



**INFORMAL INVITATION TO BID**  
**EOU Campus Carpet Cleaning**  
**EASTERN OREGON UNIVERSITY**  
**ITB #FP-2024-06**

The Owner is seeking Proposals from Prime Contractors to pursuant to this **INFORMAL INVITATION TO BID** ("ITB"). By submitting a Proposal, the Proposer represents that they have carefully read the terms and conditions of this ITB, including all attachments and addenda, and agrees to be bound by them.

**OWNER:**

*Eastern Oregon University  
One University Boulevard  
La Grande, OR 97850*

**SERVICE:**

*FY 25 Carpet & Upholstery Cleaning for: ISB, Student Health, Library, Loso Hall, Daugherty Hall, North Hall, Alikut Hall, Eocene Apartments, Various Upholstery Cleaning (listed in the Bid Schedule)*

**OWNER CONTACT PERSON** - Proposers shall submit the Proposal to:

*Eastern Oregon University  
Attention: Lowann Vanleuven  
Business & Finance Manager  
Facilities & Planning Office  
One University Blvd.  
La Grande, Oregon 97850*

**ISSUE DATE, CLOSING DATE & TIME:**

The Issue Date for this ITB is **May 22, 2024**

All Proposals must be submitted pursuant to the instructions below. **The Proposal shall be emailed in a PDF format, to [bids@eou.edu](mailto:bids@eou.edu), (office 541-962-3020) and must be electronically received by 3:00 PM Pacific Time, June 12<sup>th</sup>, 2024.**

Proposals delayed or lost by email filtering systems or failures, may be considered at EOU's sole discretion.

## SECTION 1 – INFORMATION REGARDING PROPOSAL

### INTRODUCTION

Eastern Oregon University (“EOU”) is seeking proposals per EOU Procurement Policy, to select a professional vendor to provide commercial carpet cleaning at certain areas of the EOU campus building for Fiscal Year (FY) 25.

### IMPORTANT NOTICE

It will be the responsibility of potential proposers to refer daily to the Oregon Public Universities Shared Resources website ([www.orpu.org](http://www.orpu.org)) and Oregon Buys to check for any available addenda, response to clarifying questions, cancellations or other information pertaining to this Request for Proposals (“ITB”).

### SCHEDULE OF EVENTS

The timing and sequence of events resulting from this ITB will be ultimately determined by the EOU Facilities & Planning Department. This Schedule is illustrative of optimal timing goals, but may be changed.

ITB Issue Date.....May 22, 2024

Clarifying Questions & Requests for Change Due.....May 28, 2024 (3:00 pm, PT)

Closing Date (Proposals Due).....June 12, 2024 (3:00 pm, PT)

Deadline for Protest of Award .....7 calendar days after award date

A contract is expected to be fully executed, within 8 days of closing date.

### TERM OF CONTRACT

The Contract will begin upon execution and reach completion by no later than June 30, 2025 for these FY25 services.

Decisions for additional periods of service are to be made by mutual agreement between the professional vendor and EOU, and will be formalized by written amendment of the original contract. Amendments for additional periods of service are subject to the vendor’s continued successful performance for the remaining of FY25 as determined by EOU.

## SCOPE OF WORK

EOU is soliciting proposals to select a vendor who is able to provide commercial carpet cleaning services. The scope of work will consist of the following:

Hepa A Pre-Vacuum, Pre Conditioning soil, 300 degree Truck Mounted Hot Water Extraction and Final Groom. Additional treatments shall include: Treatments for Pet soil: Enzyme treatment for, pet dander, fecal soil, urine vomit, etc. Beware of loose carpet tile, do no over-wet. Chairs will be placed on table by EOU staff. This scope shall be provided for the following areas:

A. Integrated Services Building (ISB) (approximately 17,495 sf)

- Date needing cleaned January 17-20, 2025
- Bull Pen cubicle area, Halls, Storage room, Training room, Entry, Carpeted play area, and NW room with cubicles.
- Rooms/Conference Rooms/Offices include: 110, 111, 112, 113, 114, 115, 116, 117, 120, 123, 131, 132, 134, 139, 140, 141, 148
- Classrooms 147, 153
- Call Center

B. Library (approximately 18,418 sf)

- Dates needing cleaned December 26-30, 2024
- All lobby carpeted areas on floors 0-3
- Rooms, and study areas include:
  - i. Basement-015 & 016
  - ii. 1<sup>st</sup> floor-125
  - iii. 2<sup>nd</sup> floor-201, 202, 204, 206, 207, 208, 214, 215, 216, 217, 224, 250, 255, 256
  - iv. 3<sup>rd</sup> floor-301

C. Student Health Center (approximately 1,050 sf)

- Dates needing cleaned August 16, 2024
- Front area, Hall, (3) offices, Back office area, Basement
- Stairs, (3) Area rugs

D. Loso Hall (approximately 2,780 sf)

- Dates needing cleaned Jan 3-5, 2025
- 2<sup>nd</sup> floor labs, lounge, and learning center Room# 230, 232, 234, 236

E. Residence Life (approximately 76,797 sf)

- Daugherty Hall (approximately 25,710 sf) Dates needing cleaned July 22-28, 2024
  - RA Room (8 suites with 4 beds each), (3) Common Areas (mezzanine, media room, craft room), (8) 3-bedroom suites, (20) 2-bedroom suites,

- All Hallways, (3) Offices, Mailroom, 5' x 8' landing areas in both stairwells
  - Pet enzyme treatment in rooms that need it
  - North Hall (approximately 25,840sf) Dates needing cleaned July 22-28, 2024
    - RA Room, (8 suites with 4 beds each), (3) Common Areas (mezzanine, Media room Conference room, (8) 3-bedroom suites, (20) 2-bedroom suites.
    - All Hallways, Office, Mailroom, 5' x 8' landing areas in both stairwells, (1) Coordinators Apartment (1-bedroom apartment)
    - Pet enzyme treatment in rooms that need it
  - Alikut Hall (approximately 17,553 sf) dates needing cleaned August 19-25, 2024
    - 1<sup>st</sup> Floor- Hall, lounge area with vending machines, (8) suites with various sized room in each suite\*
    - 2<sup>nd</sup> Floor- Hall, (8) suites with various sized room in each suite\*, & The Directors Apartment
    - 3<sup>rd</sup> Floor- Hall, (8) suites with various sized room in each suite\*
    - Pet enzyme treatment in rooms that need it.
- \*room various sizes can be- 8'x12', 3'x12', 7'x12', 9'x12', 3'x9'
- Eocene Apartments (approximately 7,824 sf) Dates needing cleaned August 26-September 1, 2024
    - Apartments: 5 A-D, 6 A-D, 7 A-D, 8 A-D (16 apartments)
    - Cleaning in each Apartments- Living room, Hall/closet, Bedroom #1, Bedroom #2
    - Pet enzyme treatment in rooms that need it
  - Upholstery Needing Cleaned: Daugherty Hall- couches 39 chairs 47. North Hall-couches 40 chairs 47. Alikut Hall- couches 24, chairs 24. Eocene Apartments- couches 16 chairs 36

Setup charges for complicated, hard to reach areas, are not part of this base bid and can be added with written authorization prior to start of cleaning. Professional vendor shall setup charges for review and authorization prior to start of cleaning.

## SCHEDULE

The professional shall provide a schedule showing the dates and duration for each building. Upon selection, this schedule will be refined as requested by EOU then will become part of the contract.

## EVALUATION CRITERIA

Proposals will be evaluated for completeness and compliance with this ITB and other qualifications of the Proposers. Proposals considered complete will be evaluated by a committee to determine if they comply with the administrative, contractual, and technical requirements of the ITB. If the Proposal is unclear, Proposers may be asked to provide written clarification. **Proposals that do not specifically address the scope of work or do not include the complete Proposal Content may be rejected as non-responsive.**

Proposals will be evaluated based on the following scoring criteria. The selection committee will score proposals and the contractor with the highest score will be selected:

**10 points possible:**

Bid Schedule Cost.....	5 points
Supplemental Rate sheet.....	0 points
Schedule: completion date and level of adequate information.....	2 points
Team Qualifications based on references .....	3 points

The costs provided by the contractor will be used in the selection process. Additionally, the professional vendor shall provide rate sheet from which additional services may be developed as funding allows for FY25. Upon selection, the Owner will notify the apparent qualified proposer of the selection and issue an Intent to Award.

### EVALUATION TERMS

Under the University purchasing policy, EOU reserves the right to reject any and all Proposals received as a result of this ITB.

1. **Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the closing deadline, provided that a written request is received by EOU Administrative Coordinator, prior to the Closing date. Withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.
2. **Requests for Clarification and Requests for Change:** Proposers may submit questions regarding the ITB. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule of Events, at the phone number and email address as listed in the Contact Information section of the ITB. EOU will provide written response to questions to all Proposers that submit a Notice of Interest.
  - a. Proposers may submit requests for changes under the same conditions as noted above for submitting questions. Requests for changes must include the reason for the change, identify the proposed changes, and why the proposed changes are in the best interests of EOU. The purpose of this requirement is to permit EOU to correct, prior to the opening of Proposals, ITB terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition.
  - b. EOU will consider requested changes and, if appropriate, amend the ITB. EOU will provide reasonable notice of its decision to all Proposers that submit a Notice of Interest.
  - c. All clarifications and changes to the ITB shall be by written addendum to the ITB. No other clarifications or changes shall be binding, including but not limited to oral or written instructions or information concerning this ITB from EOU managers, employees or agents to prospective Proposers.
3. **Protests of the ITB/Specifications:** Protests must be in accordance with OAR 580-061-0145. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on

the date indicated in the Schedule of Events, at the Purchasing and Contract Services address or email address as listed in the Contact Information section of the ITB. Protests may not be faxed. Protests of the ITB specifications must include the reason for the protest and any proposed changes to the requirements.

4. **Addenda:** If any part of this ITB is amended, an addendum will be provided on the Oregon Public Universities Shared Resources website ([www.orpu.org](http://www.orpu.org)), along with a copy to all parties who submit the Notice of Interest.
5. **Post-Selection Review and Protest of Award:** EOU will name the apparent successful Proposer in a "Notice of Intent to Award" letter. Identification of the apparent successful Proposer is procedural only and creates no right whatsoever in the named Proposer to award of the contract or other benefit hereunder. Competing Proposers will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the "Notice of Intent to Award" letter to review the file and evaluation report at the Purchasing and Contract Services office and file a written protest of award. Any award protest must be in writing and must be delivered by hand delivery, mail, or email to the address for the Purchasing and Contract Services Office as listed in the Contact Information section of the ITB. Protests may not be faxed.
  - a. EOU will consider any protests received and either:
    - i. Reject all protests and proceed with final evaluation and permissible contract negotiation with the apparent successful Proposer. Pending the satisfactory outcome of this final evaluation and negotiation, EOU may subsequently enter into a contract with the named Proposer; OR
    - ii. Sustain a meritorious protest(s) and reject the proposal of the apparent successful Proposer as nonresponsive, provided such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, EOU may name a new apparent successful Proposer; OR
    - iii. Reject all Proposals and postpone or cancel the ITB.
    - iv. The EOU Vice President for Finance and Administration or designee will timely respond to the protest after receipt. This protest decision shall be final.
6. **Acceptance of Contractual Requirements:** Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of EOU.
7. **Public Records:** Proposals are deemed confidential until the "Notice of Intent to Award" letter is issued. This ITB and one copy of each original submitted Proposal, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND**

- a. *"This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."*
  - b. 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." ORS 192.500(1). Therefore, non-disclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.
8. **Investigation of References:** EOU reserves the right to investigate all references in addition to supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, lawful payment of subcontractors and workers and any other factor EOU deems relevant to this ITB. EOU may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.
9. **ITB Proposal Preparation Costs and Other Costs:** Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by EOU) and any other costs of any kind or nature whatsoever are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by EOU.
10. **Clarification and Clarity:** EOU reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear and favorable manner possible.
11. **Right to Reject Proposals:** EOU reserves the right to reject any or all Proposals, if such rejection would be in the public interest, as determined by EOU in its discretion.
12. **Cancellation:** EOU reserves the right to cancel or postpone this ITB at any time or to award no contract.
13. **Proposal Terms:** All Proposals, including any price quotations, will be valid and firm through a period of 60 calendar days following the Closing date. EOU may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.
14. **Oral Presentations:** At EOU's sole option, Proposers may be required to give an oral presentation of their Proposals to EOU, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Issuing Office will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by EOU. Note: Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, written Proposals should be complete.
15. **Usage:** It is the intention of EOU to utilize the successful Proposer(s) to provide services as outlined in the below Scope of Work.
16. **Sample Contract:** Submission of a Proposal in response to this ITB indicates Proposer's



willingness to enter into a Personal/Professional Services Contract containing terms substantially similar to the terms listed in Exhibit RFP-D – Eastern Oregon University Personal/Professional Services Contract, attached hereto and made a part hereof. No action or response to the sample contract is required under this ITB. Any objections to the sample contract terms should be raised in accordance with Paragraphs 3 and 4 of the “General Provisions” of this ITB, pertaining to requests for clarification or change or protest of the ITB/specifications, and as otherwise provided for in this ITB.

17. **Review for Responsiveness:** Upon receipt of all Proposals, the Issuing Office or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If EOU determines that a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. EOU reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, the Proposal is non- responsive. One copy of the Proposal will be archived and all others discarded.
18. **Rejections and Withdrawals:** EOU reserves the right to reject any or all Proposals or to withdraw any item from the award.
19. **ITB Incorporated into Contract:** This ITB will become part of the Contract between EOU and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this ITB, their Proposal(s), and the terms of Exhibit RFP-D. In addition, the final negotiated contract must reflect a mutual intent of the parties that the management agreement will comply with Internal Revenue Service, Revenue Procedure 97-13 as described in section 5.03(4) thereof (contemplating a fixed fee arrangement.)
20. **Communication Blackout Period:** Except as called for in this ITB, Proposers may not communicate with members of the Evaluation Committee about the ITB until the apparent successful Proposer is selected, and all protests, if any, have been resolved.
21. **Prohibition on Commissions:** EOU will contract directly with persons/entities capable of performing the requirements of this ITB. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the proposal process.
22. **Ownership of Proposals:** All proposals in response to this ITB are the sole property of EOU, and subject to the provisions of Oregon Revised Statutes ORS 192.410-192.505 (Public Records Act).
23. **Clerical Errors in Awards:** EOU reserves the right to correct inaccurate awards resulting from its clerical errors.
24. **Rejection of Qualified Proposals:** Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions or specifications of the ITB or the EOU Sample Contract.
25. **Collusion:** By responding, the Proposer states that the proposal is not made in connection with any competing Proposer submitting a separate response to the ITB, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, or employee of EOU has a pecuniary interest in this Proposal.
26. **Evaluation Committee:** Proposals will be evaluated by a committee consisting of representatives



from EOU. EOU reserves the right to modify the Evaluation Committee make-up at its sole discretion. The committee's recommendations will be forwarded to the Vice President for Finance and Administration, or designee, for final approval

27. **Commencement of Work:** The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protests have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by EOU.

## SECTION 2 – INFORMATION REQUIRED FROM PROPOSERS

### PROPOSAL FORM AND CONTENT

Proposals that do not contain all the information requested in this and other sections may be rejected as non-responsive.

#### Submission Format:

- a. The Proposal shall be in one (1) electronic PDF format. Scanning the filled-out Exhibit RFP-A is acceptable, given the information is legible and merged into one (1) PDF file.

### REQUIRED FORM AND CONTENT

1. You must complete the **Bidder/Proposer Tax Laws and Non-discrimination Certification** sheet, signed by an authorized company official.
2. The Proposal must include the following, in one (1) PDF file:
  - a. **Title Page or Cover Letter.** The title page or cover letter should indicate the date, subject, name of the Proposer, address, telephone number, e-mail address, name and title of the Proposer's contact person as well as a signature of an authorized official with the authority to negotiate and contractually bind the Proposer.
  - b. **Exhibit RFP-A:** Fully fill out the Bid Schedule.
  - c. **Exhibit RFP-B:** Bidders/Proposer Tax Laws and Non-discrimination Certification
  - d. **Exhibit RFP-C:** References fully completed. Three references for similar types of projects are required.
  - e. **Schedule:** Submit a schedule that shows the dates and duration for each building

**SUBMITTAL INFORMATION**

All proposal must be submitted pursuant to the instructions below.

**Proposal shall be emailed in a PDF format, to [bids@eou.edu](mailto:bids@eou.edu), (office 541-962-3020) and must be electronically received by 3:00PM Pacific Time, June 12, 2024.** The email subject line must include “**EOU FY25 Professional Carpet & Upholstery Cleaning Services**” Proposers should telephone and confirm electronic receipt of the email document before the time and date above. Proposals delayed or lost by email filtering systems or failures may be considered at EOU’s sole discretion.

**EXHIBIT RFP-A**
**BID SCHEDULE**

The work is offered in one bid schedule on a unit price basis. Each item is to be bid. If an item is not filled in, the bid may be considered non-responsive. No substitutions, alternate bids or partial bids are allowed, except as provided by written addenda from the Owner. The Proposer shall fill out showing bid amounts and properly signed. This bid schedule will be broken into three separate contracts based on funding requirements. ***The Owner reserves the right to remove line item(s) to meet budget limitations on a line by line basis.***

<u>Item No.</u>	<u>Description</u>	<u>Approx. Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Subtotal</u>
A	Integrates Service Building-ISB	17,495	SF		
B	Library	18,418	SF		
C	Student Health Center	1,050	SF		
D	Loso Hall	2780	SF		
E	Daugherty Hall	25,710	SF		
F	North Hall	25,840	SF		
G	Alikut Hall	17,553	SF		
H	Eocene Apartments	7,824	SF		
I	Upholstery-couches	119	EA		
J	Upholstery-chairs	154	EA		
<b>TOTAL</b> <b>=</b>					

**Estimated Cost Proposal**      \$

(Amount written in text format)

**Additionally, each proposer shall submit a FY25 Rate Sheet, and copies of Certificates of Insurance**

**EXHIBIT RFP-B****BIDDER/PROPOSER TAX LAWS AND NON-DISCRIMINATION CERTIFICATION****ITB #FP-2023-06**

I, the undersigned, have read all of the terms and conditions of this Request for Proposals, and I understand that if awarded the contract, I and the firm represented herein shall be bound by its terms and conditions and representations made in this response. I certify that Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

**Certified Minority, Women, and Emerging Small Business**

For statistical purposes only, please indicate if your firm is an Oregon certified minority, women, or emerging small business: ☐ **DBE** ☐ **MBE** ☐ **WBE** ☐ **ESB**

**Certificate of Compliance with Tax Laws**

I, the undersigned, (Check one )

\_\_\_\_\_ hereby certify under penalty of perjury that I am not in violation of any Oregon Tax laws,

\_\_\_\_\_ hereby certify under penalty of perjury that I am authorized to act on behalf of Contractor and, to the best of my knowledge, Contractor is not in violation of any Oregon tax laws.

For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620

Business Designation (check one): ☐ **Corporation** ☐ **Partnership** ☐ **Sole Proprietorship**

☐ **Governmental/Non-Profit** ☐ **Limited Partnership** ☐ **Limited Liability Partnership**

☐ **Limited Liability Company**

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

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

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

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

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

Phone: \_\_\_\_\_

Firm: \_\_\_\_\_

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

City, State, Zip Code: \_\_\_\_\_

**EXHIBIT RFP-C****REFERENCES****REFERENCE 1**

COMPANY:

CONTACT NAME:

ADDRESS:

PHONE NUMBER:

CITY, STATE ZIP:

FAX NUMBER:

WEBSITE:

E-MAIL:

GOODS OR SERVICES PROVIDED:

**REFERENCE 2**

COMPANY:

CONTACT NAME:

ADDRESS:

PHONE NUMBER:

CITY, STATE ZIP:

FAX NUMBER:

WEBSITE:

E-MAIL:

GOODS OR SERVICES PROVIDED:

**REFERENCE 3**

COMPANY:

CONTACT NAME:

ADDRESS:

PHONE NUMBER:

CITY, STATE ZIP:

FAX NUMBER:

WEBSITE:

E-MAIL:

GOODS OR SERVICES PROVIDED:

## EXHIBIT RFP-D

EASTERN OREGON UNIVERSITY  
SAMPLE PUBLIC IMPROVEMENT CONTRACTEASTERN OREGON UNIVERSITY  
PUBLIC IMPROVEMENT CONTRACT #TBD

This Public Improvement Contract for «\_\_\_\_», made by and between EOU, hereinafter called “Owner”, and «\_\_\_\_» hereinafter called the “Contractor” (collectively the “Parties”), shall become effective on «\_\_\_\_» or the date this Public Improvement Contract has been signed by all the Parties and all required EOU Administrative approvals have been obtained, whichever is later.

**Project Name and Description:**

HERE

The Owner and the Contractor agree as follows:

**I. Contract Documents, Contract Price, and Work.**

**A. The Contract Documents.** The Contract Documents include the documents identified as such in the Eastern Oregon General Conditions for Public Improvement Contracts (the “General Conditions”) and as enumerated below and any amendments or modifications executed by the parties pursuant to the terms of the Contract. Unless otherwise stated, terms used in this Public Improvement Contract have the definition assigned to them in the General Conditions.

**B. Contract Price.** The Contractor, in consideration of the Contract Price of \$«\_\_\_\_» be paid to the Contractor by Owner in the manner and at the time provided in the Contract Documents, and subject to the terms and conditions provided for in the Contract Documents, hereby agrees to perform all Work described in and reasonably inferred from the Contract Documents. The Contractor acknowledges and agrees that the Contract Price is a lump sum, which shall be subject to additions or deductions only as provided in the Contract Documents. Contractor further agrees that Contractor is solely responsible for all costs of completing the Work that exceed the Contract Price and that Contractor is deemed to have allowed correct and sufficient amounts in the Contract Price to cover its related obligations under or arising from the Contract. The Contractor shall fully execute the Work described in the Contract Documents and all Work reasonably inferable therefrom, with the exception of any Work specifically indicated in the Contract Documents to be the responsibility of others.

**II. Date of Commencement and Completion**

**A. Commencement.** The date of the commencement of the Work shall be as follows:

[ « » ] The date of this Agreement.

[ « » ] A date set forth in a notice to proceed issued by the Owner.

[ « » ] Established as follows:

**B. Substantial Completion, Final Completion, and Liquidated Damages for Delay**

**1. Substantial Completion.** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

[ « » ] Not later than it is understood that the Owner reserves the right to reject any and all bids, to adjust the scope of the work within reasonable limits, including to meet approved budgets, and to postpone award for a reasonable ( « » ) Days from the date of commencement of the Work.

[ « » ] By the following date: « »

**2. Final Completion.** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Final Completion of the entire Work within [ ] Days of achieving Substantial Completion.

**3. Liquidated Damages for Delay.** Performance of the Work within the Contract Time, including but not limited to achieving Substantial Completion by the date required by the Contract Documents, is the essence of the Contract. The Contractor acknowledges that the Owner will sustain damages as a result of the Contractor's failure to achieve Substantial Completion of the Project in accordance with the Contract Documents. These damages may include, but are not limited to, delays in completion and use of the Project, and costs associated with Contract administration, additional costs paid to the Architect and the Owner's other contractors and consultants, and use of temporary facilities. The Contractor and the Owner acknowledge that the actual amount of damages would be difficult to determine accurately and agree that the following liquidated damages figure represents a reasonable estimate of such damages and is not a penalty.

a. Liquidated damages will be \$\_\_\_\_\_ for each day or partial day of delay that Substantial Completion extends beyond the required date of Substantial Completion.

b. The Contractor agrees to pay to the Owner the liquidated damage sums set forth above for each day of delay or any fraction thereof, and further agrees that the Owner may deduct such sums from payments the Owner otherwise owes to the Contractor under the Contract. If such deduction does not result in payment to the Owner of the assessed liquidated damages in full, the Contractor will promptly pay any and all remaining sums due to the Owner upon demand.

### III. Representatives.

**A. Contractor's Representative.** Contractor has named « \_\_\_\_\_ » its' authorized Representative to act on its behalf in all matters related to the Contract. Contractor shall not remove or replace its representative without the written consent of the Owner. Contractor must submit a request to remove or replace its representative to the Owner at least 30 days prior to the proposed removal and replacement.

**B. Owner's Representative.** Unless otherwise specified in the Contract Documents, the Owner designates \_\_\_\_\_ as its authorized representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment authorization, and to carry out the responsibilities of the Owner.

### IV. Payment

**A. Progress Payments.** Provided that the Contractor submits a complete application for payment meeting all requirements of Section E of the General Conditions by the [ « » ] day of the month and otherwise complies with the conditions for payment in the Contract Documents, the Owner shall pay to the Contractor the amount due under the Contract Documents by the [ « » ] day of the month.



**B. Final Payment.** Provided that the Contractor submits a complete application for payment meeting all requirements of Section E of the General Conditions and otherwise complies with the conditions for final payment in the Contract Documents and all other requirements for Final Completion are satisfied, the Owner shall pay to the Contractor the final amount due under the Contract Documents within [ « » ] days of the Owner's final acceptance of the Work. The Contractor's acceptance of final payment shall constitute a waiver of any and all claims by the Contractor and its Subcontractors.

**C. Interest.** Payments due and unpaid under the Contract shall bear interest from the date payment is due at the following rate: [ « » ].

## **V. Tax Compliance.**

The individual signing on behalf of Contractor hereby affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor's knowledge, the Contractor is not in violation of any of the tax laws described in ORS 305.380(4). For purposes of this certification, "tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

## **VI. Insurance and Payment and Performance Bonds.**

**A. Insurance.** During the term of this Contract, Contractor shall comply and shall require all of its Subcontractors to comply with the insurance requirements set forth in Exhibit A and shall provide proof of such compliance, including copies of insurance policies, upon Owner's request.

**B. Bonds.** The Contractor shall obtain performance and payment bonds meeting the requirements of Section G.2 of the General Conditions.

## **VII. Dispute Resolution.**

Claims and disputes arising out of the Contract or the Project that are not resolved pursuant to the Claims Review Process set forth in Section D.3 of the General Conditions shall be resolved by litigation as set forth in Section B.16 of the General Conditions.

## **VIII. Suspension and/or Termination**

**A. By the Owner.** The Contract may be suspended or terminated by the Owner as set forth in Section J of the General Conditions.

**B. By the Contractor.** In addition, the Contractor may terminate the Contract for cause in the event that the Owner fails to pay undisputed amounts owed to the Contractor pursuant to the Contract Documents; provided that the Contractor provides seven (7) Days written notice of its intent to terminate and Owner fails to cure within such seven (7) Day period. In the event that the Contractor terminates for cause, the Contractor shall be entitled to compensation for Work properly executed. Contractor shall not be entitled to lost profit or other compensation for Work not performed.

## **IX. Integration**

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

## **X. Compliance with Law.**

Contractor will comply with all federal, state, and local laws applicable to the Work under this Contract, and all regulations and administrative rules established pursuant to those laws, including without limitation, the following requirements of the Oregon Public Contracting Code set forth below, even if such requirements ordinarily would not apply to the Work under ORS 352.138 as set forth in Section A.4.5 of the General Conditions. In the event of a conflict between the provisions set forth below and similar provisions in the General Conditions, the provisions set forth below will govern.

**A. ORS 279C.605 (Notice of Claim on Bond).** Any person claiming a right of action under ORS 279C.600 must file a notice of claim as provided in ORS 279C.605.

**B. ORS 279C.800 to 279C.870 (Payment of Prevailing Wage Required).**

1. This Contract is subject to payment of prevailing wages under ORS 279C.800 to 279C.870. Each worker the Contractor, subcontractor or other person who is party to the contract uses in performing all or part of the Contract must be paid not less than the applicable prevailing rate of wage for each trade or occupation as defined by the Director of the State of Oregon Bureau of Labor and Industries ("BOLI") in the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon. The latest prevailing wage rates for public works contracts in Oregon are contained in the following publications: The Prevailing Wage Rates for Public Works Projects in Oregon, the PWR Apprenticeship Rates, and any amendments to the PWR rates or Apprenticeship rates. Such publications can be reviewed electronically at [http://www.boli.state.or.us/BOLI/WHD/PWR/pwr\\_state.shtml](http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_state.shtml).

2. This Contract is not subject to payment of prevailing wages under the federal Davis-Bacon Act (40 U.S.C. 3141 et seq.). Notwithstanding Section 17.1.xii.a of this Section, if this Contract is also subject to payment of prevailing wages under the Davis-Bacon Act, Contractor and any subcontractors must pay the higher of the federal prevailing wage rate or the state prevailing wage. The latest federal prevailing wage rates can be reviewed electronically at <http://www.wdol.gov/Index.aspx>. Contractors shall follow all prevailing wage rules including posting the Davis Bacon Poster at the worksite and submitting certified payroll records. The poster is available at <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>. The payroll form is at <http://www.dol.gov/whd/forms/wh347instr.htm>.

3. The applicable prevailing wages under subsections will be those in effect on the start of the Construction Phase as described in Section 3.b of this Contract, and shall be incorporated in the GMP Amendment or, if applicable, the Early Work Amendment.

4. The Contractor and all Subcontractors will keep the prevailing wage rates for this Project posted in a conspicuous and accessible place in or about the Project.

5. The Owner will pay a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee will be paid to the Commissioner under the administrative rule of the Commissioner.

6. If the Contractor or any Subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it will post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice will contain information on how and where to make claims and where to obtain future information.

**C. ORS 279C.845 (Prevailing Wage Certification; Additional Retainage).**

1. The Contractor and every Subcontractor will file certified statements with the Owner in writing in the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom the Contractor or Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work 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 will be verified by the oath of the Contractor or the Contractor's surety or Subcontractor or Subcontractor's surety that the Contractor and any Subcontractor has read such statement and certificate and knows the contents thereof, and that the same is true to the Contractor or Subcontractor's knowledge. The certified statements will 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. Audit will need access to these documents to help verify and validate the labor portion of the Cost of the Work. See also Section C.2 of the General Conditions.

2. The certified statement will be delivered or mailed by Contractor or Subcontractor to the Owner. Certified statements for each week during which the Contractor or Subcontractor employs a worker upon the public work will be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.870. Notwithstanding any other provision of this Contract and in addition to any other retainage required under this Contract, the Owner will retain 25 percent of any amount earned by the Contractor until the Contractor filed the certified statements with the Owner as required by this Section. The Owner will pay the retainage required under this Section within 14 days after the Contractor files the certified statements required by this Section.

3. Contractor and each Subcontractor will preserve the certified statements for a period of three years from the date of completion of the Contract.

## **XI. Miscellaneous Provisions.**

**A. Headings.** The headings used in the Contract are solely for convenience of reference, are not part of the Contract and are not to be considered in construing or interpreting the Contract.

**B. Savings Clause.** Should any provision of the Contract, at any time, be held to be invalid or unenforceable for any reason, and if the provisions of the Contract that are essential to each party's interests otherwise remain valid and enforceable, then the remaining provisions of the Contract shall remain in full force and effect and the court shall give the offending provision the fullest meaning and effect permitted by law.

**C. Coordination of Work.** The Contractor agrees to coordinate all Work with the activities of the Owner and the Owner's separate contractors and consultants at or adjacent to the Project sites.

## **XII. Enumeration of Contract Documents**

The Contract is comprised of the following Contract Documents:

**A. This Public Improvement Contract**

**B. The General Conditions**

**C. Scope:**

RFP Attachment A

**D. Addenda, if any:**

[insert]

**E. The following exhibits:**

Exhibit A: Contractor's Required Insurance

**F. The Solicitation Document and addenda thereto, Instructions to Offerors, and Supplemental Instructions to Offerors**

**G. The accepted Offer**

**H. Contract Amendments, Change Orders, and Change Directives issued after execution of this Public Improvement Contract.**

To the extent that the accepted Offer includes disclaimers or limitations of liability, they are expressly rejected and not made part of the Contract unless otherwise expressly incorporated herein. Any conflict or discrepancy between the accepted Offer and any other Contract Documents shall be resolved in favor of the other Contract Documents or the interpretation requiring the greater quantity or quality of work. Conflicts and discrepancies between Contract Documents not involving the accepted Offer shall be resolved in the manner set forth in Section A.3.1 of the Contract Documents.

**In witness whereof**, Eastern Oregon University executes this Contract and the Contractor does execute the same as of the day and year indicated below.

**CONTRACTOR DATA:**

**Contractor Name and Address:**

CONTRACTOR FEDERAL TAX ID #: \_\_\_\_\_

CONTRACTOR CCB:

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

*[Payment information will be reported to the IRS under the name and taxpayer ID # provided above. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 31 percent backup withholding.]*

**SIGNATURES:**

CONTRACTOR SIGNATURE:

By \_\_\_\_\_

Signature

Date

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

\_\_\_\_\_  
Title

By \_\_\_\_\_

John Garlitz, Director

Date

Director of Facilities & Planning

By \_\_\_\_\_

LeeAnn Case, Interim Vice President

Date

Vice President of Finance & Administration

## **PUBLIC IMPROVEMENT CONTRACT – EXHIBIT A**

### **INSURANCE REQUIREMENTS**

#### **Project No. FP-TBD**

#### **I. CONTRACTOR’S INSURANCE**

As a condition precedent to payment Contractor shall at all times provide and maintain for itself and require its Subcontractors to provide and maintain the following types and the following minimum limits of insurance written on an occurrence basis by a company or companies rated A/IX or better in the most recent edition of “Best’s Insurance Guide” (or such lesser rating as may be approved by Owner in writing) and authorized to do business in the state in which the Project is located.

##### **A. Workers’ Compensation and Employer’s Liability:**

(i) State: Statutory

(ii) Employers Liability:

\$1,000,000 Each Accident

\$1,000,000 Each Disease

\$1,000,000 Disease, Each Employee

##### **B. Commercial General Liability (Occurrence Form):**

(i) Combined Bodily Injury and Property Damage:

\$2,000,000 Each Occurrence

\$2,000,000 Personal and Advertising Injury

\$4,000,000 General Aggregate

\$4,000,000 Products/Completed Operations Aggregate

\$ 50,000 Fire Damage Legal Liability

\$ 10,000 Medical Expenses Per Person

The scope of coverage must meet the following:

(1) Premises Operations must be included.

(2) Elevators and Escalators must be included.

(3) Coverage for Independent Contractors and work performed on your behalf by subcontractors must be included.

(4) Pollution Liability and Hazardous Materials Liability must be included.

(5) Contractual Liabilities must be included (including the contract obligations specified in the Indemnification Paragraph(s) of the Owner-Contractor Agreement)

(6) The Products and Completed Operations Insurance must be carried for the duration of the applicable statute of repose or for six (6) years after final payment, whichever is longer.

(7) There can be no exclusions for subsidence, collapse, explosion or underground property damage.

- (8) There can be no Additional Insured vs. Named Insured cross-suit exclusion. The policies shall provide for cross-liability coverage as would be achieved under the standard Insurance Services Office “separation of insureds” clause.
- (9) There shall be no Montrose language, anti-pyramiding exclusion, or exclusion limiting coverage to damages which first begin to occur within the policy period.
- (10) The limits shall not be eroded or wasted by defense costs.
- (11) The policy and the additional insured coverage shall be primary and non-contributory with any insurance maintained by Owner, its affiliates, subsidiaries, directors, officers, employees and agents. (Copies of all policy endorsements that might affect coverage for the Project must be provided with the Insurance Certificate.)
- (12) The policy may not contain a cyber terrorism exclusion.
- (13) The policy may not contain an exclusion for breach of contract.
- (14) The policy may not contain an exclusion for intangible property.
- (15) The policy may not contain an exclusion for property of others in your care, custody or control.

**C. Business Auto:**

Combined Bodily Injury and Property Damage

\$1,000,000 Each Accident

The following coverages must be included:

- (1) Owned Automobiles
- (2) Non-Owned and Hired Automobiles

**D. Excess/Umbrella Liability Coverage:**

\$5,000,000 Each Occurrence with a per project endorsement

\$5,000,000 Aggregate

Coverage will follow form on the general liability and auto liability policies be at least as broad those policies.

Coverage shall be carried for the duration of the applicable statute of repose or for six (6) years after final payment, whichever is longer.

The policy must provide that coverage will be triggered by exhaustion of the applicable primary policies above and shall not require payment or exhaustion of any other policies.

**E. Professional Liability Insurance.** Limits shall not be less than \$1,000,000 per claim and \$2,000,000 aggregate. Such insurance must have no exclusion for bodily injury or property damage and no exclusion for pollution-related liability. This insurance shall include a retroactive date which predates the commencement of Work under the Agreement, including but not limited to construction manager services, and such coverage must continue for or include an extended reporting period of at least six (6) years after substantial completion and acceptance of the Project, or until the expiration of all applicable statute of repose, whichever is longer.

**F. Certificates and Certified Copies of Policies.** Copies of all policy endorsements that might reduce coverage from that provided by the standard ISO form must be provided to Owner and approved in writing and Owner’s approval must be submitted to Owner with each Insurance Certificate warranting that there is



no other reduction in coverage. Evidence of Contractor's compliance with this Exhibit, including the insurance required of Subcontractors, shall be filed with Owner and be acceptable to Owner prior to commencement of the Work. For those insurance coverages that are required to remain in force after final payment, additional certificates (or certified copies of the policies) evidencing continuation of such coverage shall be submitted at the time of the application for final payment and upon each annual renewal for the duration of coverage required. Without limiting its remedies, Contractor agrees that it will reimburse Owner for the costs of Owner's insurance provided for the Project if Contractor fails to provide evidence of coverage as required herein. Upon Owner's request at any time, Contractor will immediately provide an actual certified copy of its insurance policies. Provision of the certificates and copies of policies as required herein shall be a condition precedent to payment.

- G. Notice of Cancellation, Reduction or Expiration.** Insurance policies required by this Agreement shall contain a provision that coverages or limits afforded under the policies will not be canceled, reduced or allowed to expire until at least 30 days' prior written notice has been given to Owner or, in the alternative, Contractor shall, in writing, inform Owner that Contractor shall provide 30 days written notice to Owner before any policy expires or is cancelled. Information concerning reduction of limits on account of claims paid or to be paid shall be furnished by the Contractor to Owner within three (3) business days of when Contractor learns that revised or reduced limits are likely. When Contractor becomes aware of imminent cancellation, expiration or reduction in coverage or available limits, Contractor within three (3) business days shall procure other policies of insurance that meet all requirements of this Agreement without any lapse in coverage and notify Owner in writing of the potential reduction in coverage or cancellation and describe the manner in which it has provided or will provide replacement coverage of this insurance along with a written explanation of any differences in coverage. No work will be performed without this insurance being in full force and effect.
- H. Owner's Right to Terminate or Cure.** Failure of Contractor or a Subcontractor to secure and maintain insurance with the coverages and limits required by this Agreement shall be a material breach of the Contract entitling Owner, in its discretion and without waiving any other remedies, to (i) withhold payments or recoup payments already made to Contractor for work on the Project, (ii) terminate the Contractor for cause, and (iii) purchase replacement insurance at the expense of the Contractor. Contractor consents to Owner procuring replacement insurance in Contractor's name and Contractor will cooperate in all respects with Owner's efforts in this regard. Alternatively, at Owner's discretion, Owner may purchase an Owner's protective policy or other similar policy that affords to Owner coverages and limits providing reasonably equivalent protections as Owner would have received if Contractor and Subcontractors maintained the insurance required by this Agreement. Owner's costs incurred in finding replacement insurance or an Owner's protective policy shall either be reimbursed directly by Contractor or may be offset against amounts owed by Owner to Contractor on this Project or other projects.
- I. Insurance In Excess of Requirements.** In the event Contractor or any Subcontractor(s) purchase insurance in excess of the coverages or limits required under this Agreement, such excess coverages or limits shall apply and be deemed to have been required herein and be compliant with all requirements of this Exhibit.
- J. No Waiver by Owner.** The insurance requirements under this Agreement can only be waived or modified by Owner by an express written instrument signed by Owner acknowledging the reduced coverages or limits. No other act or omission by Owner or its agents, including but not limited to (i) implicit or verbal acceptance or approval of reduced coverages or limits or (ii) failure to require proof of compliant insurance, shall amount to Owner's waiver of the insurance requirements of this Agreement.
- K. Subcontractor Insurance.** All Subcontractors' insurance shall meet all insurance requirements of Contractor as provided in this Agreement, including, but not limited to, the types of insurance, extent and

durations of coverages, and notice requirements, except that the limits of insurance for Subcontractors shall be no less than the following:

Workers' Compensation and Employer's Liability: same as above.

Commercial General Liability (Occurrence Form): Combined Bodily Injury and Property Damage:

\$2,000,000 Each Occurrence

\$2,000,000 Personal and Advertising Injury

\$2,000,000 General Aggregate

\$2,000,000 Products/Completed Operations Aggregate

\$ 100,000 Fire Damage Legal Liability

\$ 10,000 Medical Expenses Per Person

Business Auto: same as above.

Excess/Umbrella Liability Coverage: none required.

**L. Waiver of Subrogation.** All of General Contractor's and all of its subcontractors' liability insurance policies, including worker's compensation, shall contain a waiver of subrogation against Owner.

**M. Additional Insureds.** All of General Contractor's and Subcontractors' liability insurance policies shall contain an endorsement expressly naming Owner, its affiliates, subsidiaries, directors, officers, employees and agents (including but not limited to those listed below) as Additional Insureds (as opposed to blanket endorsements) for both on-going operations and completed operations. The coverage under the additional insured endorsement shall (i) be primary and noncontributory with respect to any insurance maintained by the Additional Insureds, (ii) provide the same coverages and limits to the Additional Insured as are afforded to the Named Insured as required by this Agreement, (iii) shall provide coverage to the Additional Insureds for the products-completed operations hazard, (iv) these requirements are to be complied with for the same durations as the coverages afforded to the Named Insured as required by this Agreement, and (v) waive all rights of subrogation against the Additional Insureds. In the event that Contractor cannot comply with all of these requirements, Contractor shall obtain a Project Specific Endorsement naming Owner and its affiliates as Named Insureds on all primary and excess/umbrella policies required herein. The following additional persons or entities affiliated with Owner shall be named as Additional Insureds:

\_\_\_\_\_  
\_\_\_\_\_

**N. Cyber.** Contractor and its subcontractors shall maintain throughout the term of this Agreement Professional / Technology Liability insurance and Network Security & Privacy Liability insurance covering liabilities for first- and third-party losses resulting or arising from acts, errors, or omissions in connection with the services provided under this Agreement. Such insurance shall have limits of not less than \$1,000,000.00. Such coverage shall include an extended reporting period of not less than 90 days beyond the termination date of such coverage. The coverage must be sufficient to cover all damages Contractor or its subcontractors and vendors may be obligated to pay as damages as a result of a Security Breach. For the purposes of this Section, "Security Breach" means:

(i) the failure by the Contractor, or any of its subcontractors, to properly handle, manage, store, destroy or otherwise control, or the unauthorized disclosure by the Contractor or its subcontractors of:

(a) Personal information in any format, including but not limited to Protected Health Information or

other personal / individual data or information regarding health, financial or other information that is generally considered private in nature; or

(b) third party corporate information in any format specifically identified as confidential and protected under a confidentiality agreement or similar contract; or

(c) any other information the release or disclosure of which may cause liabilities for first- and third-party losses resulting or arising from acts, errors, or omissions in connection with the services provided under this Agreement.

(ii) an unintentional violation of the Contractor's privacy policy or

(iii) any misappropriation that results in the violation of any applicable data privacy laws or regulations; or

(iv) any other act, error, or omission by Contractor in its capacity as such which is reasonably likely to result in the unauthorized disclosure of Personal Data or loss of Confidential or Personal Information, regardless of cause (including, without limitation, Contractor's or its subcontractor's negligence and unlawful third-party acts).

The Cyber coverage must provide coverage of the following:

(i) Wrongful acts, claims, and lawsuits anywhere in the world.

(ii) Contractual liability coverage for the indemnity in this Agreement.

(iii) Coverage for all damages incurred by Company or its affiliates including, defense costs, forensics investigation, public relations/crisis management costs, data breach notification costs, credit protection services, credit restoration services, regulatory investigations, civil fines and penalties, data breach mitigation services, litigation costs and settlement costs.

(iv) Violation or infringement of any right of privacy, including breach of security and breach of security/privacy laws, rules or regulations globally, now or hereinafter constituted or amended.

(v) Data theft, damage, or any loss of data.

(vi) Unauthorized disclosure, destruction, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information in whatever form.

(vii) Transmission of a computer virus or other type of malicious code.

(viii) Participation in a denial-of-service attack on third party computer systems.

(ix) Loss or denial of service.

(x) Privacy regulatory defense and payment of civil fines.

(xi) Payment of credit card provider penalties, and breach response costs (including without limitation, notification costs, forensics, credit protection services, call center services, identity theft protection services, and crisis management/public relations services).

## **END OF EXHIBIT A**

## **END OF RFP ATTACHMENT B – PUBLIC IMPROVEMENT CONTRACT**