of Values, less retainage as provided in Section E.5. Pending final determination of cost to the Owner of changes in the Services, no amounts for changes in the Services can be included in applications for payment until the Purchase Order Price has been adjusted by a new Purchase Order;
- (b) Add that portion of the Purchase Order Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner pursuant to Section E.2.3, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section E.5;
- (c) Subtract the aggregate of previous payments made by the Owner; and

(d) Subtract any amounts for which the Owner has withheld or nullified payment as provided in the Contract Documents.

E.2.6 Contractor's applications for payment shall not include requests for payment for portions of the Services for which the Contractor does not intend to pay to a Subcontractor or material supplier.

E.2.7 The Contractor warrants to Owner that title to all Services covered by an application for payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Services for which payments are received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided financing, labor, materials and equipment relating to the Services.

E.2.8 If Contractor disputes any determination by Owner with regard to any application for payment, Contractor nevertheless shall continue to expeditiously perform the Services. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Services to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.

E.2.9 Contractor shall submit its initial MWESB Report within ten (10) Days of Contractor's execution of the Contract Contractor shall submit annual MWESB Reports on June 30 of each year the Contract is active. Contracts first executed by Contractor within ninety (90) Days before June 30 of the year of execution by Contractor may at the discretion of Owner be exempt from submitting the annual MWESB Report otherwise due on that June 30. The final MWESB Report shall be filed with the application for final payment. Timely receipt of MWESB Reports by Owner shall be a condition precedent to Owner's obligation to pay any progress payments or final payment otherwise due.

E.3 PAYROLL CERTIFICATION REQUIREMENT

Owner's receipt of payroll certification pursuant to Section C.2 of this Contract shall be a condition precedent to Owner's obligation to pay any progress payments or final payment otherwise due.

E.4 DUAL PAYMENT SOURCES

Contractor shall not be compensated for Services performed under this Contract from any state agency other than the agency that is a party to this Contract.

E.5 RETAINAGE

E.5.1 Retainage shall be withheld and released in accordance with the requirements set forth in OSU Standards.

E.5.1.1 Owner may reserve as retainage from any progress payment an amount not to exceed five percent of the payment. As Services progresses, Owner may reduce the amount of retainage on or may eliminate retainage on any remaining monthly Contract payments after 50 percent

of the Services under the Contract is completed if, in the Owner's discretion, such Services is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only at Owner's sole discretion and only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Services is 97-1/2 percent completed the Owner may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the Services remaining to be done. Upon receipt of written application by the Contractor, Owner shall respond in writing within a reasonable time.

E.5.1.2 Contractor may request in writing:

- (a) To be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds and securities of equal value with Owner or in a custodial account or other mutually-agreed account satisfactory to Owner, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Owner;
- (b) For construction projects over \$1,000,000, that retainage be deposited in an interest bearing account, established through the State Treasurer for state agencies, in a bank, savings bank, trust company or savings association for the benefit of Owner, with earnings from such account accruing to the Contractor; or
- (c) That the Owner allow Contractor to deposit a surety bond for the benefit of Owner, in a form acceptable to Owner, in lieu of all or a portion of funds retained, or to be retained. Such bond and any proceeds therefrom shall be made subject to all claims in the manner and priority as set forth for retainage.

When the Owner has accepted the Contractor's election of option (a) or (b), Owner may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Owner has agreed to Contractor's request for option (c), Contractor shall accept like bonds from Subcontractors and suppliers on the project from which Contractor has required retainages.

- E. 5.1.3 The retainage held by Owner shall be included in and paid to the Contractor as part of the Final Payment of the Purchase Order Price. The Owner shall pay to Contractor interest at the rate of two-thirds of one percent per month on the final payment due Contractor, interest to commence forty five (45) Days after the date which Owner receives Contractor's final approved application for payment and Services under the Contract has been completed and accepted and to run until the date when final payment is tendered to Contractor. The Contractor shall notify Owner in writing when the Contractor considers the Services complete and deliver to Owner its final application for payment and Owner shall, within fifteen (15) Days after receiving the written notice and the application for payment, either accept the Services or notify the Contractor of Services yet to be performed on the Contract. If Owner does not within the time allowed notify the Contractor of Services yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run forty five (45) Days after the end of the 15-Day period.

E.5.1.4 Owner will reduce the amount of the retainage if the Contractor notifies the controller of the Owner that the Contractor has deposited in an escrow account with a bank or trust company, in a manner authorized by the Owner, bonds and securities of equal value of a kind approved by the Owner and such bonds and securities have in fact been deposited.

E.5.1.5 Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection E.5 as apply to Owner's retainage from any progress payment due to Contractor.

E.6 FINAL PAYMENT

E.6.1 Upon completion of all the Services under this Contract, the Contractor shall notify the Owner, in writing, that Contractor has completed Contractor's obligations under the Contract and shall prepare its application requesting final payment. Upon receipt of such notice and application for payment, the Owner will inspect the Services, and, if acceptable, submit to the Owner a recommendation as to acceptance of the completed Services and the final estimate of the amount due the Contractor. If the Services is not acceptable, Owner will notify Contractor within fifteen (15) Days of Contractor's request for Final Payment. Upon approval of this final application for payment by the Owner and compliance by the Contractor with provisions in Section K, and Contractor's satisfaction of other provisions of the Contract Documents as may be applicable, the Owner shall pay to the Contractor all monies due under the provisions of these Contract Documents.

E.6.2 Neither Final Payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner (1) a certificate evidencing that insurance required by the Contract Documents to remain in force after Final Payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) Days' prior written notice has been given to the Owner, (2) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (3) consent of surety, if any, to Final Payment and (4), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

E.6.3 Acceptance of Final Payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.

E.6.4 Contractor agrees to submit its final payment application within ninety (90) Days after Substantial Completion, unless written extension is granted by Owner. Contractor shall not delay Final Payment application for any reason, including without limitation nonpayment of

Subcontractors, suppliers, manufacturers or others not a party to this Contract, or lack of resolution of a dispute with Owner or any other person of matters arising out of or relating to the Contract. If Contractor fails to submit its Final Payment application within ninety (90) Days after Substantial Completion, and Contractor has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Purchase Order Completion Time shall be waived.

SECTION F JOB SITE CONDITIONS

F.1 USE OF PREMISES

Contractor shall confine equipment, storage of materials and operation of Services to the limits indicated by Contract Documents, Applicable Laws, permits or directions of the Owner. Contractor shall follow the Owner's instructions regarding use of premises, if any.

F.2 PROTECTION OF WORKERS, PROPERTY AND THE PUBLIC

F.2.1 Contractor shall maintain continuous and adequate protection of all of the Services from damage and shall protect the Owner, workers and property from injury or loss arising in connection with this Contract. Contractor shall remedy acceptably to the Owner any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Owner. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.

F.2.2 Contractor shall take all necessary precautions for the safety of all personnel on the job site or otherwise engaged in the undertaking of the Services and shall comply with the Contract Documents, best practices and all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Services is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Services, all necessary safeguards for protection of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Services site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Owner. The Owner has no responsibility for Services site safety. Services site safety shall be the responsibility of the Contractor.

F.2.3 Contractor shall not enter upon private property without first obtaining permission from the property owner or its duly authorized representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Services contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and make, or arrange to make, full restitution. Contractor shall, immediately and in writing, report to the Owner, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.

F.2.4 Contractor shall verify that all mechanical or electrical equipment in the construction areas that may be affected by the Services is in working order and shall notify the Owner, in writing, of any

equipment not in working order prior to the start of the Services. Commencement of Services will be considered as acknowledgment that all equipment is in good working order. Contractor shall be required to restore equipment to its original, or better, condition upon completion of the Project.

F.2.5 Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials shall be conducted so no release will occur that may pollute or become hazardous.

F.2.6 In an emergency affecting the safety of life or limb or of the Services or of adjoining property, the Contractor, without special instruction or authorization from the Owner, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by the Owner. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with section D.

F.3 CUTTING AND PATCHING

F.3.1 Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Services to make its several parts come together properly and fit to receive or be received by work of other contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.

F.3.2 Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

F.4 CLEANING UP

From time to time as may be prudent or ordered by the Owner and, in any event, immediately after completion of the Services, the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Services. If Contractor fails to do so within twenty-four hours after notification by the Owner the work may be done by others and the cost charged to the Contractor and deducted from payment due the Contractor.

F.5 ENVIRONMENTAL CONTAMINATION

F.5.1. Contractor shall be held responsible for and shall indemnify, defend (with counsel of Owner's choice), and hold harmless Owner from and against any costs, expenses, damages, claims, and causes of action, (including attorney fees), or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation, and handling during the performance of the Services or Contractor's obligations under the Contract which occur as a result of, or are contributed by, the negligence or actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section F.5.1 shall limit Contractor's responsibility for obtaining insurance coverages required under Section G.3 of this Contract, and Contractor shall take no action that would void or impair such

coverages.

F.5.1.1 Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of Owner and regulatory agencies having jurisdiction in a manner that complies with Applicable Laws. Cleanup shall be at no cost to the Owner and shall be performed by properly qualified and, if applicable, licensed personnel.

F.5.1.2 Contractor shall obtain the Owner's written consent prior to bringing onto the Services site any (i) environmental pollutants or (ii) hazardous substances or materials, as the same or reasonably similar terms are used in any Applicable Laws. Notwithstanding such written consent from the Owner, the Contractor, at all times, shall:

- (a) Properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Services site, in accordance with all Applicable Laws;
- (b) Be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Services site; and
- (c) Promptly clean up and remediate, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all Applicable Laws.

F.5.2 Contractor shall report all reportable quantity releases, as such releases are defined in Applicable Laws, including but not limited to 40 CFR Part 302, Table 302.4 and in OAR 340-142-0050 , to applicable federal, state, and local regulatory and emergency response agencies. Upon discovery, regardless of quantity, Contractor must telephonically report all releases to the Owner. A written follow-up report shall be submitted to Owner within 48 hours of the telephonic report. Such written report shall contain, as a minimum:

- (a) Description of items released (identity, quantity, manifest numbers, and any and all other documentation required by law.)
- (b) Whether amount of items released is EPA/DEQ reportable, and, if so, when reported.
- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.
- (e) Summary of communications about the release between Contractor and members of the press or State, local or federal officials other than Owner.
- (f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- (g) Personal injuries, if any, resulting from, or aggravated by, the release.

F.6 ENVIRONMENTAL CLEAN-UP

F.6.1 Unless disposition of environmental pollution is specifically a part of this Contract, or was caused by the Contractor (reference F.5 Environmental Contamination), Contractor shall immediately notify Owner of any hazardous substance(s) which Contractor discovers or encounters during performance of the Services required by this Contract. "Hazardous substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl (PCB), or petroleum, and any substances, materials or wastes regulated by 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Owner of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the project where a hazardous substance(s) has been discovered or encountered if continued work in such area would present a risk or danger to the health or well-being of Contractor's or any Subcontractor's work force, property or the environment.

F.6.2 Upon being notified by Contractor of the presence of hazardous substance(s) on the project site, Owner shall arrange for the proper disposition of such hazardous substance(s).

F.7 FORCE MAJEURE

A party to this Contract shall not be held responsible for delay or default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. The Owner may terminate this Contract upon written notice after determining that delay or default caused by Force Majeure acts, events or occurrences will reasonably prevent successful performance of the Contract.

SECTION G INDEMNITY, BONDING, AND INSURANCE

G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY

G.1.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Services to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, sub-subcontractors of any tier, suppliers, employees, guests, visitors, invitees and agents.

G.1.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner, Design Professional, Design Professional's consultants, and their respective officers, directors, agents, trustees, employees, partners, members, stockholders and affiliated companies (collectively "Indemnitees") from and against all claims, suits, actions, losses, liens, damages, liabilities, costs and expenses, including reasonable attorneys' fees, experts' fees and costs, of whatsoever nature resulting in any way from, arising out of, or relating to the activities of the Services of the Contractor or the Contractor's, suppliers, partners, joint venturers, subcontractors (of any tier), consultants, officers, agents or employees, but only to the

extent caused by the negligence or other wrongful conduct of the Contractor or the Contractor's suppliers, partners, joint venturers, subcontractors (of any tier), consultants, officers, agents or employees; provided, however, to the extent Contractor provides architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or related services (as that term is defined under ORS 279C.100), Contractor has no duty to defend Owner against a claim for professional negligence and relating to the professional services provided by the Contractor, except to the extent that Contractor's liability or fault is determined by adjudication or alternative dispute resolution or otherwise resolved by settlement agreement, and not to exceed the proportionate fault of the Contractor or the Contractor's suppliers, partners, joint venturers, subcontractors (of any tier), consultants, officers, agents or employees.

G.1.3 In claims against any person or entity indemnified under Section G.1.2 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section G.1.2 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND

G.2.1 When the Purchase Order Price is \$150,000 or more (or \$50,000 or more in the case of Contracts for highways, bridges and other transportation projects), the Contractor shall furnish and maintain in effect at all times during the Contract Period a performance bond in a sum equal to the Purchase Order Price and a separate payment bond also in a sum equal to the Purchase Order Price. Contractor shall furnish such bonds even if the Purchase Order Price is less than the above thresholds if otherwise required by the Contract Documents.

G.2.2 Bond forms furnished by the Owner and notarized by awarded Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.

G.2.3 Before execution of the Contract the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS Chapter 279C, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Services, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting any Subcontractor to start Services.

G.3 INSURANCE

G.3.1 General Requirements. The required insurance amounts set forth below do not in any way limit the amount or scope of liability of Contractor under this Contract. The amounts listed indicate only the minimum amounts of insurance coverage Owner is willing to accept to help insure full performance of all terms and conditions of this Contract.

- (a) Primary Coverage and Non-Contributory Coverage. Insurance carried by Contractor

under this Contract shall be primary and non-contributory.

- (b) Additional Insured. Each liability policy, except Workers' Compensation and Professional Liability, shall be endorsed to include Owner, its trustees, officers, employees and agents as additional insured with respect to the Contractor's activities to be performed under the Contract and or any given Purchase Order.
 - (i) If Contractor cannot name the Owner as additional insured, Contractor shall obtain at Contractor's expense, and keep in effect during the term of this Contract, Owners and Contractors Protective Liability Insurance, naming the Owner as additional insured with minimum limits of \$2,000,000 per occurrence and \$2,000,000 aggregate. This policy must be kept in effect for 36 months following Final Completion. As evidence of coverage, Contractor shall furnish the actual policy to Owner prior to execution of any given Purchase Order.
- (c) Company Ratings. All policies of insurance must be written by companies having an A.M. Best rating of no less than "A-VII", or equivalent. Owner may, upon thirty (30) days written notice to Contractor, require Contractor to change any carrier whose rating drops below an "A-VII" rating. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to conduct an insurance business and issue policies of insurance in the state of Oregon, and certain non-admitted surplus lines insurers that satisfy the requirements of applicable Oregon law and which are subject to approval the Owner.
- (d) Notice of Cancellation, Change, or Exhaustion of Limits. If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, or if Contractor exhausts 50% or more of the aggregate limit of any required policy, Contractor agrees to notify Owner in writing within five (5) business days with a copy of the non-renewal or cancellation notice, written specifics as to which coverage is no longer in compliance, or notice of depletion of 50% or more of a policy aggregate. When notified by Owner, the Contractor agrees to stop Services until all required insurance is confirmed in effect. Any failure to comply with the reporting provisions of this insurance, shall not alter the Contractor's obligations.
- (e) Owner shall have the right, but not the obligation, to prohibit the Contractor from entering the job site until a new certificate(s) of insurance is provided to Owner evidencing replacement coverage is in place. The Contractor agrees Owner reserves the right to withhold payment to Contractor until evidence of reinstated or replacement coverage is provided to Owner.
- (f) Deductibles and Self-insured Retentions. Any deductible, self-insured retention and/or self-insurance in excess of \$50,000 must be approved by the Owner in writing.

- (g) Tail Coverage. If any required policy is arranged on a "claims made" basis, tail coverage will be required at the completion of any given Purchase Order for a duration of 36 months or the maximum time period available in the marketplace if less than 36 months. Continuous "claims made" coverage will be acceptable in lieu of tail coverage, provided its retroactive date is on or before the effective date of the Purchase Order. Contractor shall furnish certificates of insurance evidencing the required tail coverage or continuous "claims made" liability coverage for 36 months following Final Completion. Owner's receipt of the certificate of insurance and/or endorsement evidencing such coverage shall be a condition precedent to Owner's obligation to make final payment and to Owner's final acceptance of Scope or services and related warranty (if any).

G.3.2 Workers' Compensation. All employers, including Contractor, that employ subject workers who work under this Contract and or any given Purchase Order in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126, and Employer's Liability Insurance with minimum limits of \$1,000,000 each accident; \$1,000,000 disease-each employee; and \$1,000,000 disease-policy limit. Contractors who perform Services without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors and sub-subcontractors of any tier comply with these requirements. The Contractor shall require proof of such Workers' Compensation coverage by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.

G.3.3 Commercial General Liability ("CGL"). Contractor shall obtain and keep in effect at Contractor's expense for the term of the Contract, CGL insurance covering bodily injury and property damage in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate. This insurance shall include bodily injury liability, products and completed operations, and contractual liability coverage for the indemnities provided under the Contract and or any given Purchase Order (to the extent contractual liability coverage for the indemnity is available in the marketplace).

- (a) CGL insurance shall be written on current ISO occurrence for CG 00 01 or its equivalent if Owner approves and shall cover liability arising from premises, operations, independent contractors, products-completed operations, death, bodily injury, property damage, personal injury and advertising injury and liability assumed under an insured contract.
- (b) The additional insured coverage under the CGL shall be on current ISO additional insured endorsements CG 20 10 (07 04) and CG 20 37 (07 04) or substitutes providing equivalent coverage if Owner approves. Such insurance shall apply as primary insurance to the additional insureds.

G.3.4 Business Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Business Automobile Liability Insurance with "symbol 1" coverage (owned, hired and non-owned vehicles) with a minimum combined single limit of

\$1,000,000. The coverage may be written in combination with the Commercial General Liability Insurance.

- (a) Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20 or its equivalent if Owner approves.

G.3.5 Umbrella Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Umbrella Liability Insurance over and above the Commercial General Liability, Business Automobile Liability and Employers' Liability insurance coverages with minimum limits of \$1,000,000 per occurrence and \$1,000,000 aggregate. If Contractor has annual gross revenue greater than \$15,000,000, the required Umbrella Liability coverage shall have minimum limits of \$5,000,000 per occurrence and \$5,000,000 aggregate.

- (a) Umbrella Insurance coverage shall be provided on a follow-form basis and Contractor shall be responsible for any gaps between underlying coverage and excess coverage for all policies required under the term of the Contract and or any given Purchase Order.

G.3.6 Professional Liability (if required by issuance of Supplemental General Conditions). Contractor shall obtain, at Contractor's expense, Professional Liability/Errors & Omissions insurance covering damages caused by any negligent error, omission, or professional misconduct of the Contractor with minimum limits of \$3,000,000 each claim and a \$3,000,000 aggregate. Contractor shall require 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 coverage with minimum limits of \$2,000,000 each claim and a \$2,000,000 aggregate. All other Consultants and subcontractors not listed above shall have coverage with minimum limits of \$1,000,000 each claim and \$1,000,000 aggregate.

G.3.7 Pollution Liability (if required by Owner through issuance of Supplemental General Conditions). Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Pollution Liability Insurance with minimum limits of \$3,000,000 per occurrence and \$3,000,000 aggregate, naming Owner as Additional Insured, as noted in the Additional Insured section.

G.3.8 Builder's Risk Insurance – Completed Value Basis. Unless otherwise provided, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, Builder's Risk Insurance in the amount of the initial Purchase Order Price, plus value of subsequent modifications, and cost of material supplied or installed by others, comprising total value of the entire Project at the site on a replacement cost basis without optional deductibles. The earthquake and flood insurance sub limits will be equal to the maximum probable loss.

- (a) Policy must provide coverage from the time any covered property becomes the responsibility of the Contractor, and continue without interruption during construction, renovation, or installation, through final completion, including any time during which the covered property is being transported to the construction

installation site, or awaiting installation, whether on or off site.

- (b) The Builder's Risk Insurance shall include the Owner, the Contractor, and subcontractors of every tier as named insureds on the policy and shall include a waiver of subrogation provision in favor of all parties.
- (c) The Builder's Risk Coverage shall be written on a Special Covered Cause of Loss form and shall include theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, transit, debris removal including demolition, increased cost of construction, architect's fees and expenses, flood (including water damage), earthquake, and if applicable, all below and above ground structures, piping, foundations including underground water and sewer mains, piling including the ground on which the structure rests and excavation, backfilling, filling, and grading.
- (d) The Builder's Risk shall include a Beneficial Occupancy Clause. The policy shall specifically permit occupancy of the building during construction. Contractor shall take reasonable steps to obtain consent of the insurance company and delete any provisions with regard to restrictions within any Occupancy Clauses within the Builder's Risk Policy.
- (e) Equipment Breakdown Coverage (a.k.a. Boiler & Machinery) shall be included as required by the Contract Documents or by law, which shall specifically cover insured equipment during installation and testing (including cold and hot testing).
- (f) The Builder's Risk shall include loss of use due to delays in project completion caused by covered peril losses to the Project, including loss of income and rents and soft costs.
- (g) The deductible shall not exceed \$50,000 for physical damage and shall be the responsibility of the Contractor. The earthquake and flood deductible shall not exceed 2 percent of each loss or \$50,000, whichever is greater.
- (h) OSU shall be provided with a certificate of insurance, as well as a copy of the policy.
- (i) The Contractor shall be responsible for the payment of premium, giving or receiving notice of cancellation; and requesting amendments to this policy and accepting amendments to this policy made by the company.
- (j) Owner reserves the right to purchase the Builder's Risk insurance policy. In the event Owner purchases the Builder's Risk, the policy shall adhere to the terms of G.3.8.

G.3.9 Installation Floater. At Owner's sole discretion through issuance of Supplemental General Conditions the requirements of G.3.8 may be replaced by G.3.9 Installation Floater. Contractor shall obtain and keep in effect during the term of any given Purchase Order, an Installation Floater policy for coverage of the Contractor's materials to be used for completion of the work performed under the Purchase Order. The minimum amount of

coverage to be carried shall be equal to the full amount of the materials supplied for the Purchase Order. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear.

- G.3.10 Certificate(s) of Insurance. As evidence of the insurance coverages required by the Contract and or any given Purchase Order, the Contractor shall furnish certificate(s) of insurance to the Owner prior to the execution of any given Purchase Order. The certificate(s) will specify all of the parties who are additional insured or loss payees for the Purchase Order and or Contract, and the applicable endorsements will be attached. Additional insured endorsements must include completed operations without restriction to contractual requirements. At Owner's request, Contractor shall deliver to Owner the full insurance policies and all endorsements and riders. The coverages shall include cross-claim and severability of interests endorsements.
- G.3.11 Subcontractors. Subject to and following the written approval of the Owner as outlined in B.11.3 as related to Subcontracts and Assignment, the Contractor shall require Subcontractors to have insurance as outlined in section G.3.1 through G.3.4 with minimum limits of \$1,000,000 per occurrence.
- G.3.12 Owner may adjust the required insurance coverages and limits through the issuance of Supplemental General Conditions.

SECTION H SCHEDULE OF SERVICES

H.1 CONTRACT PERIOD

- H.1.1 Time is of the essence. The Contractor shall at all times carry on the Services diligently, without delay and punctually fulfill all requirements herein. If required by the Contract Documents, Contractor shall commence Services on the site within fifteen (15) Days of Notice to Proceed, unless directed otherwise.
- H.1.2 Unless specifically extended by a new Purchase Order, all Services shall be complete by the date contained in the Contract Documents. The Owner shall have the right to accelerate the completion date of the Services, which may require the use of overtime. Such accelerated Services schedule shall be an acceleration in performance of Services under Section D.1.2 (f) and shall be subject to the provisions of Section D.1.
- H.1.3 The Owner shall not waive any rights under the Contract by permitting the Contractor to continue or complete in whole or in part the Services after the date described in Section H.1.2 above.

H.2 SCHEDULE

- H.2.1 Contractor shall provide, by or before the pre-construction conference, a detailed Construction Schedule for review and acceptance by the Owner. The submitted Construction Schedule must illustrate Services by significant project components, significant labor trades, long lead items, broken down by building and/or floor where applicable. Each Construction Schedule item shall

account for no greater than 5% of the monetary value of the Project or 5% of the available time. Schedules with activities of less than one day or valued at less than 1% of the Contract shall be considered too detailed and shall not be accepted. Schedules lacking adequate detail, or unreasonably detailed, shall be rejected. Included within the Construction Schedule are the following: Notice to Proceed, Substantial Completion, and Final Completion. Contractor shall provide an updated, full project schedule with each payment request. In addition, twice monthly, the Contractor shall provide an updated three-week forward-looking Construction Schedule. Acceptance of the Schedule by the Owner does not constitute agreement by the Owner as to the Contractor's sequencing, means, methods, or durations. Any positive difference between the Contractor's scheduled completion and the contract completion date is float owned by the Project. Use of the float shall be negotiated. In no case shall the Contractor make a claim for delays if the Services are completed within the Purchase Order Completion Time but after Contractor's scheduled completion.

H.3 PARTIAL OCCUPANCY OR USE

H.3.1 The Owner may occupy or use any completed or partially completed portion of the Services at any stage, provided such occupancy or use is consented to by public authorities having jurisdiction over the Services. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have reasonably accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, insurance or self-insurance, maintenance, heat, utilities, and damage to the Services, and have agreed in writing concerning the period for correction of the Services and commencement of warranties required by the Contract Documents with respect to such portion of the Services. Approval by the Contractor to partial occupancy or use shall not be unreasonably withheld. Immediately prior to such partial occupancy or use, the Owner and Contractor shall jointly inspect the area to be occupied or portion of the Services to be used in order to determine and record the condition of the Services. Partial occupancy or use of a portion or portions of the Services shall not constitute acceptance of Services not complying with the requirements of the Contract Documents.

SECTION I CORRECTION OF SERVICES

I.1 CORRECTION OF SERVICES BEFORE FINAL PAYMENT

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Services will be free from defects, and that the Services will conform to the requirements of the Contract Documents. Services failing to conform to these requirements shall be deemed defective. Contractor shall promptly remove from the premises and replace all defective materials and equipment as determined by the Owner, whether incorporated in the Services or not. Removal and replacement shall be without loss or expense to the Owner, and Contractor shall bear the cost of repairing all Services destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than thirty (30) Days after Substantial Completion for completion of defective (Punch List) work. At the end of the thirty-day period, or earlier if requested by the Contractor, Owner shall arrange for inspection of the Services by the Architect/Engineer.

Should the work not be complete, and all corrections made, the costs for all subsequent re-inspections shall be borne by the Contractor. If Contractor fails to complete the Punch List work within the thirty (30) Day period, Owner may perform such work, and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand without affecting Contractor's obligations.

I.2 WARRANTY SERVICES

- I.2.1 Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective Services and, unless a longer period is specified, Contractor shall correct all defects that appear in the Services within a period of one year from the date of issuance of the written notice of Substantial Completion by the Owner except for latent defects which will be remedied by the Contractor at any time they become apparent. The Owner shall give Contractor notice of defects with reasonable promptness. The Contractor shall perform the warranty Services by correcting defects within twenty-four (24) hours of notification by Owner, unless otherwise specified in the Contract Documents. Should the Contractor fail to respond within the specified response time, the Owner may, at its option, complete the necessary repairs using another contractor or its own forces. If Owner completes the repairs using Owner's own forces, Contractor shall pay Owner at the rate of one and one-half (1½) times the standard hourly rate of Owner's forces, plus related overhead and any direct non-salary costs. If Owner completes the repairs using another contractor, Contractor shall pay Owner the amount of Owner's direct costs billed by the other contractor for the work, plus the direct salary costs and related overhead and direct non-salary expenses of Owner's forces who are required to monitor that contractor's work. Services performed by Owner using Owner's own forces or those of another contractor shall not affect the Contractor's contractual duties under these provisions, including warranty provisions. In the event of warranty work consisting of emergency repairs, Owner may perform such work, and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand, without affecting Contractor's obligations.
- I.2.2 Nothing in this Section I.2 provision shall negate guarantees or warranties for periods longer than one year including without limitation such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.
- I.2.3 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until such portion of the Services covered by the applicable warranty has been accepted in writing by the Owner.
- I.2.4 The one-year period for correction of Services shall be extended with respect to portions of Services performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Services and shall be extended by corrective Services performed by the Contractor pursuant to this Section, as to the Services corrected. The Contractor shall remove from the site portions of the Services which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- I.2.5 Nothing contained in this Section I.2 shall be construed to establish a period of limitation with

respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Services as described in this Section I.2 relates only to the specific obligation of the Contractor to correct the Services, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Services.

I.2.6 If the Owner prefers to accept Services which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Purchase Order Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

SECTION J SUSPENSION AND/OR TERMINATION OF THE SERVICES

J.1 OWNER'S RIGHT TO SUSPEND THE SERVICES

J.1.1 The Owner has the authority to suspend portions or all of the Services due to the following causes:

- (a) Failure of the Contractor to correct unsafe conditions;
- (b) Failure of the Contractor to carry out any provision of the Contract;
- (c) Failure of the Contractor to carry out orders;
- (d) Conditions, in the opinion of the Owner, which are unsuitable for performing the Services;
- (e) Time required to investigate differing site conditions;
- (f) Any reason considered to be in the public interest.

J.1.2 The Owner shall notify Contractor and the Contractor's Surety in writing of the effective date and time of the suspension, and Owner shall notify Contractor and Contractor's surety in writing to resume Services.

J.2 CONTRACTOR'S RESPONSIBILITIES

J.2.1 During the period of the suspension, Contractor is responsible to continue maintenance at the project just as if the Services were in progress. This includes, but is not limited to, protection of completed Services, maintenance of access, protection of stored materials, temporary facilities, and clean-up.

J.2.2 When the Services is recommenced after the suspension, the Contractor shall replace or renew any Services damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete the project in every respect as though its prosecution

had been continuous and without suspension.

J.3 COMPENSATION FOR SUSPENSION

J.3.1 Depending on the reason for suspension of the Services, the Contractor or the Owner may be due compensation by the other party. If the suspension was required due to acts or omissions of Contractor, the Owner may assess the Contractor actual costs of the suspension in terms of administration, remedial work by the Owner's forces or another contractor to correct the problem associated with the suspension, rent of temporary facilities, and other actual costs related to the suspension. If the suspension was caused by acts or omissions of the Owner, the Contractor may be due compensation which shall be defined using Section D, Changes in Services. If the suspension was required through no fault of the Contractor or the Owner, neither party shall owe the other for the impact.

J.4 OWNER'S RIGHT TO TERMINATE CONTRACT

J.4.1 The Owner may, without prejudice to any other right or remedy, and after giving Contractor seven (7) Days' written notice and an opportunity to cure, terminate the Contract in whole or in part under the following conditions:

- (a) If Contractor should, voluntarily or involuntarily, seek protection under the United States Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
- (b) If Contractor should make a general assignment for the benefit of Contractor's creditors;
- (c) If a receiver should be appointed on account of Contractor's insolvency;
- (d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Services as required by the Contract Documents, or otherwise fail to perform the Services in a timely manner;
- (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner; or
- (f) If Contractor is otherwise in breach of any part of the Contract.
- (g) If Contractor is in violation of Applicable Laws, either in the conduct of its business or in its performance of the Services.

J.4.2 At any time that any of the above occurs, Owner may exercise all rights and remedies available to Owner at law or in equity, and, in addition, Owner may take possession of the premises and of all materials and appliances and finish the Services by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the Services is completed. If the Owner's cost of finishing the Services exceeds the unpaid balance of the Purchase Order Price, Contractor shall pay the difference to the Owner.

J.5 TERMINATION FOR CONVENIENCE

J.5.1 Owner may terminate the Contract in whole or in part whenever Owner determines that termination of the Contract is in the best interest of Owner or the public.

J.5.2 The Owner shall provide the Contractor with seven (7) Days prior written notice of a termination for Owner's or for public convenience. After such notice, the Contractor shall provide the Owner with immediate and peaceful possession of the premises and materials located on and off the premises for which the Contractor received progress payment under Section E. Compensation for Services terminated by the Owner under this provision will be according to Section E. In no circumstance shall Contractor be entitled to lost profits for Services not performed due to termination.

J.6 ACTION UPON TERMINATION

J.6.1 Upon receiving a notice of termination, and except as directed otherwise by the Owner, Contractor shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Services terminated and, with the prior written approval of the Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.

J.6.2 As directed by the Owner, Contractor shall, upon termination, transfer title and deliver to the Owner all Record Documents, information, and other property that, if the Contract had been completed, would have been required to be furnished to the Owner.

J.6.3 Upon Owner's notice of termination pursuant to either Section J.4 or J.5, if Owner shall so elect, Contractor shall assign the Owner such subcontracts and orders as Owner shall specify. In the event Owner elects to take assignment of any such subcontract or order, Contractor shall take such action and shall execute such documents as Owner shall reasonably require for the effectiveness of such assignment and Contractor shall ensure that no contractual arrangement between it and its subcontractors or suppliers of any tier or sub-tier shall prevent such assignment.

SECTION K CONTRACT CLOSE OUT

K.1 RECORD DOCUMENTS

As a condition of final payment (refer also to section E.6), Contractor shall comply with the following: Contractor shall provide Record Documents for the entire project to Owner. Record Documents shall depict the project as constructed and shall reflect each and every change, modification, and deletion made during the construction. Record Documents are part of the Services and shall be provided prior to the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed, and accurate MWESB Reports.

K.2 OPERATION AND MAINTENANCE MANUALS

As part of the Services, Contractor shall submit two completed operation and maintenance manuals ("O & M Manuals") for review by the Owner prior to submission of any pay request for more than 75% of the Services. Owner's receipt of the O & M Manuals shall be a condition precedent to any payment thereafter due. The O & M Manuals shall contain a complete set of all Submittals, all product data as required by the specifications, training information, telephone list and contact information for all consultants, manufacturers, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Owner shall review and return one O & M Manual for any modifications or adjustments required. Prior to submission of its final pay request, Contractor shall deliver two (2) complete and approved sets of O & M Manuals in paper form and one (1) complete and approved set in electronic form to the Owner and Owner's receipt of the O & M Manuals shall be a condition precedent to Owner's obligation to make final payment.

K.3 COMPLETION NOTICES

K.3.1 Contractor shall provide Owner written notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Services and insurance, and the time within which the Contractor shall finish all items on the Punch List accompanying the Certificate. Both completion notices must be signed by the Contractor and the Owner to be valid. The Owner shall provide the final signature on the notices. The notices shall take effect on the date they are signed by the Owner.

K.3.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of thirty (30) continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner. All equipment contained in the Services, plus all other components necessary to enable the Owner to operate the facility in the manner that was intended, shall be complete on the Substantial Completion date. The Contractor may request that a Punch List be prepared by the Owner with submission of the request for the Substantial Completion notice.

K.4 TRAINING

As part of the Services, and prior to submission of the final application for payment, the Contractor shall schedule with the Owner training sessions for all equipment and systems as required by the Contract Documents. Contractor shall schedule training sessions at least two weeks in advance of the date of training to allow Owner to provide its personnel with adequate notice. The O & M Manual shall be used as a basis for training. In addition to any off-site training required by the Contract Documents, training shall include a formal session conducted at the Services site after the equipment and/or system is completely installed and operational in its normal operating environment.

K.5 EXTRA MATERIALS

As part of the Services, Contractor shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the Contract Documents prior to final payment. Delivery point for extra materials shall be designated by the Owner.

K.6 ENVIRONMENTAL CLEAN-UP

As part of the Final Completion notice, or as a separate written notice submitted with or before the notice of Final Completion, the Contractor shall notify the Owner that all environmental and pollution clean-up, remediation and closure have been completed in accordance with all Applicable Laws and pursuant to the authority of all agencies having jurisdiction, and Contractor shall provide Owner with any and all documentation related to the same, including but not limited to directives, orders, letters, certificates and permits related to or arising from such environmental pollution. The notice shall reaffirm the indemnification given under Section F.5.1 above. Contractor's completion of its obligations under this Section K.6 and Owner's receipt of documents evidencing such completion shall be a condition precedent to Owner's obligation to make final payment.

K.7 CERTIFICATE OF OCCUPANCY

Owner's receipt of an unconditioned certificate of occupancy from the appropriate state and/or local building officials shall be a condition precedent to Owner's obligation to make final payment, except to the extent failure to obtain an unconditional certificate of occupancy is due to the sole fault or neglect of Owner.

K.8 OTHER CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for returning to the Owner all property of Owner issued to Contractor during construction such as keys, security passes, site admittance badges, and all other pertinent items. Upon notice from Owner, Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from the Contractor to the Owner. The utility transfer date shall not be before Substantial Completion and may not be until Final Completion, if the Owner does not take beneficial use of the facility and the Contractor's forces continue with the Services.

K.9 SURVIVAL

All warranty and indemnification provisions of this Contract, and all of Contractor's other obligations under this Contract that are not fully performed by the time of Final Completion or termination, shall survive Final Completion or any termination of the Contract.

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SECTION 1: PART C

OREGON STATE UNIVERSITY JOB ORDER CONTRACT GENERAL TERMS & CONDITIONS FOR JOC INCLUDING JOB ORDER PROCEDURES

Section Reference: Part C

SECTION 1 PART C:	80
General Terms and Conditions for JOC.....	82
0.0 Glossary of Terms	82
1.0 Scope of Work.....	84
2.0 Procedure for Ordering Work.....	86
3.0 Term of Contract and Purchase Orders Issued	90
4.0 Option to Bilaterally Extend Contract.....	90
5.0 Regions	91
6.0 Assignment of Work	91
7.0 Changes	91
8.0 Payment and Performance Bonds and Material and Workmanship Bonds	92
9.0 Prevailing Wage and Participating Public Agency Participation Requirements	92
10.0 Personnel	93
11.0 Supervision.....	93
12.0 Participating Public Agency’s Access to the Work.....	93
13.0 Participating Public Agency’s Right to Stop Work	93
14.0 Participating Public Agency’s Right to Complete Work.....	93
15.0 Review of Field Conditions	94
16.0 Workmanship and Quality.....	94
17.0 Permits and Filings.....	94
18.0 Architectural and Engineering Services	95
19.0 Shop Drawings, Product Data and Samples.....	95
20.0 Cutting and Patching.....	96
21.0 Installation	97
22.0 Punch List Completion	97
23.0 Cleaning Up	97
24.0 Royalties, Patents and Copyrights	97
25.0 Indemnification.....	98
26.0 Subcontractors.....	98
27.0 Coordination with Other Contractors	98
28.0 Request for Extension of Time	99
29.0 Buyer Delays	99

30.0 Construction Contract Requirement	99
31.0 Construction Schedule	99
32.0 Coordination	100
33.0 Condition and Delivery of Construction Material	100
34.0 Partial Occupancy or Use	100
35.0 Identification and Security Requirements	101
36.0 Protection of Persons and Property	101
37.0 Tests and Inspections	102
38.0 Hazardous Materials	103
39.0 Insurance	104
40.0 Licenses	104
41.0 Labor Practices	104
42.0 Liquidated Damages	104
43.0 Project Completion	105
44.0 Public Works	105
45.0 Restoration	105
46.0 Retention	105
47.0 Compliance with Laws	105
48.0 Rules Regulations and Codes	106
49.0 Severance	106
50.0 Worksite	106
51.0 Computer Software	106
52.0 Equal Employment Opportunity	107
53.0 Contract Hours and Work Safety Standards Act	107
54.0 Davis-Bacon Wage Act	107
55.0 Copeland “Anti-Kickback” Act	107
56.0 Solid Waste Disposal Act	107
57.0 Claims and Disputes	108
58.0 Audits	108
59.0 Warranty	108
60.0 Material Price Spike Adjustments	108

General Terms and Conditions for JOC

0.0 Glossary of Terms

ADDENDUM OR ADDENDA: The additional or modified provisions of the RFP Documents issued in writing by Oregon State University (hereinafter referred to as the “University”) prior to the receipt of Proposals.

CONTRACT: The written agreement, also identified as the Master Agreement, between the Contractor and the University identifying the Products & Services which will be made available to current and future Participating Public Agencies; the pricing for those Products & Services; and other Contract Documents incorporated in or referenced in the Contract and made part thereof as if provided therein.

ADJUSTMENT FACTORS: The Contractor's proposed price adjustment to the Unit Prices as published in the Construction Task Catalog®. Adjustment Factors are expressed as an increase to or decrease from the published prices.

RFP DOCUMENTS: The Request for Proposal for Job Order Contracting Services in the State of Oregon; Section One RFP

CONSTRUCTION TASK CATALOG® (CTC): A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. Construction Task Catalog® is a registered trademark of The Gordian Group, Inc.

CONTRACT DOCUMENTS: This Contract; RFP Oregon State University, Section One Part A, Section One Part B, Section One Part C, Section Two Part A, Section 2 Part B, Section 2 Part C, Section Three Exhibit A, Section Three Exhibit B, Section Three Exhibit C, Section

Three Exhibit D ; all payment and performance bonds (if any); material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; all modifications issued thereto, including Supplemental Purchase Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Proposal Packages, etc.) issued hereunder.

SUPPLIER/CONTRACTOR: The legal entity named in the award letter with which the University has contracted and is responsible for the acceptable performance of the Contract, and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor will be deemed to be a reference to Contractor. Days: Calendar days.

DETAILED SCOPE OF WORK: A document prepared following a Joint Scope Meeting which describes in detail the Work the Contractor will perform for a particular Purchase Order.

HOLIDAYS: The specific days designated by the University, or the Project Labor Agreement as legal Holidays. The University designates the following days as Holidays: New Year’s Day, Martin Luther King Jr’s Birthday, Memorial Day, Juneteenth, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day, Day after Thanksgiving Day, Christmas Day.

JOINT SCOPE MEETING: A meeting, normally

at the Project Site, to discuss the Work with the Contractor to assist in the development of the Detailed Scope of Work.

LEAD PUBLIC AGENCY OR PRINCIPAL

PROCUREMENT AGENCY: Means Oregon State University in its capacity as the government entity to advertise and solicit proposals for a competitive procurement process, evaluate proposals and award the contract according to state statutes.

NON PRE-PRICED TASK (NPP): A task not included in the Construction Task Catalog® but within the general scope and intent of this Contract.

PARTICIPATING PUBLIC AGENCY: Any entity that has registered with OMNIA Partners and has the option to piggyback off the resulting Master Agreement(s).

PRICE PROPOSAL: The price proposal prepared by the Contractor using the Construction Task Catalog®, Adjustment Factors and appropriate quantities.

PROCUREMENT: Means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

PROPOSAL PACKAGE: A group of documents and files consisting of the Price Proposal; incidental drawings, sketches, or specification information; quantity take-offs supporting all material quantities; catalog cuts providing information on materials or products, as specifically requested; list of known Subcontractors, construction schedule, back-up for any Non Pre-Priced Tasks, warranty information on special equipment or materials

and or other such documentation as the Participating Public Agency may require.

PROJECT: Collectively, the Work to be accomplished by the Contractor in satisfaction of a requirement or group of related requirements pursuant to one or more Purchase Orders.

PURCHASE ORDER: The document establishing the engagement by the University or Participating Public Agency to the Contractor to complete a Detailed Scope of Work for the Purchase Order Price within the Purchase Order Completion Time.

REQUEST FOR PROPOSAL: The Participating Public Agency 's written request for the Contractor to prepare and submit a Proposal Package for a specific Detailed Scope of Work.

RESPONSIVE RESPONDENT: Means a person, company, firm, corporation, partnership or other organization who submits a proposal which conforms in all material respects to the invitation to bid or request for proposals.

SITE: The area upon or in which the Contractor performs the Detailed Scope of Work and such other areas adjacent thereto as may be designated by the University or the Participating Public Agency.

Solicitation: Means an invitation to prop, a request for technical offers, a request for proposals, a request for quotations or any other solicitation or request by which we invite a person to participate in a procurement.

SPECIFICATIONS: Means any description of physical or functional characteristics, or of the nature of a material, service or construction of item. Specifications may include a description or any requirement for inspecting, testing or preparing a material, service or construction item for delivery.

STATE: The State of Oregon

Construction Task Catalog® for a Task.

SUBCONTRACTOR: Any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or its Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

WORK: The labor, material, equipment, and services necessary or convenient to the completion of Purchase Orders.

PURCHASE ORDER COMPLETION TIME: The period of time set forth in the Purchase Order within which the Contractor must complete the Detailed Scope of Work.

SUPPLEMENTAL PURCHASE ORDER: A purchase order issued to add, delete or change Work from an existing, related Purchase Order.

PURCHASE ORDER PRICE: The value of the approved Price Proposal and the lump sum price to be paid to the Contractor for completing the Detailed Scope of Work within the Purchase Order Completion Time.

TECHNICAL SPECIFICATIONS: The comprehensive listing of the Participating Public Agency standards for quality of workmanship and materials, and the standard for the required quality of the Work.

VENDOR: Means any provider or seller of goods and/or services that has a contractual relationship with the University or the Participating Public Agency.

UNIT PRICE: The price published in the

WINNING SUPPLIER(S): The contractor(s) who have been awarded a contract as a result of this RFP.

1.0 Scope of Work

A Job Order Contract is an indefinite quantity contract pursuant to which the Contractor may perform an ongoing series of individual Projects at different Sites throughout the Regions. A Job Order Contract includes a Construction Task Catalog® containing construction tasks with preset Unit Prices. All Unit Prices are based on local labor, material and equipment prices and are for the direct cost of construction. The adjustment factor proposed shall remain the same throughout the term of the contract and at all renewal options.

As Projects are identified the University, or the Participating Public Agency, with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the University or the Participating Public Agency in developing a final scope of work. The University or a Participating Public Agency will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC System to prepare a Price Proposal for the Purchase Order including a Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. Gordian will assist the University or a Participating Public Agency with Price Proposal review, and if the Price Proposal is found to be reasonable, the University or a Participating Public Agency will issue a Purchase Order to Contractor.

The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor will perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.

If the Job Order Proposal Package is found to be complete and reasonable, a Job Order and Purchase Order may be issued.

A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. One or more Job Orders will be issued for each Project. Extra work, credits, and deletions will be contained in a Supplemental Job Order.

The Contractor shall provide all pricing, management, incidental drawings, shop drawings, samples, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Job Order. The Contractor shall also be responsible for Site safety as well as Site preparation and cleanup during and after construction. All costs associated with the above scope of work and the preparation of proposals shall be the responsibility of the Contractor.

The Work shall be conducted by the Contractor in strict accordance with the Contract Documents. The Contractor shall maintain accurate and complete records, files and libraries of documents to demonstrate compliance with Federal, State, and local regulations, codes, applicable laws, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.

The Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide the following: materials list(s) to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary to complete the Job Order.

All Work shall comply with any applicable standards, including those specified in the Contract Documents. If the Job Order specifies a standard which is different or more stringent, the standard used in the Job Order shall control:

- Job Order Contract Technical Specifications
 - The Technical Specifications are numbered and organized in the Construction Specification Institute's (CSI) master format. All specifications are filed in divisions per CSI guidelines.
 - The intent of these specifications is to furnish concise industry and commercial standards for construction, maintenance or repair of the University and Participating Public Agency facilities.
 - Reference in the Technical Specifications or the Construction Task Catalog® to a specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Proposer items that will be satisfactory.

2.0 Procedure for Ordering Work

Initiation of a Job Order: As the need exists, the University or a Participating Public Agency will notify the Contractor of a Project and schedule a Joint Scope Meeting.

The Contractor will attend the Joint Scope Meeting to discuss, at a minimum:

- The general scope of the Work
- Alternatives for performing the Work and value engineering
- Access to the Site and protocol for admission
- Hours of operation
- Staging area
- Requirements for professional services, sketches, drawings, and specifications
- Requirements for catalog cuts, technical data, samples and shop drawings
- Project schedule
- Requirement for bonding
- The presence of hazardous materials
- Date on which the Price Proposal Package is due

Upon completion of the joint scoping process, Gordian working with the University or the Participating Public Agency and the Contractor, will prepare a Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. The University or the Participating Public Agency will issue a Request for Proposal that will require the Contractor to prepare a Proposal Package. The Detailed Scope of Work, unless modified by the Contractor, the University or the Participating Public Agency will be the basis on which the Contractor will develop its Price Proposal and the University or the Participating Public Agency and will evaluate the same. The Contractor does not have the right to refuse to perform any Task or any work in connection with a particular Project.

The University or the Participating Public Agency may, at its option, include quantities in the Detailed Scope of Work if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed Scope of Work is prepared, if the Contractor and the University or the Participating Public Agency cannot agree on the quantities required, or for any other reason as determined by the University or the Participating Public Agency. In all such cases, the University or the Participating Public Agency shall issue a Supplemental Job Order adjusting the quantities appearing in the Detailed Scope of Work to the actual quantities.

Preparation of the Job Order Proposal Package: The Contractor's Job Order Proposal Package shall include, at a minimum:

- Job Order Price Proposal
- Required drawings or sketches
- List of anticipated Subcontractors
- Construction schedule
- Other University or the Participating Public Agency -requested documents.

The Job Order Price shall be the value of the approved Job Order Price Proposal.

The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Tasks (unit price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.

Preparation of the Job Order Price Proposal: The Contractor will prepare Job Order Price Proposals in accordance with the following:

- Pre-priced Tasks: A Pre-priced Task is a Task described and for which a Unit Price is set forth in the Construction Task Catalog®. The Contractor will select the appropriate Pre-priced Tasks, and enter the accurate quantity, and the appropriate Adjustment Factor.
- Non Pre-priced Tasks: A Non Pre-priced Task is a Task which is not in the Construction Task Catalog®.
 - Information submitted in support of Non Pre-priced Tasks shall include, but not be limited to, the following:
 - Catalog cuts, specifications, technical data, drawings, or other information as required to evaluate the task.
 - If the Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use Pre-priced Tasks for labor and equipment from the Construction Task Catalog®. If the work is to be subcontracted, the Contractor must submit three independent quotes from subcontractors. The Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. The University or the Participating Public Agency may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable.
- The final price submitted for Non Pre-priced Tasks shall be according to the following formula:

For Work Performed with the Contractor's Own Forces:

- A. The hourly rate for each trade classification not in the Construction Task Catalog® multiplied by the quantity
- B. The rate for each piece of Equipment not in the Construction Task Catalog® multiplied by the quantity;
- C. Lowest of three independent quotes for all materials
- *Total for a Non Pre-priced Task performed with Contractor's Own Forces = (A+B+C) x Non Pre-Priced Task Adjustment Factor*

For Work Performed by Sub-contractors:

- D = Lowest of three Subcontractor quotes
- *Total for a Non Pre-priced Task performed by Subcontractors = D x Non Pre-Priced Task Adjustment Factor*
- After a Non Pre-priced Task has been approved by the University (or their designated representative), the Unit Price for such task will be established, and fixed as a permanent Non Pre-priced Task which will no longer require price justification.
- The University or the Participating Public Agency determine as to whether a task is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.
- If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid as required (See Section Three: General Terms and Conditions for JOC, Article 19, Permits and filings) the Contractor shall provide incidental engineering and architectural services required in connection with a particular Job Order including drawings and information required for filing.

The Contractor's Job Order Proposal Package shall be submitted by the date indicated on the Job Order Request for Proposal. All incomplete Job Order Proposal Packages shall be rejected. The time allowed for preparation of the Contractor's Job Order Proposal Package will depend on the complexity and urgency of the Job Order but should average between seven and fourteen days. On complex Job Orders, such as Job Orders requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

In emergency situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal Package may be required quickly and the due date will be so indicated on the Job Order Request for Proposal or, as described below, the Contractor may be directed to begin work immediately with the paperwork to follow.

If the Contractor requires clarifications or additional information regarding the Detailed Scope of Work in order to prepare the Job Order Proposal Package, the request must be submitted so that the submittal of the Job Order Proposal Package is not delayed.

Review of the Job Order Proposal Package

- The University or the Participating Public Agency will evaluate the entire Job Order Proposal Package and compare it with the Detailed Scope of Work to determine the reasonableness of approach, as well as the appropriateness of the tasks and quantities proposed.
 - The means and methods of construction shall be such as the Contractor may choose; subject however, to the University or the Participating Public Agency right to reject means and methods proposed by the Contractor that:
 - Will constitute or create a hazard to the Work, or to persons or property; or
 - Will not produce finished Work in accordance with the terms of the Contract; or

- Unnecessarily increases the price of the Job Order when alternative means and methods are available.
- By submitting a Job Order Proposal Package, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Job Order Request for Proposal at the lump sum price submitted. It is the Contractor's responsibility to include the necessary Pre-priced Tasks and Non Pre-priced Tasks and quantities in the Job Order Price Proposal prior to delivering it to the University or the Participating Public Agency

Delivery of the Job Order to the Participating Public Agency

- The University or the Participating Public Agency reaches an agreement with the Contractor on the Job Order Proposal Package and any requested revision thereto, if applicable, the University or the Participating Public Agency will deliver the Job Order for the University or the Participating Public Agency's consideration.
- Each Job Order shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Job Order Contract shall be applicable to each Job Order. The Purchase Order, issued by the University or the Participating Public Agency and delivered to the Contractor constitutes the University the Participating Public Agency 's acceptance of the Job Order.
- Once the Job Order has been submitted to the University or the Participating Public Agency the Contractor is bound by its content.

Review of the Job Order by the Participating Public Agency and Issuance of Purchase Order

- The University or the Participating Public Agency will evaluate the entire Job Order and compare it with the University or the Participating Public Agency 's estimate of the Detailed Scope of Work to determine the reasonableness of approach, price, and other factors.
- The University or the Participating Public Agency reserve the right to reject a Job Order or cancel a Project for any reason. The University or the Participating Public Agency also reserves the right not to issue a Purchase Order if it is determined to be in the best interests of the University or the Participating Public Agency. The Participating Public Agency may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal Package (including incidental architectural and engineering services), Subcontractor costs, and the costs to review the Job Order Proposal Package with the University or the Participating Public Agency .
- The University or the Participating Public Agency may request changes to or clarifications of any part of the Job Order. The Contractor and the University or the Participating Public Agency will work together to make any requested revisions in a timely manner and resubmit a revised Job Order.

- Upon approval by the University or the Participating Public Agency, may issue a Notice to Proceed, a Purchase Order, Notice of Award, or similar document accepting the Contractor's offer.
- If performance and payment bonding is required, or if a separate and /or special insurance certificate is required. The Contractor will deliver such requirements to the University or the Participating Public Agency within ten (10) days of notification of the requirement.

In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the University. The Contractor shall begin the Work for a Job Order as directed by the Participating Public Agency notwithstanding the absence of a fully developed Job Order Request for Proposal, Detailed Scope of Work, Job Order Proposal Package or Job Order. The Contractor shall be compensated for such Work as if the Work had been ordered under the standard procedures.

3.0 Term of Contract and Purchase Orders Issued

The term of the Contract will be three (3) years following the contract award date with the option to renew for two (2) additional one (1) year terms. The anticipated full term of the contract is five (5) years. The awarded Contractor(s) shall have the right to enter local "service" agreements with Participating Public Agencies accessing the contract through OMNIA Partners, so long as the effective date of such agreement is prior to the expiration of the Contract. All local agreements may have a full potential term (any combination of initial and renewal periods) not to exceed five years.

A Job Order may be issued by the University or the Participating Public Agency at any time during the term of this Contract even though the Work and the payments made for such Work may occur after the term ends. All the provisions of this Contract are incorporated into each Job Order issued hereunder.

4.0 Option to Bilaterally Extend Contract

In the event the Contract expires before another bid is awarded, the University, through its Chief Procurement Officer, has the option and reserves the right (but no obligation) to unilaterally extend the original contract term or any renewal term for up to three (3) additional thirty (30) day periods, at the same terms and conditions. Notice of the University's intent to renew shall be provided by the University in writing to the Contractor prior to the expiration of the Contract, or the renewal period if the Contract has been previously renewed.

The Construction Task Catalog® issued with this solicitation will be in effect for the first year of this contract (i.e., until June 15, 2026). On the anniversary of this contract (i.e. June 14, 2027 and each June 14th thereafter during the term) a new Construction Task Catalog® will be furnished to address the escalation or de-escalation of costs of materials and services. The new Construction Task Catalog® will be effective for the 12-month period after the anniversary date. The Construction Task Catalog® that accompanies each anniversary shall only apply to Purchase Orders issued after the effective date of that specific renewal term and shall have no impact on Purchase Orders issued prior

to the effective date of that specific renewal term.

The Adjustment Factors submitted with the Contractor's Proposal shall be used for the full term of the Contract. On the annual anniversary of the Contract, the University shall issue the Contractor the new Construction Task Catalog®. The Contractor shall use the Construction Task Catalog® in effect on the date the Proposal is due. However, the Contractor cannot delay the issuance of a Proposal to take advantage of a scheduled update of the Construction Task Catalog®. In that event the Contractor shall use the Construction Task Catalog® that would have been in effect without delay.

This Contract is powered by Gordian's Construction Task Catalog® which have been created exclusively for these contracts. The Construction Task Catalog® is a collection of construction and construction related tasks with pre-established Unit Prices. As part of this contract new Construction Task Catalog® will be published annually by Gordians team of data analysts who monitor the escalation and de-escalation of construction material, equipment and labor costs through multiple industry standard indicators. The issuance of new Construction Tasks Catalog® will include updated unit prices as determined through research completed by Gordian's data team. The new Construction Task Catalog® will ensure competitive pricing for the University, Participating Public Agency's and Contractors throughout the duration of the Contract.

5.0 Regions

Contractor will primarily work in the Proposed Region designated. However, if both parties agree, the Contractor may work in another Bid Region at the Adjustment Factors proposed or as adjusted according to Article 6 above. If a Contractor holds multiple contracts, when performing work outside the Proposed regions it will always use the contract that results in the lowest price for the Participating Public Agency.

Contractor shall extend all Contract terms and conditions to the University and any new Participating Public Agency in the ProposedRegion designated, as well as any other Proposed Region, throughout the Contract term.

6.0 Assignment of Work

The assignment of the Work is at the sole discretion of the University or the Participating Public Agency. The Contractor's Adjustment Factors, performance history, and ability to perform the Work will be considered in determining the distribution of the Work.

The University or the Participating Public Agency may request the use of BidSafe to Select a Contractor. BidSafe is a propriety software product of Gordian that offers a secure, online construction procurement process. The use of BidSafe will be subject to Gordian's BidSafe Requirements.

7.0 Changes

Changes to the Contract Agreement may be accomplished after execution of the Contract Agreement and without invalidating the Contract, by Change Order.

Changes to a Job Order: The University or the Participating Public Agency reserves the right to make, in writing, at any time during the Work, changes in the Detailed Scope of Work as are necessary to satisfactorily complete the Project, and to delete in whole or in part, or to add to, the Detailed Scope of Work. The University or the Participating Public Agency, without invalidating the Job Order, may order changes in the Work by issuing a Supplemental Job Order. Changes, deletions, or additions will not invalidate the Job Order nor release the surety, if any, and the Contractor agrees to perform the Work as altered.

Credits for Pre-priced and Non Pre-priced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors and multiplied by the appropriate quantities. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.

8.0 Payment and Performance Bonds and Material and Workmanship Bonds

If required by the Participating Public Agency for a particular Job Order, the Contractor shall deliver a Payment Bond and a Performance Bond equal to the Job Order Price of such Job Order. The bonds must be in a form, and executed by a surety, acceptable to the University or the Participating Public Agency. The bonds must be received before the Purchase Order will be issued. The Contractor shall be compensated for the cost of the bonds up to 2% of the Job Order Price through the Reimbursable Fee work task in the Construction Task Catalog®. The Contractor shall apply a 1.1000 Adjustment Factor to the Reimbursable Fee task in the Construction Task Catalog® rather than applying one of the Contractor's proposed Adjustment Factors.

9.0 Prevailing Wage and Participating Public Agency Participation Requirements

If required on a Job Order, the Contractor shall pay prevailing wages to all workers in accordance with applicable laws. The wage rates used for the Construction Task Catalog® were the prevailing wage rates, if any; in effect at the time the RFP Documents were issued. In the performance of the work, the contractor shall be fully responsible for paying the prevailing hourly rate of wages as determined by the Oregon Bureau of Labor and Industries.

If other wage rates are required by law, the Contractor shall pay such wages to all workers in accordance with the applicable laws. If the Job Order is performed in whole or in part using federal funding and Davis-Bacon Wages for that area/region apply, the Contractor shall pay Davis-Bacon Wages to all workers in accordance with applicable laws. If Davis-Bacon Wages are required on a Job Order, the requirement shall not entitle Contractor to any increased compensation.

Contractors shall meet any participation goals or requirements established by the University or the Participating Public Agency ordering the Work, and/or satisfy the intent of said goals or requirements, with regard to Small, Local, Minority, Women, Veteran or Disadvantaged Business Enterprises. Additional participation goals may be incorporated into the Job Order Request for Proposal or Detailed Scope of Work.

10.0 Personnel

The Contractor will employ competent personnel for the development of the Project's Detailed Scope of Work, the preparation of the Price Proposal and the execution of the Work. During the performance of the Work, the superintendent assigned to the Project will represent the Contractor, and communications given to the superintendent will be as binding as if given to the Contractor. Important communications must be confirmed in writing. Other communications will be similarly confirmed on written request in each case.

11.0 Supervision

The Contractor shall supervise and direct the performance of the Detailed Scope of Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. If the Detailed Scope of Work gives specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the Site safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the University or the Participating Public Agency and shall not proceed with that portion of the Work without further written instructions from the University or the Participating Public Agency.

The Contractor shall be responsible to the University or the Participating Public Agency for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the work for or on behalf of the Contractor or any of its Subcontractors.

The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

12.0 Participating Public Agency's Access to the Work

The Contractor shall provide the Participating Public Agency access to the Work at all times.

13.0 Participating Public Agency's Right to Stop Work

The Participating Public Agency may order the Contractor to stop the Work on any Job Order, or any portion thereof, at any time for any reason.

14.0 Participating Public Agency's Right to Complete Work

If the Contractor has been ordered to stop the Work, the Participating Public Agency may, without prejudice to other remedies, have the Work completed by any available means.

15.0 Review of Field Conditions

Before submitting a Job Order Proposal Package, the Contractor shall carefully study the Detailed Scope of Work, as well as the information furnished by the University or the Participating Public Agency, shall take field measurements of any existing conditions related to the Work and shall observe any conditions at the Site affecting it. Any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the HCPS and the University or the Participating Public Agency.

Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the University or the Participating Public Agency, but it is recognized that the Contractor's review is made in the Contractor's capacity as a Contractor and not as a licensed design professional. The Contractor is not required to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, any nonconformity discovered by or made known to the Contractor shall be reported promptly to the University or the Participating Public Agency.

16.0 Workmanship and Quality

The Contractor may make substitutions only with the consent of the University or the Participating Public Agency. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in the portions of the Work assigned to them.

17.0 Permits and Filings

Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required. If the Contractor is required to pay an application fee for filing a Project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be reimbursable. The Contractor shall be compensated for the cost of the filings and permits through the Reimbursable Fee work task in the Construction Task Catalog®. The Contractor shall apply a 1.1000 Adjustment Factor to the Reimbursable Fee task in the Construction Task Catalog® rather than applying one of the Contractor's proposed Adjustment Factors. Contractor shall submit written documentation of such fees. The 10% mark-up shall cover all costs over and above the filing and permit fees, including expeditor fees.

The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

It is not the Contractor's responsibility to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that any portion of the Detailed Scope of Work is at variance therewith, the Contractor shall promptly notify the University or the Participating Public Agency in writing.

18.0 Architectural and Engineering Services

Under this Contract it is expected that the level of Architecture and Engineering (A/E) services and design, if any, will be incidental to the Contract and therefore any cost associated with this is to be included in the Contractor's Adjustment Factors. If the level of A/E services for a Purchase Order requires that the Contractor provide stamped drawings and plans, the Contractor will be reimbursed according to the appropriate Task in the CTC. The Contractor will be required, as on any construction project, to provide shop drawings, as-built drawings, project layout drawings and sketches as required.

The preparation of incidental drawings/plans, specifications, shop drawings, product data and samples, as-builts and all other documentation required herein by the Contractor as required by individual Purchase Orders is part of the Scope of Work of this Contract and the cost there of will be included in the Contractor's Adjustment Factors.

19.0 Shop Drawings, Product Data and Samples

Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Detailed Scope of Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Detailed Scope of Work. Submittals which are not required by the Contract Documents may be returned by the Participating Public Agency without action.

The Contractor shall review for compliance with the Contract Documents, approve and submit to the University or the Participating Public Agency Shop Drawings, Product Data, Samples and similar submittals required with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the University or the Participating Public Agency or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the University or the Participating Public Agency without action.

By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Detailed Scope of Work and of the Contract Documents.

The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the University or the Participating Public Agency.

The Work shall be performed in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Participating Public Agency's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed University or the Participating Public Agency in writing of such deviation at the time of submittal and (1) the University or the

Participating Public Agency has given written approval to the specific deviation as a minor change in the Work, or (2) a Supplemental Job Order or written notice has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the University or the Participating Public Agency's approval thereof.

The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the University or the Participating Public Agency on previous submittals. In the absence of such written notice the University or the Participating Public Agency's approval of a resubmission shall not apply to such revisions.

All costs for normal submittal information (shop drawings, cut sheets, performance information, installation or erection drawings, etc.) are to be considered included in the CTC line item costs. Any adjustment desired is to be incorporated into the Contractor's Adjustment Factors.

The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Detailed Scope of Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Detailed Scope of Work, the University or the Participating Public Agency will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the University's or the Participating Public Agency's Project Manager. The University or the Participating Public Agency shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the University or the Participating Public Agency has specified to the Contractor all performance and design criteria that such services must satisfy. The University or the Participating Public Agency will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Detailed Scope of Work. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Detailed Scope of Work.

20.0 Cutting and Patching

The Contractor shall be responsible for cutting, fitting or patching required to complete the Detailed Scope of Work or to make its parts fit together properly.

The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the University or the Participating Public Agency or separate contractors by cutting,

patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the University or the Participating Public Agency or a separate contractor except with written consent of the University or the Participating Public Agency and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the University or the Participating Public Agency or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

21.0 Installation

Equipment and/or product installation shall be performed in a reasonable amount of time and be scheduled directly with the University or the Participating Public Agency. Installation shall be in accordance with the manufacturer's instructions and shall be accomplished by a skilled, certified and properly licensed individual.

22.0 Punch List Completion

The Contractor understands and agrees that time is of the essence in closing out the Work of this Contract. Upon Substantial Completion of the Work, the Punch List will be transmitted to the Contractor from the University or the Participating Public Agency. The Contractor agrees to begin performance of Punch List Work immediately after receipt of the Punch List.

Failure of the Contractor or its Subcontractors to begin the Punch List Work within three (3) business days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.

Punch List Work will be continuously prosecuted once begun and completed within thirty (30) Days from the receipt of the Punch List. Should the Contractor fail to complete the Punch List within this period of time, the liquidated damages from the Contract General Conditions will apply.

23.0 Cleaning Up

The Contractor shall keep the Site and surrounding areas free from accumulation of waste materials or rubbish caused by operations under the Job Order. At completion of the Work, the Contractor shall remove from and about the Site all waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

If the Contractor fails to clean up, the University or the Participating Public Agency may do so and the cost thereof shall be charged to the Contractor.

24.0 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the University and the Participating Public Agency harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings,

Specifications or other documents prepared by the University or the Participating Public Agency. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the University or the Participating Public Agency.

25.0 Indemnification

For indemnification requirements see Section One, Part B, Section G.1 Responsibility for Damages/Indemnity

26.0 Subcontractors

The Contractor, as soon as practicable after award of the Job Order, shall furnish in writing to the University or the Participating Public Agency the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each portion of the Work. The University or the Participating Public Agency will promptly reply to the Contractor in writing stating whether or not, after due investigation, Contractor has reasonable objection to any such proposed person or entity. Failure of the University or the Participating Public Agency to reply promptly shall constitute notice of no reasonable objection.

The Contractor shall not contract with a proposed Subcontractor or entity to whom the University or the Participating Public Agency has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

If the University or the Participating Public Agency has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the University or the Participating Public Agency has no reasonable objection.

27.0 Coordination with Other Contractors

The University or the Participating Public Agency reserves the right to perform construction or operations related to the Job Order with the University or the Participating Public Agency's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site.

The University or the Participating Public Agency shall provide for coordination of the activities of the University or the Participating Public Agency's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the University or the Participating Public Agency in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the University or the Participating Public Agency until subsequently revised.

28.0 Request for Extension of Time

If the Contractor is delayed at any time in the commencement or progress of the Detailed Scope of Work by an act or neglect of the University or the Participating Public Agency, or of an employee of either, or of a separate contractor employed by the University or the Participating Public Agency, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by other causes which the University or the Participating Public Agency determines may justify delay, then the Job Order Completion Time shall be extended for such reasonable time as the University or the Participating Public Agency may determine.

The Contractor agrees to make no claim for damages for the delay in the performance of any Job Order occasioned by any act or omission to act of the University or the Participating Public Agency or any of their representatives and agrees that any such claim shall be fully compensated for by an extension of time as provided herein.

29.0 Buyer Delays

The Contractor will negotiate with the University or the Participating Public Agency for the recovery of damages related to expenses incurred by the Contractor for a delay for which the University or the Participating Public Agency is responsible, which is unreasonable, and which was not within the contemplation of the parties to the contract between the two parties. Compensation for received goods, terms of progress payments, and a schedule of payments should be described in the Contract.

30.0 Construction Contract Requirement

Terms for acceptance by the University or the Participating Public Agency and title to work must be clearly agreed upon and described in the contract between the contractor and the University or the Participating Public Agency. If any part of the construction requires the Owner to assume control before the completion, this needs to be defined. Both parties must agree on the definition of what constitutes final acceptance before payment of any retained compensation. Upon completion of the Project, the worksite shall be left in good condition and equal to the condition of the site prior to commencing the Project.

If any work is to be performed by the University or the Participating Public Agency, it must be clearly defined and agreed to by the University or the Participating Public Agency and the prime contractor prior to the start of the Project.

31.0 Construction Schedule

The University or the Participating Public Agency retains the right to extend the schedule of Work or to suspend the Work and direct the Contractor to resume work when appropriate. The agreement must describe an equitable adjustment for added costs caused by any delay or suspension. Any increases will be invoiced as allowed in this agreement.

The schedule for performance of Work that can be met without planned overtime is the

responsibility of the Contractor.

The cost for each Project shall include all costs of all necessary trained personnel to complete the Project on or before the completion date set forth in the Contract. The University or the Participating Public Agency shall not incur additional expense for upsized crews or overtime costs, which might be necessary for the Contractor to complete the Project on schedule.

32.0 Coordination

The Contractor and the University or the Participating Public Agency shall coordinate activities so as to avoid conflicts. The Contractor will make every effort not to interrupt scheduled activities with work under this contract. The Contractor will notify the University or the public agency of any construction work that may negatively impact scheduled University or Participating Public Agency activities.

The Contractor shall employ such methods or means as will not cause any interruption of, or interference with the work of any other contractor on the project site.

33.0 Condition and Delivery of Construction Material

The Contractor will deliver materials to the worksite in new, dry, unopened, and well- marked containers showing product and Contractor's name clearly marked. Delivery of damaged or unlabeled materials will not be accepted.

The Contractor will deliver materials in sufficient quantity to allow for continuity of Work. Delivery will be coordinated with the University or the Participating Public Agency's designated contact person.

The Contractor shall take all necessary precautions to protect materials from damage, theft and misuse.

The University or the Participating Public Agency shall have no responsibility for such precautions or lack of protection.

Damaged or rejected materials shall be immediately removed from the project area.

34.0 Partial Occupancy or Use

The University or the Participating Public Agency may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the University or the Participating Public Agency and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor

considers a portion substantially complete, the Contractor shall prepare and submit a list to the University or the Participating Public Agency. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the University or the Participating Public Agency and Contractor.

Immediately prior to such partial occupancy or use, the University or the Participating Public Agency and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

35.0 Identification and Security Requirements

The Contractor shall comply with all identification and security requirements that the University or the Participating Public Agency may establish.

36.0 Protection of Persons and Property

The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- Employees on the Work and other persons who may be affected thereby
- The Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors
- Other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by existing conditions and performance of the Detailed Scope of Work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying the University or the Participating Public Agency and users of adjacent sites and utilities.

When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is

responsible, except damage or loss attributable to acts or omissions of the University or the Participating Public Agency or anyone directly or indirectly employed by it, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations included herein.

The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the University or the Participating Public Agency.

The Contractor shall not permit any part of the construction or Site to be loaded so as to endanger safety.

37.0 Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the University or the Participating Public Agency, or with the appropriate public authority. The Contractor shall give the University or the Participating Public Agency timely notice of when and where tests and inspections are to be made so that the University or the Participating Public Agency may be present for such procedures.

If the University or the Participating Public Agency or public authorities having jurisdiction determine that portions of the Work require, through no fault of the Contractor, additional testing, inspection or approval, the University or the Participating Public Agency will instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to University or the Participating Public Agency, and the Contractor shall give timely notice to the University or the Participating Public Agency of when and where tests and inspections are to be made so that the University or the Participating Public Agency may be present for such procedures. Such costs shall be at University or the Participating Public Agency's expense.

If such procedures for testing, inspection or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures shall be at the Contractor's expense.

Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the University or the Participating Public Agency.

If the University or the Participating Public Agency is to observe tests, inspections or approvals required by the Contract Documents, the University or the Participating Public Agency will do so promptly and, where practicable, at the normal place of testing.

Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid

unreasonable delay in the Work.

38.0 Hazardous Materials

If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead based paint, asbestos or polychlorinated biphenyl (PCB), encountered on the Site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop the Work in the affected area and report the condition to the University or the Participating Public Agency in writing.

The University or the Participating Public Agency shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the University or the Participating Public Agency shall furnish in writing to the Contractor the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the Task of removal or safe containment of such material or substance. The Contractor will promptly reply to the University or the Participating Public Agency in writing stating whether or not it has reasonable objection to the persons or entities proposed by the Participating Public Agency. If the Contractor has an objection to a person or entity proposed by the University or the Participating Public Agency, the University or the Participating Public Agency shall propose another to whom the Contractor has no reasonable objection. When the material or substance has been rendered harmless, the Work in the affected area shall resume upon written agreement of the University or the Participating Public Agency and Contractor. The Job Order Completion Time shall be extended appropriately.

To the fullest extent permitted by law, the University or the Participating Public Agency shall indemnify and hold harmless the Contractor, and its agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described herein and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

The University or the Participating Public Agency shall not be responsible for materials and substances brought to the Site by the Contractor unless such materials or substances were required by the Detailed Scope of Work.

If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing the Work as required by the Contract Documents, the University or the Participating Public Agency shall indemnify the Contractor for all cost and expense thereby incurred.

39.0 Insurance

For insurance requirements see Section One, Part B, Section G.3 Insurance.

40.0 Licenses

The Contractor must maintain valid and current federal, state, and local licenses, bonds, and permits required for the operation of the business that the Contractor conducts with the University and Participating Public Agencies.

41.0 Labor Practices

The Contractor must agree to treat its labor in keeping with the labor agreement and to the best interest of the University or the Participating Public Agency. Any overtime practices or retroactive agreements with labor unions that would be to the detriment of the University or the Participating Public Agency must be limited to only those approved by the University or the Participating Public Agency.

The method and manner of performance must be stated: employees of the Contractor are not employees of the University or the Participating Public Agency. The level of competency of the personnel will be subject to approval by the University or the Participating Public Agency. The Contractor must agree to comply with all local, state, and federal laws. The Contractor must make every effort to ensure that adjoining property owners are in no way disturbed by noise, pollutants, material hauling operations. The Contractor must establish procedures to deal with fire, theft, and storm damage. The Contractor must test and establish effective methods to guarantee safety on the job site relating to the health and welfare of the University or the Participating Public Agency's employees.

The University or Participating Public Agency's shall have the right to require the Contractor to remove from the project, any employee or representative, subcontractor or supplier that may be deemed incompetent, careless or unacceptable.

To ensure quality of workmanship, all work performed under this Contract shall be performed by experienced, trained, certified and/or licensed craftsmen and laborers, and shall be under the supervision of the foremen or supervisor.

The Contractor shall furnish the services of an experienced foreman or supervisor who will continually oversee work on the project. The foreman or supervisor shall provide continuous supervision, coordination and inspection of the work being performed under this contract.

42.0 Liquidated Damages

The University or the Participating Public Agency may assess liquidated damages for each day after the Purchase Order Completion Time that the Detailed Scope of Work is not complete. It is understood and agreed by and between Contractor, the University, and the Participating Public Agency, that time is of the essence in all matters relating to Liquidated Damages. The liquidated damages will be determined on a Purchase Order by Purchase Order basis.

43.0 Project Completion

Upon completion of the Work, the Contractor shall present the University or the Participating Public Agency with all documents necessary to close out the Project. Maintenance manuals, drawings, warranties on installed equipment, etc. shall be given to the University or the Participating Public Agency.

If the University or the Participating Public Agency discovers an unfinished job that should have been completed, even if final payments are made, the Contractor will complete the work in a timely fashion at no additional cost.

44.0 Public Works

The Contractor shall be responsible for the preservation of all public and private property included on or adjacent to the worksite. The requirement shall apply to the surface and hidden features of the property.

Construction work on public buildings shall be in compliance with all currently applicable state and local building, plumbing, electrical, fire, fire prevention and mechanical codes.

45.0 Restoration

The Contractor shall agree to repair, rebuild or otherwise restore any property on or adjacent to the worksite that was damaged during the course of Work on the Project. Such restoration shall be at the contractor's expense and is not subject to reimbursement by the University or the Participating Public Agency.

46.0 Retention

Retention payments will be governed by any applicable state and local laws in the area where work is being performed, and by any supplemental agreement made between the University or the Participating Public Agency and the Contractor.

If the University or the Participating Public Agency and the Contractor agree to a substitute security, the agreement must be in full compliance with any applicable state and local laws. If a substitute security is agreed to, the Contractor must provide the University or the Participating Public Agency with a signed and acknowledged waiver of any right or power of the obligor to set off any claim against the University or the Participating Public Agency.

47.0 Compliance with Laws

In connection with the performance of this Contract, the Contractor shall comply with all applicable laws, rules and regulations. The parties hereto agree that every provision of law required to be inserted herein be deemed a part hereof. It is further agreed that if any such provision is not inserted or is incorrectly inserted, through mistake or otherwise, this Contract shall be deemed amended so as to comply strictly with the law.

48.0 Rules Regulations and Codes

All Work will be accomplished in conformance to OSHA safety requirements, and any additional federal, state, or local fire or safety requirements. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the Contractor must inform the University or the Participating Public Agency of the situation. The Contractor will not construct any device or produce any condition that intentionally violates a fire or safety code or standard.

The Contractor must advise the University or the Participating Public Agency whenever work is expected to be hazardous to the University or the Participating Public Agency employees or their charges (i.e. school children, citizens, etc.).

49.0 Severance

If the Contract Documents contains any unlawful provision not an essential part of the Contract Documents and which will not appear to have been a controlling or material inducement to the making thereof, the same will be deemed of no effect and will, upon notice by either party, be deemed stricken without affecting the binding force of the remainder.

50.0 Worksite

The condition of the site before start-up will be agreed upon between the University or the Participating Public Agency and the Contractor and will be written into the Contract.

Upon prior written agreement between the Contractor and the University or the Participating Public Agency, payment may be made for materials not incorporated in the work but delivered and suitably stored at the worksite or some other location, for installation at a later date. An inventory of the stored materials must be provided to the University or the Participating Public Agency prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. The Contractor agrees to provide proof of coverage and/or addition of the University or the Participating Public Agency as an additional insured upon the Participating Public Agency's request. Additionally, if stored offsite, the materials must also be clearly identified as property of the University or the Participating Public Agency and be separated from other materials. The University or the Participating Public Agency must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.

Until final acceptance by the University or the Participating Public Agency, it shall be the Contractor's responsibility to protect all materials and equipment. The Contractor warrants and guarantees that title for all work, materials and equipment shall pass to the University or the Participating Public Agency upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.

51.0 Computer Software

The Contractor must maintain at its office for its use a computer with an internet connection. The Contractor will be furnished with a copy of the internet based eGordian® software which will allow

the Contractor to generate Price Proposals. This software program contains an electronic copy of the Construction Task Catalog® and allows the Contractor to select items and quantities for use in a particular Price Proposal. The software generates a Price Proposal in a preset format acceptable to the University or the Participating Public Agency. There is no separate charge to the Contractor for the software and the related software training.

52.0 Equal Employment Opportunity

All Suppliers, contractors and subcontractors must comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (Applies to all construction contracts awarded in excess of \$10,000 by the University or the Participating Public Agency and their contractors or subgrantees). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation).

53.0 Contract Hours and Work Safety Standards Act

All vendors, contractors and subcontractors must comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR part 5). (Applies to all construction contracts awarded by the University or the Participating Public Agency and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation).

54.0 Davis-Bacon Wage Act

All vendors, contractors and subcontractors must comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a–7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and sub-grantees when required by Federal grant program legislation). (Applies to construction contracts in excess of \$2000 awarded by the University or the Participating Public Agency and subgrantees when required by Federal grant program legislation). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation for construction or repair in excess of \$2000).

55.0 Copeland "Anti-Kickback" Act

All Suppliers, contractors and subcontractors must comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (Applies to all contracts and subgrants for construction or repair). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation for construction or repair).

56.0 Solid Waste Disposal Act

It is the Contractor's responsibility for any federally assisted contracts that may result from this RFP or at the University or the Participating Public Agency's request to comply with section 6002 of the Solid Waste Disposal Act which is incorporated in this contract by the reference:

Resource Conservation and Recovery Act (RCRA) | US EPA

<https://www3.epa.gov/wastes/conservation/tools/cpg/pdf/rcra-6002.pdf> is the Participating Public Agency's responsibility to inform the vendor before work begins if a project is federally assisted.

57.0 Claims and Disputes

All claims or disputes between the University or the Participating Public Agency and Contractor will be resolved by the University or Participating Public Agency's representative.

58.0 Audits

The University or Participating Public Agency and OMNIA Partners, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data relevant to Contractor's provision of products & services to Program Participants pursuant to this Master Agreement, to ensure that pricing, inventory, quality, process, and business controls are maintained; provided, however, that such inspections and audits will be conducted upon reasonable notice to Contractor and so as not to unreasonably interfere with Contractor's business or operations.

59.0 Warranty

Contractor must guarantee items to be free from manufacturer's defects and that defective items will be replaced. Contractor must guarantee standard commercial warranty be provided on all materials and labor. In the event of failure, the Contractor agrees to repair or replace such units at no cost to the University and the Participating Public Agency's.

During the warranty period, neither the final payment nor any provision of the Contract Documents shall relieve the contractor of responsibility for faulty materials, design, workmanship, manufacture, assembly or installation. If after due notice Contractor fails to comply with warranty provisions, the University or Participating Public Agency may, at its option, have the defects corrected or items replaced from the best available source and the Contractor shall be liable for all related expenses incurred by the University or the Participating Public Agency.

All Work furnished under this Contract shall be guaranteed against defective materials and workmanship, improper performance and non-compliance with the Contract Documents for a period of one year after Substantial Completion of the Work, except as otherwise specified in other parts of the Contract Documents, or within such longer period of time as may be prescribed by law or provided by the manufacturer.

60.0 Material Price Spike Adjustments

Material price spike adjustment: For the purpose of this clause, a "major spike" is defined as a spike in a specific material cost of more than 25% above what the cost of that material was on the date the Construction Task Catalog® was issued.

In the event a major spike occurs in a specific material cost, CONTRACTOR may submit a request for a price modification to a Unit Price or individual Job Order. In order to initiate such a request, CONTRACTOR shall,

- Identify the specific material that has experienced a major spike,
- Identify Pre-priced Task(s) or Job Orders that require the material experiencing a major spike, and
- Demonstrate that the spike exists by submitting a minimum of three quotes on material supplier letterhead to show that the current price meets the “major spike” definition above.

The University or Participating Public Agency, after review of a request, may elect to adjust the Unit Price or Job Order by considering it a Non-Pre-Priced item. The adjustment will be for the difference between the material cost at the time the Construction Task Catalog® was issued times the quantity stated in the Job Order. The adjustment will not include any other markup, and the Non-Pre-Priced adjustment factor will not apply.

The University or Participating Public Agency, at its option, may also determine that a drastic decrease in a material cost warrants the same Non-Pre-Priced adjustment downward in the Unit Price or a Job Order.

END OF SECTION ONE