



**REQUEST FOR PROPOSAL  
No. JF173806P**

**AGRICULTURAL FARM LABOR SERVICES**

**PROPOSAL DUE DATE AND TIME:**  
May 22, 2015 (3:00 PM, PT)

OSU Procurement, Contracts and Materials Management (PCMM) Offices are open Monday through Friday 8:00 am-12:00 noon and 1:00 pm-5:00 pm.  
Offices are closed during the 12:00 noon-1:00 pm lunch hour.

**SUBMITTAL LOCATION:**  
Oregon State University  
Procurement, Contracts and Materials Management  
644 SW 13<sup>th</sup> Avenue  
Corvallis, Oregon 97333

**ELECTRONIC SUBMITTAL ADDRESS**  
[bids@oregonstate.edu](mailto:bids@oregonstate.edu)

**1.0 GENERAL**

**1.01 SCHEDULE OF EVENTS**

- Issue Date.....April 20, 2015
- Deadline for Requests for Clarification or Change.....May 11, 2015 (3:00 pm, PT)
- Proposal Due Date and Time.....May 22, 2015 (3:00 pm, PT)

This Schedule of Events is subject to change. Any changes shall be made through the issuance of Written Addenda.

**1.02 PRE-PROPOSAL CONFERENCE**

A Pre-Proposal Conference will not be held.

**1.03 ISSUING OFFICE**

The Procurement, Contracts and Materials Management (PCMM) department of Oregon State University (“OSU”) is the issuing office and is the sole point of contact for this Request for Proposal. Address all concerns or questions regarding this Request for Proposal to the Administrative Contact identified below.

**1.04 ADMINISTRATIVE CONTACT**

Name: James Figgins  
Title: Purchasing Analyst III  
Telephone: 541-737-6995  
Fax: 541-737-2170  
E-Mail: james.figgins@oregonstate.edu

**1.05 DEFINITIONS**

As used in this Request for Proposal, the terms set forth below are defined as follows:

- a. "Addenda" means an addition to, deletion from, a material change in, or general interest explanation of the Request for Proposal.
- b. "Exhibits" means those documents which are attached to and incorporated as part of the Request for Proposal.
- c. "Proposal" means an offer, binding on the Proposer and submitted in response to a Request for Proposal.
- d. "Proposer" means an entity that submits a Proposal in response to a Request for Proposal.
- e. "Proposal Due Date and Time" means the date and time specified in the Request for Proposal as the deadline for submitting Proposals.
- f. "Request for Proposal" (RFP) means a Solicitation Document to obtain Written, competitive Proposals to be used as a basis for making an acquisition or entering into a Contract when price will not necessarily be the predominant award criteria.
- g. "Responsible" means an entity that demonstrates their ability to perform satisfactorily under a Contract by meeting the applicable standards of responsibility outlined in OSU Standard 580-061-0130.
- h. "Responsive" means a Proposal that has substantially complied in all material respects with the criteria outlined in the Request for Proposal.
- i. "Written or Writing" means letters, characters, and symbols that are intended to represent or convey particular ideas or meanings and are made in electronic form or inscribed on paper by hand, print, type, or other method of impression.

**2.0 INTRODUCTION AND BACKGROUND**

**2.01 INTRODUCTION**

OSU produces agricultural crops for the purpose of teaching and research. Since OSU is not involved in commercial production, the crops are typically smaller and the instructions for preparation, care, and harvesting can be more involved than those in normal commercial production.

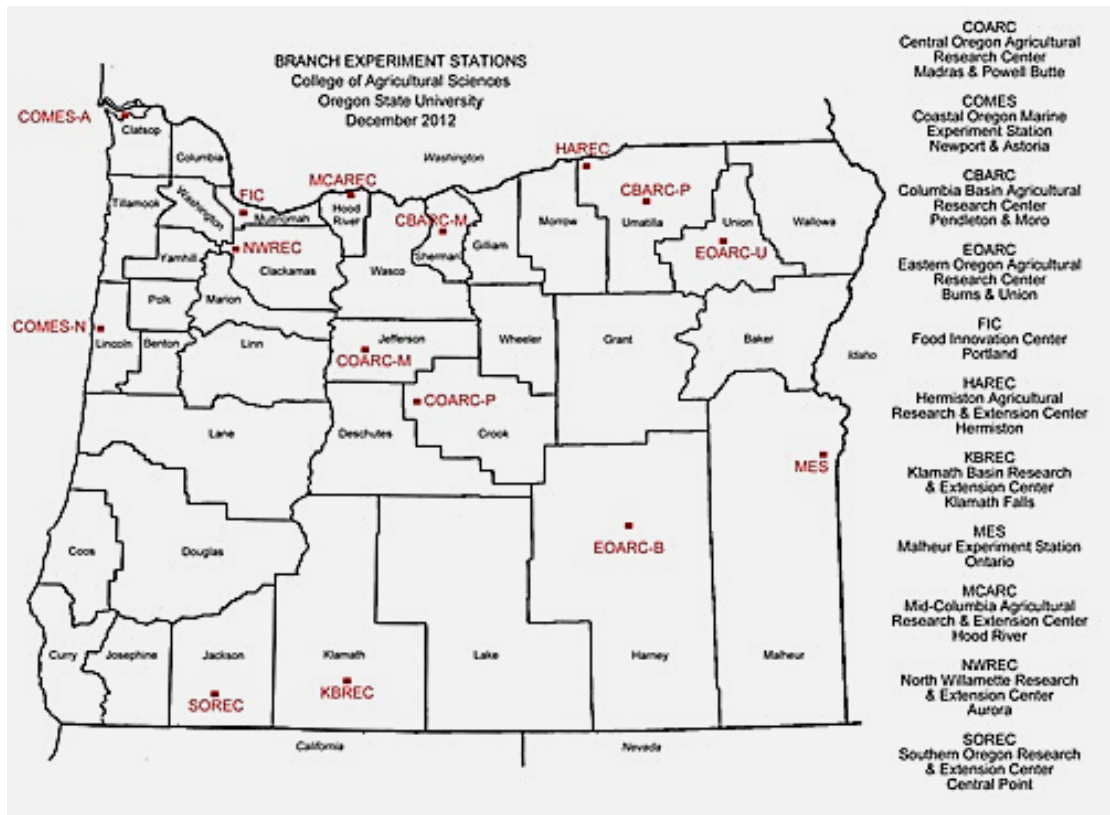
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To support these activities, Procurement, Contracts and Materials Management (PCMM) is seeking Responsive Responsible Proposers to submit Proposals for agricultural farm labor services for the OSU Branch Experiment Stations. **It is the desire of OSU to issue multiple contracts as the result of this RFP to insure adequate coverage for the experiment stations.** The OSU representative assigned to each location shall notify Contractor and request temporary laborers on an as needed basis, to the worksite. The OSU representative shall work directly with the Contractor in providing services.

**2.02 BACKGROUND**

The Oregon Agricultural Experiment Station(s) are the principal agricultural research agencies in the state. Its mission is to conduct research in the agricultural, biological, social, and environmental sciences for the economic, social and environmental benefit of Oregon. This is supported through its eleven branch stations and fifteen locations across the state.

**OAES Branch Stations**



The resulting Contracts from this RFP will specifically support the eight stations listed below.

EXPERIMENT STATION	LOCATION	CROPS/RESEARCH
Central Oregon Agriculture Research Center (COARC)	Madras & Powell Butte	Irrigated crops, Alternative crop production, diseases and pests
Columbia Basin Agricultural Research Center (CBARC)	Pendleton & Moro	Dryland cereal cropping systems, tillage and soil management, alternative crops
Hermiston Agricultural Research & Extension (HAREC)	Hermiston	Irrigated crops, cereals and forage production
Klamath Basin Research & Extension Center (KBREC)	Klamath Falls	Potatoes, forage and cereal production
Malheur Experiment Station (MES)	Ontario	Irrigated field crops, vegetable production, weed control

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Mid-Columbia Agricultural Research and Extension Center (MCAREC)	Hood River	Pear, cherry and apple production, postharvest storage and handling, integrated production practices
North Willamette Research Extension Center (NWREC)	Aurora	Ornamental and nursery crops, small fruits and vegetable production
Southern Oregon Research & Extension Center (SOREC)	Central Point	Tree fruits, vegetable and seed crop production, integrated production practices

Farm labor services are presently being provided by a limited number of providers. The intent of this RFP is to expand that provider base, by awarding multiple contracts, to insure services are available when needed at any one of the eight experiment stations.

### 2.03 OREGON STATE UNIVERSITY

Founded in 1868, Oregon State University is a comprehensive, research-extensive, public university located in Corvallis. OSU is one of only two American universities to hold the Land Grant, Sea Grant, Space Grant and Sun Grant designations. OSU is also the only Oregon institution to hold the Carnegie Foundation's top ranking for research universities, a recognition of the depth and quality of OSU's graduate education and research programs.

Through its centers, institutes, Extension offices and Experiment Stations, OSU has a presence in almost every one of Oregon's 36 counties, including its main campus in Corvallis, the Hatfield Marine Sciences Center in Newport and OSU-Cascades Campus in Bend. OSU offers undergraduate, masters and doctoral degrees through 12 academic colleges enrolling more than 26,000 students from every county in Oregon, every state in the country and more than 90 nations.

## **3.0 STATEMENT OF WORK**

### 3.01 SAMPLE CONTRACT

A sample contract containing a statement of work and contractual terms and conditions is included as Exhibit A.

## **4.0 PROPOSER QUALIFICATIONS**

### 4.01 MINIMUM QUALIFICATIONS

In order to qualify as a Responsive Proposer, the Proposer needs to meet the minimum qualifications below.

- a. Proposers must have sustained their current licensed agricultural labor business for a minimum of two (2) full years in order to submit a proposal on this contract.
- b. Proposer must be a Licensed Farm/Forest Labor Contractor and listed on:  
[http://www.oregon.gov/BOLI/WHD/FFL/docs/ffl\\_contractor.pdf](http://www.oregon.gov/BOLI/WHD/FFL/docs/ffl_contractor.pdf) and possess required bonds.

## **5.0 REQUIRED SUBMITTALS**

### 5.01 QUANTITY OF PROPOSALS

Submit one (1) electronic or hard copy via any of the methods detailed in the section below titled SUBMISSION. If submitting via hard copy, include one (1) electronic copy (PDF format) of Proposal on CD/DVD/flash drive. Proposals should contain original signatures on any pages where a signature is required (in the case of electronic submissions, either electronic signatures or scans of hand-signed pages should be included). Proposals should contain the submittals listed in this section below.

5.02 REQUIRED SUBMITTALS

It is the Proposer’s sole responsibility to submit information in fulfillment of the requirements of this Request for Proposal. If submittals are not substantially compliant in all material respects with the criteria outlined in the RFP, it shall cause the Proposal to be deemed non-Responsive.

Proposers must submit the following information:

- Description of how the goods or services offered specifically satisfy the statement of work described in Exhibit A, Section 2.
- Detailed information about how the Proposer meets the minimum qualifications described in section 4.01. At a minimum, the Proposer should provide;
  - Brief company history listing years in business and geographical areas serviced.
  - Proof of Farm Labor Contractor license (provide copy of certificate or license number).
- Exhibit B: Certifications, fully completed.
- Exhibit C: References, fully completed.
- Exhibit D: Pricing, fully completed. Identify research stations that would be supported.
- Exhibit E: Farm Contractor Questions, fully completed.

<b>6.0 EVALUATION</b>
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6.01 EVALUATION

The stages of review and evaluation are as follows:

- a. Determination of Responsiveness:  
OSU will first review all Proposals to determine Responsiveness. Proposals that do not comply with the instructions, that are materially incomplete, that do not meet the minimum requirements, or that are submitted by Proposers who do not meet minimum qualifications may be deemed non-Responsive. Written notice will be sent to Proposers whose Proposal is deemed non-Responsive identifying the reason. A Proposer has the right to appeal the decision pursuant to OSU Standard 580-061-130(5)(a).
- b. First Stage Evaluation:  
Those Proposals determined to be Responsive will be evaluated using the required submittals. Proposals will be scored based on the evaluation criteria listed below. Scores will be used to determine Proposers within a competitive range. The competitive range will be made of Proposers whose individual scores, when viewed together, form a group of the highest ranked Proposers above a natural break in the scores.  
  
OSU reserves the right to ask follow-up questions of Proposers during first stage evaluations. The questions will be for the purpose of clarification of information already contained in submittals and not be an opportunity to submit additional documentation or change existing documentation.  
  
OSU may award after the first stage evaluation to the highest ranked Proposer(s) without moving on to the second stage evaluation. If this option is selected, Written notice of intent to award the Contract to the highest ranked Proposer(s) will be provided to all Responsive Proposers, or an award may be made directly without notice of intent in those instances of a single Responsive Proposer.
- c. Second Stage Evaluation:  
If award is not made after the first stage evaluation, OSU may choose any of the following methods in which to proceed:
  - i. Issue a Written invitation to Proposers within the competitive range requesting an interview, presentation, site visit or any other evaluative method that is relevant to the goods or services solicited in the Request for Proposal. Written invitations will contain the evaluation criteria and scoring that will be used by the evaluation committee.

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- ii. Engage in oral or Written discussions with and receive best and final Proposals from all Proposers in the Competitive Range or all Proposers submitting Responsive Proposals. Discussions may be conducted for the following purposes:
  - Informing Proposers of deficiencies in their initial Proposals;
  - Notifying Proposers of parts of their Proposals for which OSU would like additional information; or
  - Otherwise allowing Proposers to develop revised Proposals that will allow OSU to obtain the best Proposal based on the requirements set forth in this Request for Proposal.

The conditions, terms, or price of the Proposal may be altered or otherwise changed during the course of the discussions provided the changes are within the scope of the Request for Proposal. Best and final Proposals will be scored based on the evaluation criteria listed below.

Points awarded in the first stage evaluation will not be carried to the second stage evaluation. If a second stage evaluation of all Proposers does not produce an award that is in OSU’s best interest, OSU may return to the first stage evaluation to advance additional Proposers to a second stage evaluation.

- d. Additional Stages of Evaluation:  
If after completion of the second stage of evaluation, an award is not made, OSU may add another stage of evaluation using any of the methods outlined in the second stage evaluation above.

6.02 EVALUATION CRITERIA

Points will be given in each criteria and a total score will be determined. The maximum points available for each criterion are identified below.

<u>Evaluation Criteria</u>	<u>Points</u>
Proposal relative to the Statement of Work, Exhibit A, Section 2	35
Proposer’s responses to Exhibit E questionnaire	35
Price of the goods and services	<u>30</u>
<b>Total</b>	<b>100</b>

Pricing Calculation:

The Proposal that represents the overall lowest price to OSU will receive the maximum number of price points. A Proposal whose price is higher than the lowest submitted price will receive proportionately fewer price points, as demonstrated in the example below.

Proposer A’s Average Hourly Billing Rate is \$10.00 (the lowest)  
Proposer A is awarded 30 price points (the maximum)

Proposer B’s Average Hourly Billing Rate is \$12.00  
Proposer B is awarded 24.9 price points (10/12 x 30)

6.03 NEGOTIATIONS

OSU may commence serial negotiations with the highest ranked Proposer or commence simultaneous negotiations with all Responsive Proposers within the competitive range. OSU may negotiate:

- a. The statement of Work;
- b. The Contract price as it is affected by negotiating the statement of Work; and
- c. Any other terms and conditions as determined by OSU.

6.04 INVESTIGATION OF REFERENCES

OSU reserves the right to investigate and to consider the references and the past performance of any Proposer with respect to such things as its performance or provision of similar goods or services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, subcontractors, and workers. OSU may postpone the award or execution of the Contract after the announcement of the notice of

### 6.03 CONTRACT AWARD

Contract will be awarded to the Proposer(s) who, in OSU's opinion, meets the requirements and qualifications of the RFP and whose Proposal is in the best interest of OSU. If a successful Contract cannot be completed after award, OSU may conclude contract negotiations, rescind its award to that Proposer, and return to the most recent RFP evaluation stage to negotiate with another Proposer(s) for award.

## **7.0 INSTRUCTIONS TO PROPOSERS**

### 7.01 APPLICABLE STATUTES AND RULES

This Request for Proposal is subject to the applicable provisions and requirements of the Oregon Revised Statutes, Oregon Administrative Rules, OSU Standards, and OSU Policies and Procedures.

### 7.02 COMMUNICATIONS DURING RFP PROCESS

In order to ensure a fair and competitive environment, direct communication between OSU employees other than the Administrative Contact or other PCMM representative and any party in a position to create an unfair advantage to Proposer or disadvantage to other Proposers with respect to the RFP process or the award of a Contract is strictly prohibited. This restricted period of communication begins on the issue date of the solicitation and for Proposer(s) not selected for award ends with the conclusion of the protest period identified in OSU Standard 580-061-0145(3) and for Proposers(s) selected for award ends with the contract execution. This restriction does not apply to communications to other OSU employees during a Pre-Proposal conference or other situation where the Administrative Contact has expressly authorized direct communications with other staff. A Proposer who intentionally violates this requirement of the RFP process or otherwise deliberately or unintentionally benefits from such a violation by another party may have its Proposal rejected due to failing to comply with all prescribed solicitation procedures. The rules governing rejection of individual solicitation responses and potential appeals of such rejections are at OSU Standard 580-061-0130.

### 7.03 MANUFACTURER'S NAMES AND APPROVED EQUIVALENTS

Unless qualified by the provision "NO SUBSTITUTE" any manufacturers' names, trade name, brand names, information or catalogue numbers listed in a specification are for information and not intended to limit competition. Proposers may offer any brand for which they are an authorized representative, which meets or exceeds the specification for any item(s). If proposals are based on equivalent products, indicate in the proposal form the manufacturers' name and number. Proposers shall submit with their proposal, sketches, and descriptive literature, and complete specifications. Reference to literature submitted with a previous proposal will not satisfy this provision. Proposers shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Proposals that do not comply with these requirements are subject to rejection. Proposals lacking any written indication of intent to provide an alternate brand will be received and considered in complete compliance with the specification as listed in the RFP.

### 7.04 REQUESTS FOR CLARIFICATION OR CHANGE

Requests for clarification or change of the Request for Proposal must be in Writing and received by the Administrative Contact no later than the Deadline for Request for Clarification or Change as specified in the Schedule of Events. Such requests for clarification or change must include the reason for the Proposer's request. OSU will consider all timely requests and, if acceptable to OSU, amend the Request for Proposal by issuing an Addendum. Envelopes, e-mails or faxes containing requests must be clearly marked as a Request for Clarification or Change and include the RFP Number and Title.

### 7.05 ADDENDA

Only documents issued as Written Addenda by PCMM serve to change the Request for Proposal in any way. No other direction received by the Proposer, written or verbal, serves to change the Request for Proposal. Addenda will be publicized on the OUS procurement website. Proposers are advised to consult the OUS

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procurement website prior to submitting a Proposal in order to ensure that all relevant Addenda have been incorporated into the Proposal. Proposers are not required to submit Addenda with their Proposal. However, Proposers are responsible for obtaining and incorporating any changes made by Addenda into their Proposal. Failure to do so may make the Proposal non-Responsive, which in turn may cause the Proposal to be rejected.

### 7.06 PREPARATION AND SIGNATURE

All Required Submittals must be Written or prepared in ink and signed in ink by an authorized representative with authority to bind the Proposer. Signature certifies that the Proposer has read, fully understands, and agrees to be bound by the Request for Proposal and all Exhibits and Addenda to the Request for Proposal.

### 7.07 PUBLIC RECORD

Upon completion of the Request for Proposal process, information in all Proposals will become subject records under the Oregon Public Records Law. Only those items considered a “trade secret” under ORS 192.501(2), may be exempt from disclosure. If a Proposal contains what the Proposer considers a “trade secret” the Proposer must mark each specific item of information as such. Only bona fide trade secrets may be exempt and only if public interest does not require disclosure.

### 7.08 SUBMISSION

Proposals must be received in the PCMM office no later than the Proposal Due Date and Time; it is the Proposer’s responsibility to ensure that the Proposal is received prior to the Proposal Due Date and Time indicated in this RFP, regardless of the method used to submit the Proposal. Proposals may be submitted via the following method(s):

- 1) Electronic copy in PDF format included as attachment(s) in an e-mail sent to [bids@oregonstate.edu](mailto:bids@oregonstate.edu). The e-mail subject line should contain the RFP No. and RFP title. Only those Proposals received at this e-mail address by the Due Date and Time will be considered Responsive; do not e-mail a copy of the Proposal to any other e-mail address. Proposals submitted directly to the Administrative Contact e-mail address will NOT be considered Responsive. It is highly recommended that the Proposer confirms receipt of the email with the Administrative Contact noted above or by calling 541-737-4261. The Administrative Contact may open the e-mail 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.
- 2) Hard copy in a sealed package or envelope dropped off in person or delivered to the submittal location listed on the Request for Proposal cover sheet. The package or envelope should be addressed to the Administrative Contact. It is highly recommended that the Proposer confirms receipt of the Proposal with the Administrative Contact prior to the Proposal Due Date and Time.

All Proposals, including those submitted through electronic methods (if allowed), must contain Written signatures indicating intent to be bound by the offer. If the Proposer submits multiple versions of the Proposal via different methods and does not explicitly direct OSU as to which version to use, OSU will determine which version of the Proposal will be used for evaluation.

### 7.09 MODIFICATION

Prior to submittal, Proposers should initial modifications or erasures in ink by the person signing the Proposal. After submittal but prior to the Proposal Due Date and Time, Proposals may be modified by submitting a Written notice indicating the modifications and a statement that the modification amends and supersedes the prior Proposal. After the Proposal Due Date and Time, Proposers may not modify their Proposal.

### 7.10 WITHDRAWALS

A Proposer may withdraw their Proposal by submitting a Written notice to the Administrative Contact identified in this Request for Proposal prior to the Proposal Due Date and Time. The Written notice must be on the Proposer’s letterhead and signed by an authorized representative of the Proposer. The Proposer, or authorized representative of the Proposer, may also withdraw their Proposal in person prior to the Proposal Due Date and Time, upon presentation of appropriate identification and evidence of authority to withdraw the



Proposal satisfactory to OSU.

#### 7.11 LATE SUBMITTALS

Proposals and Written notices of modification or withdrawal must be received no later than the Proposal Due Date and Time (in the case of electronic submissions, the time/date stamp of the email received at the PCMM office must be no later than the Proposal Due Date and Time). OSU may not accept or consider late Proposals, modifications, or withdrawals except as permitted in OSU Standard 580-061-0120. Sole responsibility rests with the Proposer to ensure OSU's receipt of its Proposal prior to the Proposal Due Date and Time. OSU shall not be responsible for any delays or misdeliveries caused by common carriers or by transmission errors, malfunctions, or electronic delays. Any risks associated with physical delivery or electronic transmission of the Proposal are borne by the Proposer.

#### 7.12 PROPOSAL OPENING

Proposals will be opened immediately following the Proposal Due Date and Time at the Submittal Location. Proposer may attend the Proposal opening. Only the names of the Proposers submitting Proposals will be announced. No other information regarding the content of the Proposals will be available.

#### 7.13 PROPOSALS ARE OFFERS

The Proposal is the Proposer's offer to enter into a Contract pursuant to the terms and conditions specified in the Request for Proposal, its Exhibits, and Addenda. The offer is binding on the Proposer for one hundred twenty (120) days. OSU's award of the Contract constitutes acceptance of the offer and binds the Proposer. The Proposal must be a complete offer and fully Responsive to the Request for Proposal.

#### 7.14 CONTINGENT PROPOSALS

Proposer shall not make its Proposal contingent upon OSU's acceptance of specifications or contract terms that conflict with or are in addition to those in the Request for Proposal, its Exhibits, or Addenda.

#### 7.15 RIGHT TO REJECT

OSU may reject, in whole or in part, any Proposal not in compliance with the Request for Proposal, Exhibits, or Addenda, if upon OSU's Written finding that it is in the public interest to do so. OSU may reject all Proposals for good cause, if upon OSU's Written finding that it is in the public interest to do so. Notification of rejection of all Proposals, along with the good cause justification and finding of public interest, will be sent to all who submitted a Proposal.

#### 7.16 AWARDS

OSU reserves the right to make award(s) by individual item, group of items, all or none, or any combination thereof. OSU reserves the right to delete any item from the award when deemed to be in the best interest of OSU.

#### 7.17 LEGAL REVIEW

Prior to execution of any Contract resulting from this Request for Proposal, the Contract may be reviewed by a qualified attorney for OSU. Legal review may result in changes to the terms and conditions specified in the Request for Proposal, Exhibits, and Addenda.

#### 7.18 PROPOSAL RESULTS

A Written notice of intent to award will be issued to all Proposers. The Proposal file will be available for Proposer's review during the protest period at the PCMM Department. Proposers must make an appointment with the Administrative Contact to view the Proposal file. After the protest period, the file will be available by making a Public Records Request to OSU Office of General Counsel.

#### 7.19 PROPOSAL PREPARATION COST

OSU is not liable for costs incurred by the Proposer during the Request for Proposal process.

7.20 PROPOSAL CANCELLATION

If a Request for Proposal is cancelled prior to the Proposal Due Date and Time, all Proposals that may have already been received will be returned to the Proposers. If a Request for Proposal is cancelled after the Proposal Due Date and Time or all Proposals are rejected, the Proposals received will be retained and become part of OSU's permanent Proposal file.

7.21 PROTEST OF CONTRACTOR SELECTION, CONTRACT AWARD

Any Proposer who feels adversely affected or aggrieved may submit a protest within three (3) business days after OSU issues a notice of intent to award a Contract. The protest must be clearly identified as a protest, identify the type and nature of the protest, and include the Request for Proposal number and title. The rules governing protests are at OSU Standard 580-061-0145.

**EXHIBIT A  
SAMPLE CONTRACT**

This Contract is between Oregon State University for its Agricultural Experiment Stations (“OSU”), and [Contractor’s name] (“Contractor”).

WHEREAS, OSU competitively solicited for the services outlined in this Contract under Request for Proposal number #JF173806P entitled Agricultural Farm Labor Services and Contractor was selected as the Proposer best able to provide this service; and

WHEREAS, Contractor understands the requirements for the services outlined in this Contract, and is willing and able to provide, in accordance with the terms of this Contract, the services;

NOW, THEREFORE, OSU and Contractor agree as follows:

**1. CONTRACT TERM AND TERMINATION:**

**A. CONTRACT TERM.**

This Contract is effective on the date of last signature and expires on \_\_\_\_\_, 2016 (“Initial Term”). OSU has the option to extend the term of this Contract for ten (10) additional one (1) year terms based on the current terms and conditions. OSU may exercise this option to extend by providing written notice to Contractor prior to the expiration of the Contract.

**B. TERMINATION.**

This Contract may be terminated at any time by mutual consent of both parties or by OSU upon thirty (30) days' written notice. In addition, OSU may terminate this Contract at any time by written notice to Contractor if (a) Federal or state statutes, regulations or guidelines are modified or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract; (b) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; or (c) OSU fails to receive funding, appropriations, allocations or other expenditure authority as contemplated by OSU’s budget and OSU determines, in its assessment and ranking of the policy objectives explicit or implicit in OSU’s budget, that it is necessary to terminate the Contract, or (d) if the OSU program for which this Contract was executed is abolished.

OSU may also terminate this Contract at any time by written notice for default (including breach of contract) if (a) Contractor fails to timely provide services or materials called for by this Contract; or (b) Contractor fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms and conditions, and after receipt of written notice from OSU, fails to correct such failures within ten (10) days. Termination of this Contract under this Section or any other section is without prejudice to OSU’s other rights and remedies.

**C. REMEDIES FOR CONTRACTOR'S DEFAULT.**

In the event Contractor is in default (which includes without limitation, incomplete services), OSU may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to: (a) rejection of the services, (b) requiring Contractor to correct any defects without charge, (c) negotiation with Contractor to sell the services to OSU at a reduced price, (d) termination of the Contract, (e) withholding all moneys due for the services Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (f) initiation of an action or proceedings for damages, specific performance, or declaratory or injunctive relief, or (g) exercise of its right of set off. These remedies are cumulative to the extent the remedies are not inconsistent, and OSU may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**2. STATEMENT OF WORK:**

**A. REQUIRED SERVICES, DELIVERABLES AND DELIVERY SCHEDULE.**

Contractor shall provide OSU with the following services during the Term of this Contract:

1. **Provision of Agricultural Labor Services:** Upon request by OSU, Contractor shall assign or refer qualified persons to perform agricultural labor services. The services and location will be specified by OSU. Contractor is responsible to (i) properly supervise Contractor’s farm laborers performing the work and be responsible for OSU’s farming operations as assigned by OSU, products, services, and intellectual property, when applicable; (ii) properly supervise, control, and safeguard OSU’s premises, processes, and systems. Contractor will ensure that Contractor’s farm laborers do not gain access to unattended premises, confidential information, trade secrets, or other valuable OSU property. Only licensed and OSU authorized Contractor and farm laborers are permitted to operate motor vehicles, forklifts, or any other motorized equipment. Contractor is responsible to acquire OSU’s permission prior to using OSU vehicles. OSU Experiment Stations may require Contractor and authorized farm laborers to complete the OSU authorized driver document. This document and additional information can be found at <http://fa.oregonstate.edu/mpl-manual/200-authorizations>.

Because of OSU’s many and diverse agricultural needs, Contractor will make available a pool of agricultural farm laborers with a wide-range of competencies. Work crews are used on an “as needed” basis. Large crews are needed for weeding and thinning and smaller crews are needed for other projects. Several crew leaders are needed that can understand and follow specific instructions in English as needed (sometimes crews are working on different projects). A crew leader in charge is sometimes needed who can read English and write numbers. Workers may be needed during early mornings or weekends. Contractor must be able to provide farm laborers during this time at the contracted rates.

2. **Work to be Performed:** Contractor must ensure that farm laborers understand and follow specific instructions. Contractor must be able to fill satisfactorily the farm labor needs identified by OSU within twenty-four (24) hours of OSU’s request. Failure to do so may result in OSU’s seeking services from another agricultural labor services agency. Contractor should seek to fill OSU’s agricultural farm labor needs from its own staff; but, if necessary, Contractor may use subcontractors in accordance with Section 2.A.3 below. Necessary work to be performed includes, but is not limited to, the following:
  - a. Harvesting Crops: Tasks include picking, cleaning and sorting crops by hand or machine. Tree orchard crops may require ladder work.
  - b. Prepare equipment to install in the field and installing equipment.
  - c. Planting and care of crops, including, but not limited to, pruning, thinning, weeding, tree training, etc.
  - d. Assemble complex irrigation control systems.
  - e. Provide at least two (2) certified forklift operators (or capable of being certified) as requested by OSU experiment centers.
  - f. Set siphon tubes, dig corrugates and other general irrigation tasks.
  - g. Clean crop samples.
  - h. Work on grading table operations.
  - i. Heavy lifting up to 75 lbs.
  - j. Clean-up tasks, including sweeping, shoveling, water wash down.
  - k. Rodent trapping.
  - l. Light equipment maintenance and repair.
  - m. Spray general use pesticides from a backpack sprayer. All use of pesticides and herbicides must be requested and approved by OSU. The Contractor shall ensure that farm laborers are fully trained and properly licensed to apply herbicides and pesticides.
  - n. Other odd jobs such as tree trimming and landscape duties.

Contractor is required to discuss equipment and sanitation requirements prior to sending farm laborers to assigned facility. OSU requirements may differ between Agricultural Experiment Stations.

3. **Sub-Contracting:** If Contractor is unable to fulfill OSU's agricultural labor personnel needs from its own staff or if the farm labor services Contractor provides from its staff are unsatisfactory to OSU, Contractor may subcontract with other agencies to provide agricultural labor services to OSU. Contractor shall ensure that subcontractors comply with the terms and conditions, including insurance requirements, contained in this Contract. Contractor shall keep OSU informed of subcontractors it enlists to provide services under this Contract. Contractor's charges for providing agricultural labor services must not vary when Contractor relies on subcontractors to fulfill OSU's agricultural labor needs.
  
4. **Agricultural Labor Training:** Contractor shall provide all labor, and non-site specific training necessary to provide OSU with qualified, trained personnel in satisfaction of OSU's farm labor personnel needs. Under no circumstances should Contractor seek to fulfill OSU's farm labor personnel needs by providing personnel who do not have the training required to fill the positions for which OSU seeks farm labor personnel. Contractor shall provide adequate testing and training of its current and prospective employees in order to ensure skill levels are met for any specific job qualification before referral or placement at any OSU location and follow good hygiene and sanitation practices while working for OSU.
  
5. **Contractor's Responsibilities as Employer of Agricultural Labor Personnel:** Contractor shall remain employer of farm labor personnel during their placement with OSU. Contractor shall maintain all legal responsibilities as the employer of the farm laborers, including but not limited to payment of their wages, taxes, worker's compensation fees, and other compensation due them. Contractor shall comply with all Federal and State payroll tax requirements as employer of the farm laborers. OSU shall, under no circumstances, be responsible for compensating farm laborers directly. Contractor shall notify OSU Contract Administrator immediately if for any reason Contractor's licenses or Certificate of Liability insurance are cancelled or not renewed by the issuing agencies. Contractor is required to contact OSU if, for any reason, Contractor cannot meet all the requirements of the Contract. Failure to disclose such information may be cause for immediate Contract termination. Contractor must adhere to all requirements as stated in ORS 658.405 thru ORS 658.503. [https://www.oregonlegislature.gov/bills\\_laws/ors/ors658.html](https://www.oregonlegislature.gov/bills_laws/ors/ors658.html)
  
6. **Telephone, Fax, Computer, and Email Usage:** Neither Contractor nor farm laborers placed at OSU by Contractor shall use any OSU telephone (other than pay phones), fax, computer, or email for any reason other than when required to perform services under this Contract unless authorized in advance by OSU. OSU shall bill Contractor for any unauthorized use plus any costs for investigation or billing.
  
7. **Security:** All OSU property, materials, and documents are to be left at the OSU worksite by Contractor and farm laborers placed at OSU by Contractor, except in the normal course of OSU supervised activities. Contractor and farm laborers placed at OSU by Contractor shall consider all information accessible to them at OSU to be confidential unless otherwise specified by OSU. Any disclosure of confidential information or removal of OSU property by Contractor or Contractor's employees shall be cause for immediate Contract termination.

The non-use and nondisclosure restrictions contained above shall not apply to any confidential information that: (1) was publicly known at the time of its disclosure; (2) becomes publicly known through no breach of this agreement; (3) is independently developed without reference to any confidential information or other information that a party or its affiliates has disclosed in confidence to any third party; (4) is rightfully obtained from a third party who is authorized to make such disclosure without restriction; or (5) by operation of law.

8. **Travel:** OSU is not responsible for compensating Contractor or farm laborers placed at OSU by Contractor for travel expenses to and from the assigned workplace. If, in the course of their assigned duties, OSU requires farm laborers placed at OSU by Contractor to travel, OSU shall provide that transportation or reimburse Contractor, in accordance with the applicable rates and standards published by OSU, for providing the farm laborers cost of travel.
9. **Ownership of Work Product:** Contractor and all of Contractor's personnel providing services under this Contract hereby assign to OSU rights to any intellectual property, including any invention or improvement in technology, including software, developed using University facilities, personnel, information or other University resources. Therefore, all completed, or partially completed, work products which result from this Contract are the exclusive property of OSU.
10. **Unsatisfactory Personnel:** Contractor shall remove farm laborers unsatisfactory to OSU immediately upon notification by OSU. Contractor shall not bill OSU for unsatisfactory farm laborers' services if OSU notifies Contractor by phone or in writing within four (4) hours after the farm laborer reports to his or her assignment. Contractor shall immediately replace the farm laborer with qualified agricultural labor personnel satisfactory to OSU. If Contractor cannot replace personnel, OSU may seek to fill the position with agricultural labor personnel from other agencies and bill Contractor for the difference in costs to OSU.
11. **Reports:** Upon request by OSU, Contractor shall provide reports to meet specific needs concerning OSU's usage. Contractor and OSU shall come to mutually agreeable reporting formats. OSU shall allow Contractor reasonable time to accommodate reporting requests.
12. **Employee Time Cards and Checks:** Upon Request, the Contractor shall make time cards available to OSU representing the farm laborers placed at OSU by Contractor.
13. **Affirmative Action and Equal Employment Opportunity:** The Contractor shall adhere to OSU's Affirmative Action and Equal Employment Opportunity Policies, as published on OSU's website. <http://hr.oregonstate.edu/search-excellence/affirmative-action-and-equal-opportunity>
14. **Licenses/Certifications:** Per the Oregon Bureau of Labor and Industries (BOLI) Farm/Forest Contractor Handbook, Contractor must ensure that Contractor and any prospective farm laborer, performing Contractor duties, hold current, valid State of Oregon Farm/Forest Certifications and appropriate surety bonds.  
[http://www.oregon.gov/boli/WHD/FFL/pages/w\\_ffl\\_handbook.aspx](http://www.oregon.gov/boli/WHD/FFL/pages/w_ffl_handbook.aspx)

**3. ACCEPTANCE OF SERVICES:**

Services furnished under this Contract are subject to acceptance by OSU. If OSU finds services furnished to be incomplete or not in compliance with the Contract, OSU, at its sole discretion, may either reject the services, require Contractor to correct any defects without charge, or negotiate with Contractor to reduce the price, whichever OSU deems appropriate under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by OSU, OSU may pursue any of the remedies for Contractor's default detailed in that Section above.

**4. BILLING AND PAYMENT:**

- A. **METHOD OF PAYMENT FOR SERVICES:** Contractor will invoice OSU weekly or monthly at OSU's discretion. Contractor's time cards signed by OSU will be conclusive as to the number of compensable hours worked by each of the Contractor's farm laborers assigned to OSU for that work week and based on the Hourly Billing Rate stated in Attachment A. Invoices shall be payable by OSU by invoice due date, subject to Section 4.C, below.
- B. **EXPENSE REIMBURSEMENT.**  
OSU will not reimburse Contractor for any expenses under this Contract, subject to Section 2.A.2.8.

**C. INVOICES AND PAYMENT TO CONTRACTOR.**

Contractor shall send invoices to OSU for services completed and accepted by OSU. Contractor shall include in each invoice:

- a. The Contract number;
- b. A description of services performed, including the employee names, hours worked, dates of service.
- c. The total amount due and the payment remittance address.

Contractor shall send all invoices to OSU's Department Administrator or to the Department to which the services were provided if a Department Administrator is not specified.

OSU shall pay Contractor for services performed at the prices and rates specified herein. Contractor shall look solely to OSU for payment of all amounts OSU owes to Contractor. Payment of OSU contracts is normally made within 30-45 days following the date the invoice is received. After 45 days, Contractor may assess overdue account charges up to a maximum of two-thirds of one percent (2/3 of 1%) per month or eight percent (8%) per annum on the outstanding balance pursuant to ORS 293.462.

**5. INSURANCE:**

**A. GENERAL LIABILITY INSURANCE.**

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance, including Products and Completed Operations coverage, with minimum limits of \$2 Million per occurrence and \$4 Million aggregate. Such insurance policy is to be issued by an insurance company authorized to do business in the State of Oregon with an A.M. Best rating of at least A-VII, or such other insurance carrier approved in writing, in advance, by OSU. OSU and its officers, board members, employees, and agents shall be included as additional insured in said insurance policy.

**B. AUTOMOBILE LIABILITY INSURANCE.**

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Automobile Liability Insurance. This coverage can be provided by combining the Automobile Liability Insurance with the General Liability Insurance. Coverage limits shall not be less than \$2,000,000 combined single limit per occurrence.

**C. PROPERTY INSURANCE.**

The Contractor must maintain Property Insurance during the term of the Contract that covers all property used for Contract work and all Contractor-owned property that is stored at OSU.

**D. PRIMARY COVERAGE.**

Insurance carried by Contractor under this Contract shall be the primary coverage and OSU's insurance is excess and solely for damages or losses for which OSU is responsible.

**E. WORKERS' COMPENSATION.**

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, unless such employees are exempt under ORS 656.126.

**F. CERTIFICATES OF INSURANCE.**

As evidence of the insurance coverages required by this Contract, the Contractor shall furnish Certificate(s) of Insurance to the OSU Contract Administrator, upon request. The Certificate(s) will specify all of the parties who are Additional Insureds (or Loss Payees). Insurance coverages

required under this Contract shall be obtained from acceptable insurance companies or entities. Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder.

**G. NOTICE OF CANCELLATION OR CHANGE.**

Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to OSU, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to OSU. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify OSU of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

**6. INDEMNIFICATION:**

**A. INDEMNITY.**

- a. Contractor shall indemnify and hold harmless OSU and its officers, board members, employees, agents and other representatives against claims, expenses, or losses: (i) that result from Contractor's negligence, wrongful acts or willful misconduct, or (ii) alleging Contractor's services, information or materials supplied by Contractor to OSU under this Contract, or OSU's use of any of the foregoing infringes on any patent, copyright, trade secret, trademark, or other proprietary right of a third party.
- b. OSU's right to receive indemnification under this Section is conditioned upon OSU giving reasonably prompt notice and assistance of any claim; provided however, that OSU's failure to provide notice and assistance does not limit OSU's right to indemnification except to the extent such failure or assistance materially affects Contractor's ability to defend the claim.
- c. Contractor's indemnification obligation under this Section includes but is not limited to all of OSU's expenses of litigation, court costs and reasonable attorney fees.

**B. DEFENSE.**

- a. Contractor shall have control of the defense with counsel reasonably acceptable to OSU, except that: (i) OSU may join the defense with its own counsel and at its own expense if OSU determines there is a conflict of interest or there is an important government principle at issue, and (ii) OSU'S consent is required for any settlement that requires OSU to pay any money, does not release OSU from all liability from the claim, or adversely affects OSU's interest.

**7. LAWS AND POLICIES:**

**A. APPLICABLE LAW; JURISDICTION AND VENUE.**

- a. The laws of the State of Oregon (without giving effect to its conflict of laws principles or laws) govern all matters arising out of or relating to the Contract, including, without limitation, its validity, interpretation, construction, performance or enforcement. Any party bringing a legal action or proceeding against the other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of Oregon for Benton County.
- b. Notwithstanding paragraph (a), if a legal action or proceeding must be brought in a federal forum, the party shall bring the legal action or proceeding in the United States District Court for the District of Oregon. This paragraph does not authorize Contractor to bring a legal action or proceeding against OSU in a federal forum except to the extent Congress has validly abrogated OSU's sovereign immunity. This paragraph is also not a waiver by OSU of any form of immunity, including without limitation sovereign immunity and immunity based on the Eleventh Amendment to the United States Constitution.



- c. Except as set forth in paragraph (b), the parties consent to in personam jurisdiction in the above courts and waive any objection to venue and any objection that the forum is inconvenient.

**B. COMPLIANCE WITH APPLICABLE LAWS AND POLICIES.**

- a. The parties shall at all times comply with all applicable federal, state and local laws, regulations, executive orders and ordinances pertaining to their respective businesses, products or services, employment obligations, and the subject matter of this Contract. The parties shall at all times comply with all applicable standards and policies of OSU, including without limitation any such laws or regulations regarding employment discrimination. If this Contract is being funded with federal funds, Contractor agrees to comply with all applicable federal contracting statutes, regulations and policies.
- b. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Paragraphs 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g; (x) the Health Insurance Portability and Accountability Act requirements noted in OAR 125-055-0115; (xi) the Oregon Consumer Identity Theft Protection Act, ORS 646A.600-646A.628; (xii) all regulations and administrative rules established pursuant to the foregoing laws; and (xiii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated.

**C. FEDERALLY REQUIRED PROVISIONS.**

- a. Equal Employment Opportunity – Contractor shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- b. Rights to Inventions Made Under a Contract or Agreement – If this Contract is for the performance of experimental, developmental, or research work, the Federal Government and OSU have rights in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- c. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended – If this Contract provides for payments in excess of \$100,000, Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- d. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for a contract of more than \$100,000 shall file a certification that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor shall require any subcontractor who applies or bids for subcontract in excess of \$100,000 to provide a similar

certification to the next higher tier (Contractor or subcontractor as applicable). Each tier shall also disclose any lobbying with non-Federal funds in connection with obtaining any Federal award. Contractor or subcontractor must forward any disclosures from tier to tier up to OSU.

- e. Debarment and Suspension (E.O.s 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. If this Contract is in excess of the small purchase threshold, Contractor hereby certifies they are not listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs.
- f. Legal Residents – Contractor shall ensure that all farm laborers employed by Contractor and supplied to OSU are US Citizens or legal residents in accordance with the employment verification provisions of the Immigration and Nationality Act, according to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) signed on September 30, 1996, and any revisions of such Act. It is the Contractor's responsibility to verify all legal aliens' compliance with current laws and regulations of the United States.

D. PUBLIC RECORDS LAW NOTICE.

OSU advises Contractor that information OSU receives may be subject to public inspection under Oregon Public Records Law (ORS 192.410-192.505).

E. SAFETY AND HEALTH REQUIREMENTS/HAZARD COMMUNICATION.

Services supplied under this Contract shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State of Oregon Workers' Compensation Division. Contractor shall notify OSU prior to using products containing hazardous chemicals to which OSU employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon OSU's request, Contractor shall immediately provide Material Safety Data Sheets, as required by OAR Ch. 437, for the products subject to this provision.

F. FIREARMS POLICY.

OSU has a policy that prohibits Contractor and Contractor's employees, agents, and subcontractors from possessing firearms on OSU property.

G. PARKING.

Contractors doing business on the OSU campus may be required to have a permit to park if utilizing restricted street parking or parking lots. Contractor parking permits may be obtained through OSU's Office of Transit & Parking Services.

H. SEXUAL HARASSMENT POLICY.

OSU has policies that prohibit sexual harassment of members of the OSU community and in keeping with those policies Contractor and Contractor's employees, agents, and subcontractors are prohibited from engaging in sexual harassment of members of the OSU community.

I. SMOKING POLICY.

OSU has a policy that prohibits Contractor and Contractor's employees, agents, subcontractors from smoking on the OSU campus or other OSU owned property. The smoking prohibition includes all indoor and outdoor spaces.

J. WEBSITE ACCESSIBILITY.

If Contractor is designing or developing web page(s) for OSU under this Contract, Contractor shall design and develop (as applicable) the web page(s) in conformance with OSU's Policy on Information Technology Accessibility available at <http://oregonstate.edu/accessibility/ITpolicy>.

**8. GENERAL TERMS AND CONDITIONS:**

A. ORDER OF PRECEDENCE.

This Contract consists of the following, in descending order of precedence: the terms and conditions of this Contract less its exhibits, the Contract exhibits, and amendments assigned to the Contract.

B. NO THIRD PARTY BENEFICIARY.

OSU 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 parties

C. ASSIGNMENT/SUBCONTRACT/DELEGATION.

Contractor shall not assign, subcontract, delegate or otherwise transfer any of its rights or obligations under this Contract, without the prior written approval of OSU. Any assignment of rights or delegation of duties is prohibited under this Section, whether by merger, consolidation, dissolution, operation of law or any other manner. Any purported assignment of rights or delegation of duties in violation of this Section is void. OSU's consent to delegation does not relieve Contractor of any of its performance obligations.

D. WAIVER.

No waiver of an obligation under this Contract is effective unless it is in writing and signed by the party granting the waiver. No failure or delay in exercising any right or remedy, or in requiring the satisfaction of any condition under this Contract operates as a waiver or estoppel of any right, remedy or condition.

E. ACCESS TO RECORDS AND AUDIT.

Contractor shall maintain accurate books, records, documents, and other evidence (collectively, "Records") following accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. Contractor shall permit OSU and the federal government and their respective duly authorized representatives to have access to the Records that are directly pertinent to this Contract for the purpose of conducting an audit, or other examination, or for creating excerpts or transcripts. Contractor shall maintain Records for OSU's review for at least six years beyond the term of the Contract. Contractor shall promptly remedy any discrepancies involving deviation from the terms of this Contract and shall promptly reimburse OSU for any commitments or expenditures found by OSU to have been in excess of amounts authorized by OSU under this Contract.

OSU shall have the right to an independent third-party audit of the Contractor's records associated with or related to the goods or services provided for under this Contract. OSU may request an independent third-party audit no more than one time per calendar year. OSU will determine the time-period that will be the subject of the audit. However, the entire term of the Contract, including the original term and any subsequent renewals or extensions, may be the subject of the independent third-party audit at any time. Contractor shall bear the full cost of such independent third-party audit.

F. GOVERNMENT EMPLOYMENT STATUS.

Contractor certifies that either (a) it is not currently employed by OSU or the federal government; or (b) if Contractor is so employed, Contractor has fully disclosed to OSU in writing such employment

status, is in full compliance with any statutes, regulation, and OSU or the federal government policies regarding employee contracting, and agrees to indemnify and hold harmless OSU for any failure by Contractor to comply with such statutes, regulations, or policies.

G. INDEPENDENT CONTRACTOR STATUS.

The services to be rendered under this Contract are those of an independent contractor. OSU reserves the right (a) to determine and modify the delivery schedule for the services and (b) to evaluate the quality of the services; however, OSU may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the services. Contractor is not an officer, employee or agent of OSU as those terms are used in ORS 30.265. Contractor has no authority to act on behalf of OSU and shall not purport to make any representation, contract, or commitment on behalf of OSU.

H. NOTICE.

- a. A party giving or making any notice, request, demand or other communication (each a "Notice") pursuant to this Contract shall give the Notice in writing and use one of the following methods of delivery: personal delivery, United States Postal Service Registered or Certified Mail (return receipt requested and postage prepaid), overnight courier (with all fees prepaid), facsimile or e-mail to the other party's address as listed on the signature page of this Contract. Notice to OSU is to be delivered to the Contract Administrator and Departmental Administrator except where this Contract expressly directs or permits delivery of Notice to a different Department.
- b. Notice is effective: (i) if given by facsimile, upon receipt by the sending party of an appropriate facsimile confirmation; (ii) if given by e-mail, by confirmation of receipt by return e-mail, which is not satisfied by an automatically-generated message that the recipient is out of the office or otherwise unavailable; or (iii) if given by any other means, when delivered at the address specified in this Section.

OSU Contract Administrator  
OSU PCMM  
ATTN: 173806 Contract Administrator  
644 SW 13<sup>th</sup> Street  
Corvallis, OR 97333  
Telephone: (541) 737-4261  
Fax: (541) 737-2170  
E-mail: [pacs@oregonstate.edu](mailto:pacs@oregonstate.edu)

and: OSU Departmental Administrator  
(Input appropriate administrator)

CONTRACTOR Contract Administrator  
[Name]  
[Title]  
[Address]  
[City, State, Zip]  
Telephone: [Phone Number]  
Fax: [Fax Number]  
E-mail: [E-Mail Address]

I. OSU NAME AND TRADEMARK.

Contractor shall not identify this Contract, nor use OSU's names, trademarks, service marks, or other proprietary marks in any of Contractor's marketing material, advertising, press releases, publicity matters or other promotional materials without the prior written consent of OSU, which consent may be withheld in OSU's sole discretion.

J. RECYCLED PRODUCTS.

Contractors will use recycled products, as defined in ORS 279A.010(1)(ii), to the maximum extent economically feasible in the performance of the Contract.

K. SALES AND USE TAXES.

OSU shall pay all applicable sales, excise, or use taxes in connection with this Contract. Invoices shall separately identify all such taxes and shall include either Contractor's sales tax or use tax permit number. Contractor shall be responsible for all other taxes, including taxes based upon Contractor's income. Contractor shall indemnify, defend, and hold harmless OSU from and against any interest, penalties, or other charges resulting from the non-payment or late payment of taxes or other charges for which Contractor failed to invoice OSU or which Contractor otherwise failed to pay in a timely manner.

L. FORCE MAJEURE.

Neither party is responsible for delay caused by an act or event that prevents the party from performing its obligations under this Contract where such cause is beyond the party's reasonable control and the nonperforming party has been unable to avoid or overcome the act or event by the exercise of due diligence. Such acts or events include without limitation fire, riot, acts of nature, terrorist acts, or other acts of political sabotage or war. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Contract. However, if delay due to a force majeure event continues for an unreasonable time, as determined by OSU, then OSU is entitled to terminate the Contract.

M. EXECUTION AND COUNTERPARTS.

This Contract may be executed by facsimile or PDF and in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

N. SURVIVAL.

The terms and conditions of this Contract that by their sense and context are intended to survive termination or expiration hereof shall so survive.

O. SEVERABILITY.

If any provision of this Contract is determined to be invalid, illegal or unenforceable, the remaining provisions of this Contract remain in full force and effect if the essential terms and conditions of this Contract for both parties remain valid, legal and enforceable.

P. MERGER.

This Contract, including all documents referred to herein and attached hereto, constitutes the entire agreement between the parties and supersedes all prior representations, understanding and agreements between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Contract. No amendment, consent, or waiver of terms of this Contract shall bind either party unless it is in writing and signed by authorized representatives of each of the parties. Any such amendment, consent, or waiver is effective only in the specific instance and for the specific purpose given.

**9. CERTIFICATIONS AND SIGNATURES:**

This Contract must be signed in ink by an authorized representative of Contractor. The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that:

- A. The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor and that this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;
- B. Contractor is not a contributing member of the Public Employees’ Retirement System and shall be responsible for any federal or state taxes applicable to payment under this Contract. Contractor shall not, by virtue of this Contract, be eligible for federal Social Security, employment insurance, workers’ compensation or the Public Employees’ Retirement System, except as a self-employed individual.
- C. Pursuant to OSU Standard 580-061-0030 Contractor has not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts;

Each of the parties has caused its duly authorized representative to execute this Contract on the date set forth in its respective signature block below.

**CONTRACTOR:**

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

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

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

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

**OSU:**

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

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

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

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

**ATTACHMENT A**  
**Hourly Pay Rates, Hourly Bill Rates and Gross Profit %**

**(Insert Exhibit D, when awarded, as part of the Contract)**

**EXHIBIT B  
CERTIFICATIONS**

By signature on this certification the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury the undersigned shall comply with the following:

**SECTION I. OREGON TAX LAWS**

The undersigned hereby certifies under penalty of perjury that the Proposer, to the best of the undersigned's knowledge, is not in violation of any tax laws described in ORS 305.380(4).

**SECTION II. AFFIRMATIVE ACTION**

The undersigned hereby certifies that they have not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts, pursuant to OAR 580-061-0030 (3).

**SECTION III. COMPLIANCE WITH SOLICITATION**

The undersigned agrees and certifies that they:

1. Have read, fully understands and agrees to be bound by the Request for Proposal and all Exhibits and Addenda to the Request for Proposal; and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or Contract termination; and
3. shall furnish the designated item(s) and/or service(s) in accordance with the Request for Proposal and the Contract; and
4. Has provided a correct Federal Employer Identification Number or Social Security Number with the Proposal.

**SECTION IV. PERMISSIVE COOPERATIVE PROCUREMENTS**

If Proposer is awarded a contract from this Request for Proposal, Proposer hereby (check one)

agrees

disagrees

to offer the resulting contractual terms and prices to other Oregon public institutions.

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

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

Name (Type or Print): \_\_\_\_\_

Telephone:(\_\_\_\_\_)\_\_\_\_\_

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

Fax:(\_\_\_\_\_)\_\_\_\_\_

FEIN ID# or SSN# (required): \_\_\_\_\_

Email: \_\_\_\_\_

Company: \_\_\_\_\_

Address, City, State, Zip: \_\_\_\_\_

Construction Contractors Board (CCB) License Number (if applicable): \_\_\_\_\_

Business Designation (check one):

Corporation

Partnership

LLC

Sole Proprietorship

Non-Profit



**EXHIBIT C  
REFERENCES**

**REFERENCE 1**

COMPANY:	_____	CONTACT NAME:	_____
ADDRESS:	_____	PHONE NUMBER:	_____
CITY, STATE ZIP:	_____	FAX NUMBER:	_____
WEBSITE:	_____	E-MAIL:	_____
GOODS OR SERVICES PROVIDED:	_____		

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**REFERENCE 2**

COMPANY:	_____	CONTACT NAME:	_____
ADDRESS:	_____	PHONE NUMBER:	_____
CITY, STATE ZIP:	_____	FAX NUMBER:	_____
WEBSITE:	_____	E-MAIL:	_____
GOODS OR SERVICES PROVIDED:	_____		

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**REFERENCE 3**

COMPANY:	_____	CONTACT NAME:	_____
ADDRESS:	_____	PHONE NUMBER:	_____
CITY, STATE ZIP:	_____	FAX NUMBER:	_____
WEBSITE:	_____	E-MAIL:	_____
GOODS OR SERVICES PROVIDED:	_____		

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**EXHIBIT D - PRICING**  
**Hourly Pay Rates, Hourly Billing Rates and Gross Profit Percentage**

**Hourly Pay Rates** (Rates paid to the employee)

**Hourly Billing Rates** (Contractor's direct costs [wages, taxes, workers compensation, and other personnel expenses] + gross profit)

**Gross Profit %** (Percentage applied to Contractor's direct costs)

Job Title	Hourly Pay Rate	Hourly Billing Rate	Gross Profit %

Subject to any raises in State of Oregon Minimum Wage, and possible future costs of health insurance coverage for employees.

**Identify Branch Stations where your services are being offered. See section 2.02**