



REQUEST FOR QUALIFICATIONS (RFQ)

EOU SMALL CONSTRUCTION PROJECT RESERVE PROGRAM

ISSUE DATE: June 12, 2025

PROPOSAL DUE DATE/TIME: Before June 30, 2030

Eastern Oregon University is seeking Qualifications for a Contractor Reserve Program pursuant to this REQUEST FOR QUALIFICATIONS (RFQ). By submitting a Proposal, the Offeror represents that they have carefully read the terms and conditions of this RFQ, including all attachments and addenda, and agrees to be bound by them.

Contract Administrator

John Garlitz, Director of Facilities & Planning
EOU Facilities & Planning Department
Phone: (541) 962-3114
Email: facilitiesdir@eou.edu

RFQ Administrator

Lowann Vanleuven, F&P Business Manager
EOU Facilities & Planning Department
Phone: (541) 962-3020
Email: ProposalsFP@eou.edu

Offerors are responsible for monitoring ORPU.org for Addenda issued through June 30, 2030. Addenda may apply to future eligibility or Work Orders. This solicitation is governed by [EOU Policy 3.15.10](#), unless otherwise stated.

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1. SECTION 1: INTRODUCTION

- 1.1. Eastern Oregon University (“EOU” or “Owner”) is seeking responses (“Offers”) from qualified Contractors (“Offers”) to enter into an EOU Small Construction Project Reserve Program (“**Contractor Reserve Program**”), which will grant Offers the opportunity to provide contracting services to EOU under a Master Services Agreement (MSA).

EOU WILL ONLY BE ACCEPTING OFFERS ELECTRONICALLY – Offers are to be submitted pursuant to Section 6.

- 1.2. **Background.** Eastern Oregon University (EOU) is a public university located in La Grande, Oregon, in the heart of the Blue Mountains along Interstate 84, between Portland and Boise.

EOU was established as Eastern Oregon Normal School, a teacher training institution. In 1939, the Oregon Legislature renamed it Eastern Oregon College of Education, later shortened to Eastern Oregon College in 1956. The name changed again in 1973 to Eastern Oregon State College. In 1997, it became Eastern Oregon University when the state renamed the Technical and Regional Universities (TRUs). In 2015, EOU’s independent Board of Trustees assumed governance of the university, following the dissolution of the Oregon University System.

In 2018, the Oregon Legislature designated EOU as “Oregon’s Rural University” to highlight its role in supporting the economic vitality of eastern Oregon and better serving the state’s most underserved rural populations.

EOU consists of four colleges: Arts, Humanities and Social Sciences; Science, Technology, Mathematics and Health Sciences; Business; and Education. The university offers 37 degree programs and serves approximately 2,800 students.

The 100-acre campus includes 22 buildings totaling approximately 1.1 million gross square feet. Campus infrastructure includes 1,100 linear feet of utility tunnels and a range of systems: stormwater, potable water, irrigation, sewer, chilled water, steam, medium-voltage electrical, site lighting, fiber optics, private franchise utilities, and connections to the City of La Grande’s water, stormwater, and sewer networks.

- 1.3. **Location.** The Reserve MSA Program will be utilized for EOU’s main campus in La Grande, OR.

- 1.4. **Summary of Work.** For any services valued at \$1,000,000 or less, EOU may present opportunities to Contractors participating in the Reserve Contract Program to execute Work Orders under a Master Services Agreement (MSA) stating the scope of Services and price term (“Work Order”). Methods of presenting opportunities will vary according to the value of the Service sought. Each Work Order will solely contain the scope of Services and price term with no additional or supplemental terms and conditions to the MSA. Contractors may be awarded multiple “Work Orders” during the Contract term. **However, Contractors are not guaranteed work as participants in the Contractor Reserve Program and may not be issued a Work Order during the term of the program.**

Contractor Reserve MSA’s will be maintained electronically for the duration of the contract term and will remain available for use by EOU in accordance with the terms of this RFQ. Certain contracting opportunities for contractors are only available to Contractors in the Reserve.

- 1.5. **Contracting Categories.** Service categories being sought are listed below. Offers must denote the service categories the Offeror is able to directly perform. If a service is needed that is not specifically listed, EOU will

use the closest related category. For example, if construction management is needed, EOU will use the Owner's Representative / Project Management category.

Asphalt / Paving / Striping	General Building Construction	Carpentry / Framing / Finish Work
Demolition	Disaster/Damage Restoration and Reconstruction	Electrical (Power / Equipment / Gear)
Electrical – Low Voltage / Data	Elevators	Environmental Remediation
Fencing / Gates	Fire / Life Safety Systems	Flooring
General Civil & Utilities	Historic Preservation	Landscaping / Irrigation
Mechanical / HVAC	Painting	Plumbing
Roofing / Waterproofing	Site Work / Excavation / Concrete	

1.6. Reserve Contract Information.

1.6.1. Contract Term. Offers must sign the MSA as a final step in the RFQ, explained further in Section 6 below. By providing a signature on the MSA, the Offeror agrees to be bound by the terms and conditions contained in the MSA. The MSA will become effective on the date which EOU signs the MSA (the "Effective Date") and shall remain effective through June 30, 2030, unless terminated earlier according to the terms of the MSA. The period of the time between the Effective Date and the Termination Date constitutes the term of the Reserve Contract (the "Term").

1.6.2. Selection to Provide Service. Contractors will be selected to perform Services in accordance with the applicable rules. Factors for selection include price, experience, past performance, Contractors personnel assigned to the project, availability, and ability to meet the schedule for completion of the Services. The following procedures will be utilized to select the Contractors for Services based on the total anticipated Work Order price, which includes all contemplated Work Order Amendments. All project scopes will be matched to the appropriate procurement tier based on the total anticipated value, including any known or reasonably expected amendments.

1.6.2.1. Projects \$250,000 or less – ("Targeted Reserve Contracting Procurement"). EOU may contact and negotiate directly with Contractors who have executed Master Services Agreements for that category. EOU reserves the right to directly select a Contractor from the reserve pool for work orders valued at \$250,000 or less. To ensure fairness, EOU will endeavor to distribute Targeted Procurement opportunities equitably among qualified Contractors in the pool, consistent with project needs and Contractor capabilities.

1.6.2.2. Projects \$250,001 to \$500,000 – ("Limited Reserve Contracting Procurement"). EOU shall invite an adequate number of Contractors who have executed Master Services Agreements for that category to submit a scope of service and fee estimate.

1.6.2.3. Projects \$500,001 to \$1,000,000 – ("Comprehensive Reserve Contracting Procurement"). EOU will issue a solicitation document containing the procurement procedures and specifications. The solicitation document will be sent directly to all Contractors who have executed Master

Services Agreements for that category and be invited to submit a scope of services and fee estimate.

1.6.2.4. At its discretion, EOU may solicit at a lower threshold than stated above.

1.6.3. Proof of Insurance Required Prior to Reserve Contract Execution. Offerors will be required to submit proof of insurance prior to full execution of the Master Services Agreement. Proof of insurance is a condition of precedent to the effectiveness of the Reserve Program. Insurance requirements pursuant to the Master Services Agreement may be adjusted at EOU's sole discretion. Full insurance requirements are contained in the Master Service Agreement Template (refer to Attachment 1).

1.6.4. Collaborative Services. Contractors may be asked by EOU to provide services in conjunction with other Contractors or Consultants retained by EOU, including outside the Contractor or Consultants Reserve Program. In such cases Contractors shall be prepared to adhere to strict timeline on such Projects.

1.6.5. Diverse Business Inclusion. EOU encourages Offers from Diverse Businesses. Any Contractor certified by the State of Oregon COBID that includes its valid certification number in the Offer will be designated as such within the Contractor Reserve Program.

1.6.6. Foreign Contractor. If the Contractor is not domiciled in Oregon, registered to do business in Oregon. If the Contractor is not domiciled or registered to do business in the State of Oregon, the Contractor shall promptly provide the Oregon Department of Revenue and the Secretary of State, Corporation Division, and the relevant Oregon Licensure Board all information required by those agencies and boards require. The Contractor shall demonstrate its legal and capacity to provide that Service in the State of Oregon before entering into a Master Service Agreement.

1.6.7. Licensing Requirement. Offerors must be licensed with any and all licensing bodies at the time the Offer submission and at all times during the Terms of the Contractor Reserve Program. If Contractor's license becomes inactive during the Terms of the Contractor Reserve Program, EOU may suspend Services according to the terms of the Master Services Agreement. Contractors with inactive licensure cannot be awarded Work Orders until the active status is restored.

1.6.8. Payment and Performance Bonds. Performance and payment bonds will be required for Work Orders at \$250,000 or greater. EOU, at its sole discretion, may require performance and payment bonds for Work Orders where the value of the Work is \$250,000 or less. The bonds must be purchased for the specific project and proof of purchase must be provided on the form furnished by EOU as a condition of precedent to the effectiveness of each Work Order awarded.

1.6.9. Project Design. Projects may have been designed by EOU or by design consultants retained by EOU. Drawings and specifications for each project will be made available at the time of the project solicitation request. In some situations, it will be the Contractor's responsibility to complete the design. In such cases, the Contractor will be provide drawings and specifications for review and approval, and obtain the proper authorization from EOU prior to commencing work.

1.7. Design Standards. When Work Orders for design services are executed, the Contractor must follow

1.8. Schedule. The initial issue date is May xx, 2025. Offerors can submit Offers any time prior to June 30, 2030 to be considered for the Contractor Reserve Program.

2. SECTION 2: QUESTIONS, REQUESTS, AND APPEALS.

2.1. Questions

- 2.1.1. All questions and contacts with EOU regarding information in this RFQ must be addressed in writing via email to the **Contract Administrator** at the email listed in this document.
- 2.1.2. If an Offer is unclear about any information contained in this document, or its attachments or exhibits, they are urged to submit those questions for formal clarifications.

2.2. Request for Solicitation Process Changes

- 2.2.1. Offeror may submit written requests for change of a particular solicitation process provisions to the **Contract Administrator** at the email listed in this document.
- 2.2.2. Each request must include a detailed explanation and proposed revision(s).

2.3. Revisions to the Solicitation

- 2.3.1. Any change of modifications to this RFQ or its attachments will be made only through written addenda by the Owner. Addenda will be made available to all Offerors via the ORPU.org website. Information received through any means other than a duly issued Addendum shall not modify the RFQ in any way, regardless of the source.
- 2.3.2. EOU will not be responsible for any other explanation or interpretation of this RFQ or the documents included as attachments or exhibits to this RFQ.

2.4. Appeals

- 2.4.1. Appeals related to the EOU solicitation process and award decisions shall be pursuant to [EOU Policy 3.15.01 – Procurement and Contracting of Goods and Services](#).
- 2.4.2. Appeals must be delivered to the Vice President of Finance and Administration at lcase@eou.edu.

3. SECTION 3: PUBLIC RECORD

- 3.1. EOU will retain an electronic copy of this RFQ and one electronic copy of each Offer received, together with electronic copies of all documents pertaining to the award of this contract. These documents will be made as part of file or records which shall be open to public inspection after EOU announces its intent to award a contract. If an Offer contains any information that is considered a trade secret under ORS 192.345(2), you must mark each trade secret with the following legends:

“This data constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

- 3.2. The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular interest”.

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

4. SECTION 4: FORM OF MASTER SERVICE AGREEMENT

The Sample Master Service Agreement includes Attachment 1 and contains the terms and conditions, insurance requirements, and Work Order approach.

5. SECTION 5: BUREAU OF LABOR & INDUSTRIES (BOLI) PREVAILING WAGES

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

That Contractor and all subcontractors shall compliance with the provision of ORS 279C.800 to 279C.870, relative to the Prevailing Wage Rates (“PWR”) as outlined in Section C.1 and C.2 of the General Conditions. All resulting supplements are subject to the following Oregon Bureau of Labor & Industries (“BOLI”) wage rate requirements, which are incorporated herein by reference:

- 5.1. April 5, 2025 Prevailing Wage Rate Amendments
- 5.2. April 5, 2025 PWR Apprenticeship Rates
- 5.3. January 5, 2025 Prevailing Wage Rate for Public Works Contracts in Oregon
- 5.4. October 5, 2024 Definitions of Covered Occupations for Public Works Contracts in Oregon.

There current BOLI wage rates are available here:

<https://www.oregon.gov/boli/employers/Pages/default.aspx>

6. SECTION 6: INSTRUCTION FOR OFFERORS

- 6.1. **Summary of Work.** The Work contemplated in this solicitation shall be for EOU in connection for various projects within the categories of Section 1.0 of this RFQ. Offerors must read this RFQ, including all accompanying information, documents, attachments, or exhibits carefully. By submitting an Offer the Offeror acknowledges that it has read, understands, and agrees to comply with all provisions of this RFQ.
- 6.2. **Submission Information.** After reading this RFQ, Offerors must email submit an **Offer** and all relevant **Certificate of Insurance** (COI's) electronically. Submissions must be delivered through email in two searchable PDF's (Proposal and COI's) to ProposalsFP@eou.edu. The email subject line must include the following:

“Submittal: EOU Small Construction Project Reserve Program”

EOU will provide a reply to the email that your Submittal has been received for evaluation within 48 hours. If an email reply has not been received Offerors should telephone and confirm electronic receipt of the completed email document(s) before the time and date above by contacting the **RFQ Administrator** to ensure the email was not delayed or lost by email filtering systems.

- 6.2.1. No hard copy Offers, promotional materials, or appendices will be accepted. Incomplete Offers will be rejected.
- 6.2.2. All Offers must be received by EOU before the Due Date/Time. Any Offer received after the Due Date/Time will be rejected and made part of EOU's archive records.
- 6.2.3. EOU may reject any Offer not in compliance with all applicable EOU solicitation procedures and requirements and may cancel this solicitation or reject good for good cause, all Offers upon finding by EOU that it is EOU's and/or the public's best interest to do so.
- 6.2.4. Note that throughout this procurement process, EOU will not accept Offers that required EOU to pay for the cost of production or delivery.

6.2.5. Offeror upon submittal via email, certifies the Offeror as well as any firm, corporation, partnership, or association, in which the Offeror has a financial interest (collectively “Affiliates”) is not listed in the BOLI list of contractors ineligible to receive public works contracts, or any list maintained by the state of Oregon, EOU, or federal government, as updated time to time (collectively “Debarment Lists”. If Offeror or any of its Affiliates appear on any Debarment List, their participation in EOU’s Reserve Program will be terminated pursuant to the Master Service Agreement.

6.3. Evaluation Process. Offers will be evaluated for completeness, clarity, and compliance with this RFQ. Complete Offers will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of this RFQ. If the Offer is unclear, Offerors may be asked to provide written clarification. **Offeror will be awarded a Master Service Agreement if their Offer meets the minimum requirements of Section 6.4 of this RFQ.**

6.4. Offer Content. Each Offer shall be limited to no more than ten (10) pages and shall include the information specified below. The Offer shall be concise, well-organized and limited to the requested content. The inclusion of promotional materials, marketing language, or extraneous information is expressly discouraged. The required Certificate of Insurance is a separate attachment to the submission and does not count toward the (10) page limit.

6.4.1. Introduction Letter. Summarize your firm, denote all categories your firm is submitting to be included, identify the Primary Contact who will be responsible to receive all Work Order requests, and include the following additional information:

6.4.1.1. A valid Oregon Business Registry Number demonstrating Offeror is registered to transcript business in the State of Oregon.

6.4.1.2. A valid Federal Tax Identification Number.

6.4.1.3. Offeror Experience. Offerors must indicate the Offeror has been in business for a minimum of five (5) consecutive years prior to Offeror submission or demonstrate that the principals/owners of Offeror’s company have a minimum of five consecutive years of experience providing the services in the service categories indicated in the Offeror’s submission. Offers with fewer than five years of experience will be considered at the sole and absolute discretion of EOU.

6.4.1.4. BOLI Compliance. Each Offeror must agree, when applicable or required by a Work Order, comply with PWR Law.

6.4.1.5. Laws and Regulatory Requirements. Offeror will comply with all applicable laws, codes, and regulatory requirements, including but not limited to professional licensure requirements, EOU standards and policies, state and local building codes, fire and life safety codes, hazardous materials handling regulations, and applicable environmental and workplace safety standards, as applicable to each Work Order.

6.4.1.6. Insurance Coverage Agreement. Offerors must submit Certificates of Insurance (COIs) as part of their Offer as a separate attachment to the emailed Offer. Insurance limits must meet or exceed the requirements listed in Exhibit B of the Master Services Agreement. EOU reserves the right to reject Offers or require higher coverage limits based on the scope, discipline, or risk profile. Offers without a compliant COI may be rejected as nonresponsive.

6.4.1.7. Master Service Agreement. Offerors shall provide written acknowledgement they will sign the Master Services Agreement upon a Contract Award.

- 6.4.1.8. Ability to Respond.** Offerors must confirm their ability to respond to requests for Services in a timely manner. In general, Offerors are expected to provide a scope and fee estimate within one to three weeks of the request or, if unable to proceed, agree to notify EOU within three (3) business days of receiving the request.
- 6.4.2. Primary Contact and Key Personnel.** Summarize the Primary Contact and the Key Personnel for each category. Describe their expertise, relevancy, specific responsibilities, and availability.
- 6.4.3. Relevant Experience & References.** For each denoted Service Category the Offeror must provide one (1) project examples that demonstrate similar experience by your firm and provide the client contact information for each project.
- 6.4.4. Cost Proposal.** All pricing will be developed per work order on the defined scope of work and must include a cost proposal supported by documentation and adheres to the General Conditions of the Master Service Agreement (See Attachment 1). Final Pricing must be confirmed and authorized before issuance of a Work Order. The Offer shall acknowledge they have read the General Conditions of the Master Service Agreement and will comply with all pricing, markup, and cost documentation requirement outlined in the General Conditions.
- 6.5. Acceptance or Rejection of Solicitation Offers**
- 6.5.1.** EOU will accept Offers until the Due Date/Time. Any Offer received will be evaluated and if accepted, EOU will issue a Master Service Agreement within an Effective Date as described in Section 1 above. Offerors are not able to submit an Offer or qualification statement for any Services prior to the Effective Date of their Master Service Agreement.
- 6.5.2.** The procedures for contract awards shall follow the provision of EOU standards and policies adopted by EOU.
- 6.5.3.** EOU reserves the right to reject any or all Offers and to waive any minor informalities in compliance with EOU standards and policies adopted by EOU.
- 6.6. Withdrawal of Solicitation Offer**
- 6.6.1.** At any time prior to the Due Date/Time, an Offeror may withdraw its Offer. This will not preclude the submission of another Offer by such Offeror prior to the Due Date/Time.
- 6.6.2.** After the Due Date/Time, Offerors are prohibited from withdrawing their Offers.
- 6.7. Contract Award.**
- 6.7.1.** The **Contract Administrator** or their designee will evaluate each Offer to determine whether it is responsive to the criteria set forth in this RFQ.
- 6.7.2.** Upon the determination of a successful responsive submission, Offerors will be required to sign the Master Services Agreement. EOU will notify each successful Contractor by email with the Master Services Agreement attached for signatures and return to EOU for our signatures. Upon all signatures, EOU will email a fully executed contract to the Offeror.
- 6.7.3.** The terms of the Master Services Agreement are not negotiable. Refer to Section 2 for any questions or clarification prior to submission.
- 6.8. Communications Blackout Period.** From the time of submission until the conclusion of the Offer evaluation process, Offerors shall not communicate with any EOU employee or representative regarding their Offer, except as expressly permitted by this RFQ. During this period, Offeror records will not be available for public inspection, and no information or commentary regarding the status or outcome of the RFQ will be provided to

any party outside of EOU. EOU may contact Offerors to request additional information as needed to complete the evaluation.

- 6.9. Equity in Contracting.** EOU will require the successful Offeror to comply with EOU Standards, policies, rules and procedures requiring good faith efforts in subcontracting with minority, women, emerging small business, or veterans owned business enterprises.

7. SECTION 7 - MISCELLANEOUS

7.1. Financial Responsibility

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

7.1.2. EOU may postpone the selection of finalists or execution of an agreement of a contract in order to complete its investigation and evaluation. Failure of a firm to demonstrate financial responsibility may render it non-responsive and constitute grounds for Offer rejection.

- 7.2. Project Termination.** EOU reserves the right to terminate a Work Order or Master Service Agreement during any phase of a Project.

- 7.3. Insurance Provisions.** During the term of the resulting contract, the awardee will be required to maintain in full force, at its own expense, from insurance companies authorized to transact the business of insurance in the state of Oregon, each insurance coverage/policy set forth in the Master Service Agreement.

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

- 7.5. AA/EEO Employer.** EOU is an AA/EEO employer.

- 7.6. Compliance with Applicable Law.** Offeror agrees to comply with all federal, state, county, and local laws, ordinances, and regulations as well as all applicable EOU Standards and Policies while on campus.

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

7.6.2. Sexual Misconduct Policy. EOU has policies that prohibit sexual misconduct against members of the university community and in keeping with those policies Contractor and Contractor's employees, agents, and Sub-Contractors are prohibited from engaging in sexual misconduct against members of the university community.

7.6.3. Firearms Policy. The Owner has adopted a policy that prohibits Contractor and Contractor's employees, agents and Sub-Contractors from possessing firearms on Owner's property.

- 7.7. Background Checks.** Some EOU buildings are designated as critical, occupied or security- sensitive facilities. Thus, the selected Contractor may be required by any given Work Order to conduct criminal background

checks, including sex offender registration checks, (for both: Oregon at a minimum, and national for Contractor employees that formerly lived outside of the state of Oregon) on each Contractor employee and agent with satisfactory results before referral or placement at any Owner work location. When required by a Work Order, Contractor must perform the criminal background checks within the twelve (12) months immediately preceding referral or placement at any Owner work location.

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

When required by a Work Order, Contractor shall require Contractor's employees and agents to self-disclose to Contractor any new convictions that occur within three business days of the conviction. Contractor shall reassess the individual's assignment under the Work Order.

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

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

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

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

7.8. Execution of Work Orders

7.8.1. The Offeror shall be required to execute a Work Order as provided, within any time period provided in an award notification. The Contract Documents shall be delivered to EOU in the manner stated in an award notification.

7.8.2. Work/Services Commencement. Work/Services shall not commence until execution of a Work Order and subsequent issuance of a **notice to proceed letter** with the selected Offeror.

June 12, 2025

ATTACHMENT A – CONTRACTOR MASTER SERVICE AGREEMENT

**EASTERN OREGON UNIVERSITY FACILITIES & PLANNING (F&P) DEPARTMENT
MASTER AGREEMENT FOR SMALL CONSTRUCTION PROJECT
PROCUREMENT # FP-20xx-0x, MSA # _____**

Pursuant to Procurement FP-20xx-0x, dated Mo Day, 20xx, this EOU Master Agreement for Small Construction Projects (the “Agreement”) is between:

“Contractor”:

Contractor Name
Contractor Address
Contractor City, Contractor State, Contractor Zip
Contractor Authorized Signer name and email

and EOU/“Owner”:

Eastern Oregon University
Facilities & Planning Department
One University Boulevard
La Grande, OR 97850

(EOU/Owner and Contractor each individually may be referred to as a “Party” and collectively as the “Parties”). The EOU departmental representative for this Contract, defined below, is «_____».

- 1. Effective Date and Duration.** This Contract shall become effective on «_____». Unless earlier terminated or extended, this Contract shall expire on «_____». However, such expiration shall not extinguish or prejudice Owner’s right to enforce this Contract with respect to: (i) any breach of a Contractor warranty; (ii) any default or defect in Contractor performance that has not been cured; or (iii) other rights, which by their nature shall survive termination.
- 2. Master Agreement.** The intent of this Contract is for the Parties to agree to Contract General Conditions, and any agreed to Supplemental General Conditions, that will govern Work authorized under the Contract by Work Order or Change Order or as otherwise provided under the Contract Documents. The Contractor warrants that proposals submitted in connection with each Work Order or Change Order are made subject to the Contract Provisions of the Contract.
- 3. Authorization of Work.** Signing this Agreement does not authorize the Contractor to perform any Work. Instead, Work for a Project must be authorized by signed Work Order, using the form attached as Exhibit A. Owner and the Contractor may agree to changes to any Work for a Project authorized by Work Order by signing a Change Order setting forth the change to such Work using the form attached as Exhibit A-1. The Contractor shall not be entitled to any compensation for Work or changes to Work that was not authorized in writing by Owner.

- 4. Terms and Conditions.** The terms and conditions of this Contract are contained in the "Eastern Oregon University General Conditions for Master Agreements for Small Construction Projects," which may also be referred to as the "General Conditions," and any Supplemental General Conditions. The Contractor agrees that all subsequent proposals, quotes, work orders, bids, or change orders issued under this Master Agreement shall not include any additional or supplemental terms and conditions. The terms and conditions of this Master Agreement shall exclusively govern the parties' rights and obligations, and any conflicting or additional terms provided by the Contractor shall be null and void.
- 5. Contract Documents.** This Contract consists of the following documents which are listed in descending order of precedence (for documents of same precedence, documents of a later date shall have precedence):
- All written Amendments, Work Orders, Change Orders, and Change Directives;
 - this Agreement, the General Conditions, and any Supplemental General Conditions (if applicable);
 - Exhibits A, B, C, D.

CONTRACTOR DATA AND CERTIFICATION

Name (tax filing): _____ Phone No: _____

Street Address: _____ Fax No: _____

City, State, Zip: _____ Email: _____

MWESB Certification # _____ (check one below, if applicable):

☐ DBE ☐ MBE ☐ WBE ☐ ESB**Business Designation (check one below):**☐ Corporation ☐ Partnership ☐ Limited Partnership ☐ Limited Liability Partnership☐ Limited Liability Company ☐ Sole Prop. ☐ Government/Non Profit

Federal Tax ID Number: _____

Contractor CCB: _____, Expiration Date: _____

Above payment information must be provided prior to Contract approval. This information will be reported to the Internal Revenue Services (IRS) under the name and taxpayer ID number submitted. (See IRS Form 1099 for additional instructions regarding taxpayer ID numbers). Information not matching IRS records could subject Contractor to 31% backup withholding.

SIGNATURES:

IN WITNESS WHEREOF, the parties have caused their authorized representatives to execute this MASTER SERVICE AGREEMENT as of the dates written below.

CONTRACTOR SIGNATURE:

EASTERN OREGON UNIVERSITY SIGNATURES

By _____
Signature _____ Date _____

By _____
John Garlitz, Director of F&P _____ Date _____

Print Name _____ Title _____

By _____
LeeAnn Case, VPFA _____ Date _____

EASTERN OREGON UNIVERSITY
GENERAL CONDITIONS
FOR MASTER AGREEMENTS FOR SMALL CONSTRUCTION PROJECTS

May 19, 2025

INSTRUCTIONS: These **Eastern Oregon University General Conditions for Master Agreements for Small Construction Projects (“General Conditions”)** apply to all designated Master Agreements for Small Construction Projects. Changes to the Eastern Oregon University General Conditions (including any additions, deletions or substitutions) should only be made by attaching Supplemental General Conditions. The text of these General Conditions should not otherwise be altered.

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EASTERN OREGON UNIVERSITY
GENERAL CONDITIONS FOR MASTER AGREEMENTS FOR SMALL CONSTRUCTION PROJECTS
(“Eastern Oregon University General Conditions” or “General Conditions”)

SECTION A
GENERAL PROVISIONS

A.1 DEFINITION OF TERMS

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

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

ARCHITECT/ENGINEER, means the Person appointed by the Owner to prepare Plans and Specifications and, to provide contract administration of the Work contemplated by the Contract to the extent provided herein or by supplemental instruction of Owner (under which Owner may delegate responsibilities to the Architect/Engineer), in accordance with ORS Chapter 671 (Architects) or ORS Chapter 672 (Engineers) and administrative rules adopted thereunder. To the extent permitted by law, Owner may elect to perform certain roles of the Architect/Engineer.

CHANGE ORDER, means a written order which, when fully executed by the Parties to this Contract, constitutes a change to the Work of a Project previously authorized by a Work Order. Change Orders shall be issued in accordance with the changes provisions in Section D and, if applicable, establish a Contract Price or Contract Time adjustment. A Change Order shall not be effective until executed as a Change Order.

CLAIM, means a claim, dispute, controversy, request, notice, demand or other problem asserted by Contractor pursuant to Section D.3 for review of the denial of Contractor’s initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, submitted in accordance with the requirements and within the time limits established for review of Claims in these Eastern Oregon University General Conditions.

CHANGE DIRECTIVE, means a written order by the Owner to the Contractor requiring a change in the Work of a Project previously authorized by a Work Order within the general scope of the Contract Documents, issued under the changes provisions of Section D.

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

CONTRACT DOCUMENTS, means the Agreement, the General Conditions, the Supplemental General Conditions if any, Plans, Specifications, and Work Orders, Change Orders, Change Directives, the accepted Offer, Solicitation Document and addenda thereto, Instructions to Offerors, and Supplemental Instructions to Offerors.

CONTRACT PRICE, means the total amount payable to Contractor for a Project authorized by a Work Order as adjusted in accordance with the Contract Documents.

CONTRACT TIME, means any incremental period of time to complete any portion of the Work authorized under a Work Order for a Project.

CONTRACTOR, means the Person identified as such on the Agreement.

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

DIRECT COSTS, means, unless otherwise provided in the Contract Documents: the cost of materials, including sales tax and the cost of delivery; cost of labor which shall only include the applicable prevailing wage and fringe benefit (if applicable, and if paid to or on behalf of the employee) rate plus a maximum of a 10% markup on the prevailing wage (but not the fringe benefit) to cover Contractor's labor burden including but not limited to social security, Medicare, unemployment insurance, workers' compensation insurance; substantiated project cost increases for specific insurance (including, without limitation, Builder's Risk Insurance and Builder's Risk Installation Floater) or bond premiums; rental cost of equipment, and machinery required for execution of the Work; and the additional costs of field personnel directly attributable to the Work; travel expense reimbursement only if specifically authorized and only to the extent allowable under the Eastern Oregon University Contractor Travel Reimbursement Policy, hereby incorporated by reference.

FINAL COMPLETION, means the final completion of all Work for a Project under the Contract but excluding Warranty Work as described in Section I.2.

FORCE MAJEURE, means an act, event or occurrence caused by fire, riot, war, acts of God, nature, sovereign, or public enemy, strikes, pandemic, freight embargoes or any other act, event or occurrence that is beyond the control of the party to this Contract who is asserting Force Majeure, but only to the extent such act, event, or occurrence cannot reasonably be mitigated.

D/M/W/ESB/SDVBE REPORT, means an accurate report by the Contractor to the Owner identifying all disadvantaged business enterprises, minority-owned businesses, women-owned businesses, emerging small businesses, and service disabled business enterprises (D/M/W/ESB/SDVBE), as those terms are defined in ORS 200.005, or as self-reporting as otherwise meeting the same requirements of ORS 200.005, receiving contracts throughout the course of the Work. An initial D/M/W/ESB/SDVBE Report is required (see Section E.2.9) and D/M/W/ESB/SDVBE Reports are required annually (see Section E.2.9) and as a condition of final payment (see Section K.1). The initial report shall include the total number of contracts and subcontracts awarded to

D/M/W/ESB/SDVBE and the dollar value of their respective contracts and subcontracts. The annual reports shall include the total number of contracts and subcontracts awarded to D/M/W/ESB/SDVBE, the dollar value of each, and the expenditure toward each contract and subcontract during the previous twelve (12) months. The final report shall include the total number of contracts and subcontracts awarded to D/M/W/ESB/SDVBE and the dollar value of their respective contracts and subcontracts including all Contracts and Change Orders incorporated during the course of the project.

NOTICE TO PROCEED, means the official written notice from the Owner stating that the Contractor is to proceed with the Work defined in the Contract Documents. Notwithstanding the Notice to Proceed, Contractor shall not be authorized to proceed with the Work until all initial Contract requirements, including the Contract, performance bond and payment bond, and certificates of insurance, have been fully executed and submitted to Owner in a suitable form. A Notice to Proceed may not be required if the Work Order contains a commencement date for the Work.

OFFER, means a bid in connection with Instructions to Bidders or a proposal in connection with a Request for Proposals, or Solicitation Document. May also be referenced as “Bid”, “Quote”, or “Proposal” based on the type of Solicitation Document

OFFEROR, means a bidder in connection with Instructions to Bidders or a proposer in connection with a Request for Proposals, or Solicitation Document. May also be referenced as “Bidder”, “Quoter” or “Proposer” based on the type of Solicitation Document.

OVERHEAD, means those items which may be included in the Contractor’s markup (general and administrative expense and profit) and that shall not be charged as Direct Cost of the Work, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman (i.e., superintendents and project managers), labor rates and fringe benefits above the applicable prevailing wage and fringe benefit (if applicable, and if paid to or on behalf of the employee), Contractor’s labor burden for fringe benefit if paid to the employee, expenses of Contractor’s offices and supplies at the job site (e.g. job trailer) and at Contractor’s principal place of business and including expenses of personnel staffing the job site office and Contractor’s principal place of business, and Commercial General Liability Insurance and Automobile Liability Insurance.

OWNER, means, the Eastern Oregon University an Oregon public university. Owner may elect, by written notice to Contractor, to delegate certain duties to more than one party, including without limitation, to an Architect/Engineer. However, nothing in these Eastern Oregon University General Conditions is intended to abrogate the separate design professional responsibilities of Architects under ORS Chapter 671 or of Engineers under ORS Chapter 672 or any of their respective duties and obligation under any contracts with the Owner.

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

PLANS, means the drawings which show the location, type, dimensions, and details of the Work to be done under the Contract.

PROJECT, means the project identified in a Work Order.

PUNCH LIST, means the list of Work yet to be completed or deficiencies which need to be corrected in order to achieve Final Completion of the Work for a Project.

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

SOLICITATION DOCUMENT, means Instructions to Bidders or Offerors or a Request for Proposal or a Request for Quotes or any other written document issued by Owner that outlines the required Specifications necessary to submit a Bid, Proposal, or other response.

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

SUBCONTRACTOR, means a Person having a direct or indirect contract with the Contractor, or another Subcontractor of any tier, to perform one or more items of the Work or supply equipment and/or materials. For the avoidance of doubt the term Subcontractor includes sub-subcontractors and sub-suppliers of materials and equipment at all tiers.

SUBSTANTIAL COMPLETION, means the date when the Owner accepts in writing the construction, alteration or repair of the improvement to real property constituting the Work or any designated portion thereof as having reached that state of completion when it may be used or occupied for its intended purpose without unreasonable interruption.

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

WORK, means the construction and furnishing of all materials, equipment, labor, transportation, services and incidentals necessary to successfully complete any individual item or the entire Project authorized pursuant to a Work Order and the carrying out of duties and obligations imposed by, and reasonably inferable from, the Contract Documents.

WORK ORDER, means the document executed by Owner and Contractor authorizing Contractor to perform Work for a Project. Each Project shall be authorized by Work Order.

A.2 SCOPE OF WORK

The Work contemplated under a Work Order, Change Order, or Change Directive with respect to a Project includes all labor, materials, transportation, equipment and services for, and incidental to, the completion of all construction work in connection with the Project described in, and reasonably inferable from, the Contract Documents. The Contractor shall perform all Work necessary so that the Project can be legally occupied and fully used for the intended use as set forth in the Contract Documents.

A.3 INTERPRETATION OF CONTRACT DOCUMENTS

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

- (a) Contract amendments, Work Orders, Change Orders and Change Directives, with those of later date having precedence over those of an earlier date;

The Supplemental General Conditions, if any;

- (b) Eastern Oregon University General Conditions;
- (c) The Agreement
- (d) Exhibits to the Agreement..

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

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

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

A.4 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

A.4.1 Prior to agreement to a Work Order or Change Order, it is Contractor will made a careful examination of the Contract Documents; will become fully informed as to the quality and quantity of materials and the character of the Work required; and will make a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the Work. No oral agreement or conversation with any officer, agent, or personnel of the Owner, or with the Architect/Engineer either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained. Contractor shall at all times be responsible for all utility locates regardless of the ownership of such utility infrastructure or service.

A.4.2 Should the Plans or Specifications or other Contract Documents fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Work, Contractor shall have the duty to make inquiry of the Owner and Architect/Engineer as to what is required prior to performance of the Work. Absent Specifications to the contrary, the materials or processes that would normally be used to produce first quality finished Work shall be considered a part of the Contract requirements.

A.4.3 To the extent Owner has provided a design, any design errors or omissions noted by the Contractor shall be reported promptly to the Owner, including without limitation, any nonconformity with Applicable Laws.

A.4.4 If the Contractor believes that adjustments to cost or Contract Time is involved because of clarifications or instructions issued by the Owner (or Architect/Engineer) in response to the

Contractor's notices or requests for information, the Contractor must submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than seven (7) Days after receipt by Contractor of the clarifications or instructions issued. If the Owner denies Contractor's request for additional compensation, additional Contract Time, or other relief that Contractor believes results from the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

- A.4.5 Pursuant to ORS 352.138, the Owner, as a public university, is not subject to certain provisions of Oregon law, including certain provisions of the public contracting code. To the extent these General Conditions or other Contract Documents include certain of the provisions that are not applicable to public universities under ORS 352.138, those provisions nonetheless are part of the Contract and are enforceable against the Contractor to the extent they impose requirements or obligations on the Contractor.

A.5 INDEPENDENT CONTRACTOR STATUS

The Work to be performed under this Contract is as an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee or agent of the Owner as those terms are used in ORS 30.265. Nothing contained in this Contract shall be deemed or construed to (1) make Contractor or any Subcontractor the agent, servant, or employee of the Owner, or (2) create any partnership, joint venture, or other association between Owner and Contractor or any Subcontractor.

A.6 RETIREMENT SYSTEM STATUS AND TAXES

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

A.7 GOVERNMENT EMPLOYMENT STATUS

- A.7.1 If this payment is to be charged against federal funds, Contractor represents and warrants that it is not currently employed by the Federal Government. This does not preclude the Contractor from holding another contract with the Federal Government.
- A.7.2 Contractor represents and warrants that Contractor is not an employee of the Owner or State of Oregon for purposes of performing Work under this Contract.

SECTION B

ADMINISTRATION OF THE CONTRACT

B.1 OWNER'S ADMINISTRATION OF THE CONTRACT

- B.1.1 The Owner shall administer the Contract as described in the Contract Documents (1) during construction (2) until final payment is due and (3) during the one-year period for correction of Work. The Owner will act as provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.
- B.1.2 The Owner will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Owner will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner will neither have control over or charge of, nor be responsible for the means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.
- B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall communicate with each other about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.
- B.1.4 Based upon the Owner's or Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner, the Architect/Engineer or Owner will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

B.2 CONTRACTOR'S MEANS AND METHODS

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

be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.

- B.2.2 The Contractor is responsible to protect and maintain the Work during the course of performance and to mitigate any adverse impacts to the project.
- B.2.3 The Contractor is responsible for the actions and omissions (including but not limited to negligent acts and omissions) of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.
- B.2.4 Review or approval by Owner or its agents of Contractor's means, methods, techniques, procedures or submittals, or of any other aspect of Contractor's Work or services shall not relieve Contractor of its sole liability for any damages resulting from or arising out of defects or deficiencies in the Contractor's means, methods, techniques, procedures or submittals, or of any other aspect of Contractor's Work or services.

B.3 MATERIALS AND WORKMANSHIP

- B.3.1 All Work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.
- B.3.2 The Contractor is responsible to perform the Work as required by the Contract Documents. Defective or non-conforming Work shall be corrected at the Contractor's expense.
- B.3.3 [Not used.]
- B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.
- B.3.5 [Not used.]

B.4 PERMITS

Contractor shall obtain and pay for all necessary permits, licenses and fees, except for those specifically excluded in the Contract Documents, for the performance of the Work, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental Work, etc., as required for the Project.

Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities.

B.5 COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS

- B.5.1 Contractor shall comply with Applicable Laws pertaining to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for termination in whole or in part of the Contract or one or more Work Orders. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following, as applicable: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended; (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- B.5.2 Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations, and
- (a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts.
 - (b) Contractor shall maintain, in current and valid form, all licenses and certificates required by Applicable Laws or this Contract when performing the Work.
- B.5.3 Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.
- B.5.4 Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape contractor's license issued pursuant to ORS 671.560.
- B.5.5 The following notice is applicable to Contractors who perform excavation Work. **ATTENTION:** Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987.

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

B.6 SUPERINTENDENCE

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

B.7 INSPECTION

- B.7.1 Owner shall have access to the Work at all times.
- B.7.2 Inspection of the Work may be made by the Owner at its discretion. The Owner will have authority to reject Work that does not conform to the Contract Documents. Any Work found to be not in conformance with the Contract Documents, in the discretion of the Owner, shall be removed and replaced at the Contractor's expense.
- B.7.3 Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by Applicable Laws or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.
- B.7.4 As required by the Contract Documents, Work done or material used without required inspection or testing and/or without providing timely notice to the Owner may be ordered removed at the Contractor's expense.
- B.7.5 If directed to do so any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done without required testing or inspection or sufficient notice to the Owner, the uncovering and restoration shall be done at the Contractor's expense. If the Work uncovered is acceptable and was done with

sufficient notice to the Owner, the uncovering and restoration will be paid for pursuant to a Change Order.

- B.7.6 If any testing or inspection reveals failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's and Architect/Engineer's services and expenses, shall be at the Contractor's expense.
- B.7.7 When the United States government participates in the cost of the Work, or the Owner has an agreement with other public or private organizations, or if any portion of the Work is being performed for a third party or in close proximity to third party facilities, representatives of these organizations shall have the right to inspect the Work affecting their interests or property. Their right to inspect shall not make them a party to the Contract and shall not interfere with the rights of the parties of the Contract. Instructions or orders of such parties shall be transmitted to the Contractor, through the Owner.

B.8 SEVERABILITY

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

B.9 ACCESS TO RECORDS

- B.9.1 Contractor will maintain records, sufficient to accurately document its performance of this Contract, including, but not limited to costs claimed to have been incurred and anticipated to be incurred. University and, if applicable, the federal government will have access to the records of Contractor for the purpose of determining compliance with this Contract. Contractor will retain all such records, for a minimum of seven years following final payment under or termination of this Contract, or such longer period as may be required by Applicable Laws or until the conclusion of any relevant audit, review, or controversy.
- B.9.2 [Not used.]

B.10 WAIVER

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

B.11 SUBCONTRACTS AND ASSIGNMENT

- B.11.1 Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound by the terms and conditions of these Eastern Oregon University General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Owner thereunder, unless specific exceptions are requested by Contractor and approved in writing by Owner. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with sub-subcontractors at any level.
- B.11.2 At Owner's request, Contractor shall submit to Owner prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor..
- B.11.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under this Contract, in whole or in part, without the prior written approval of the Owner. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

B.12 SUCCESSORS IN INTEREST

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

B.13 OWNER'S RIGHT TO DO WORK

Owner reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor shall coordinate work with the Owner's other contractors or forces, cooperate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Work with the work of the others in an acceptable manner and perform it in proper sequence to that of the others

B.14 OTHER CONTRACTS

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

B.15 GOVERNING LAW; LITIGATION

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the

Parties that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Union County; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the Owner of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. BY EXECUTION OF THIS AGREEMENT, CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Contractor shall include a provision in its agreements with Subcontractors requiring resolution of disputes in the manner provided in this Section B.15.

B.16 [NOT USED]**B.17 ALLOWANCES**

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

B.17.2 Unless otherwise provided in the Contract Documents:

(a) when finally reconciled, allowances shall cover the cost of the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

(b) Contractor's costs for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;

(c) whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect

(i) the difference between actual costs and the allowances under Section B.17.2(a) and (2) changes in Contractor's costs under Section B.17.2(b).

(d) Unless Owner requests otherwise, Contractor shall provide to Owner a proposed fixed price for any allowance work prior to its performance.

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

B.18.1 [Not used.].

- B.18.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Owner or Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Owner's the Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.
- B.18.3 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect/Engineer without action.
- B.18.4 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- B.18.5 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect/Engineer.
- B.18.6 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's review or approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and (i) the Architect/Engineer has given written approval to the specific deviation as a minor change in the Work, or (ii) a Change Order or Construction Change Directive has been executed by Owner authorizing the deviation. The Contractor shall not be relieved of responsibility for

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errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect/Engineer's review or approval thereof.

B.18.7 In the event that Owner elects not to have the obligations and duties described under this Section B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner.

B.19 SUBSTITUTIONS

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

B.20 USE OF PLANS AND SPECIFICATIONS

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

B.21 FUNDS AVAILABLE AND AUTHORIZED

If Owner fails to receive funding, appropriations, allocations or other expenditure authority as contemplated by Owner's budget and Owner determines, in its assessment and ranking of the policy objectives explicit or implicit in Owner's budget, Owner may determine it is necessary to and may terminate in whole or in part the Contract or one or more Work Orders.

B.22 NO THIRD PARTY BENEFICIARIES

Owner and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

SECTION C

WAGES AND LABOR

C.1 MINIMUM WAGE RATES ON PUBLIC WORKS

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

C.2 PAYROLL CERTIFICATION AND FEE REQUIREMENTS

- C.2.1 In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Owner on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read the certified statement, that the Contractor or Subcontractor knows the contents of the certified statement, and, that to the Contractor's or Subcontractor's best knowledge and belief, the certified statement is true. The certified statements shall set out accurately and completely the payroll records for the prior week, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on the project shall be submitted once a month, by the fifth business day of the following month. The Contractor and Subcontractors shall preserve the certified statements for a period of ten (10) years from the date of completion of the Contract.
- C.2.2 Pursuant to ORS 279C.845(7), the Owner shall retain 25 percent of any amount earned by the Contractor on this public works project until the Contractor has filed the certified statements required by section C.2.1. The Owner shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.
- C.2.3 Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-tier Subcontractor on this public works project until the first-tier Subcontractor has filed with the

Owner the certified statements required by C.2.1. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement. Within 14 days after the first-tier Subcontractor files the required certified statement the Contractor shall pay the first tier Subcontractor any amount retained under this subsection.

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

C.3 [Not used.]

C.4 [Not used.]

C.5 [Not used.]

SECTION D

CHANGES IN THE WORK

D.1 CHANGES IN WORK

D.1.1 The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written agreement and then only after any necessary approvals have been obtained.

D.1.2 It is mutually agreed that changes in the Work required for a Project previously authorized by a Work Order may be necessary or desirable during the course of Contractor's performance of the Work. Within the general scope of this Contract, the Owner may at any time require changes consistent with this Section D.1. All changes to the Work shall be documented, and Change Orders shall be executed under the conditions of the Contract Documents.

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

D.1.3 The Owner and Contractor agree that adjustments to or deletions from the Work shall be administered and compensated according to the following:

(a) **Unit Pricing:** Unit pricing may be utilized at the Owner's option when unit prices or solicitation alternates were provided that established the cost for adjustments to Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the adjustment to Work.

(b) **Fixed Fee:** If the Owner elects not to utilize unit pricing, or in the event that unit pricing is not available or appropriate, fixed pricing may be used for adjustments to or deletions from the Work. In fixed pricing the basis of payments or total price shall be agreed upon in writing between the parties to the Contract and shall be established before the Work is done whenever feasible. Notwithstanding the foregoing, the mark-ups set forth in D.1.3(c) shall be utilized in establishing fixed pricing, and such mark-ups shall not be exceeded. Cost and price data relating to adjustments to or deletions from the Work shall be supplied by Contractor to Owner upon request, but Owner shall be under no obligation to make such requests.

(c) **Time and Material:** In the event that unit pricing and fixed pricing are not utilized, then adjustments to or deletions from the Work shall be performed on a cost reimbursement basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. The Contractor or Subcontractor who performs the Work shall be allowed to add up to ten percent (10%) markup to the Direct Costs as full compensation for profit, Overhead and other indirect costs for Work performed with the Contractor's or Subcontractor's own forces

Each ascending tier Subcontractor or the Contractor that did not perform the Work, will be allowed to add up to five percent (5%) supplemental markup on the Direct Costs of the Work (but not the above allowable markups) covered by a Change Order. No additional markup shall be permitted for any third tier or greater descending Subcontractor.

Example: \$20,000 of Direct Costs Work performed by a 2nd Tier Subcontractor

	Markup	Allowed Total Fee Plus Markup
General Contractor	5%	\$1,000.00
1 st Tier Sub Contractor	5%	\$1,000.00
2 nd Tier Sub Contractor	10%	\$2,000.00

(d) Payments made to the Contractor shall be complete compensation for Overhead, profit, and all costs and impacts (including but not limited to the cumulative impact of other Change Orders) that were incurred by the Contractor or by other forces

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furnished by the Contractor, including Subcontractors, for adjustments to or deletions from the Work pursuant to a Change Order. Owner may establish a maximum cost for additional Work under this Section D.1.3, which shall not be exceeded for reimbursement without additional written authorization from Owner in the form of a Change Order. Contractor shall not be required to complete such additional Work without additional authorization.

- D.1.4 Any necessary adjustment of Contract Time or Contract Price that may be required as a result of adjustments to or deletions from the Work must be agreed upon by the parties before the start of the revised Work unless Owner authorizes Contractor in writing to start the revised Work before agreement on Contract Time or Contract Price adjustment.

Contractor shall submit any request for additional compensation and additional Contract Time as soon as possible but no later than seven (7) Days after receipt of Owner's request for additional Work. If Contractor's request for additional compensation or adjustment of Contract Time is not made within the seven (7) Day time limit, Contractor's requests pertaining to that additional Work shall be deemed waived. The seven (7) Day time limit for making requests shall not be extended for any reason, including without limitation Contractor's claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by Owner. If the Owner denies Contractor's request for additional compensation or adjustment of Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

- D.1.5 If any adjustment to Work under Section D.1.3 causes an increase or decrease in the Contractor's cost of, or the Contract Time required for the performance of any other part of the Work under this Contract, the Contractor must submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than seven (7) Days after receipt of Owner's request for adjustments to or deletions from the Work by Contractor.

The seven (7) Day time limit applies to claims of Subcontractors, suppliers, or manufacturers who may be affected by Owner's request for adjustments to or deletions from the Work and who request additional compensation or an extension of Contract Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the seven (7) Day time limit, and including their requests with Contractor's requests. If the request involves Work to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the adjustments to compensation and Contract Time requested. The Contractor shall analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor's analysis and evaluation of those requests with Contractor's requests for adjustments to compensation or Contract Time that Contractor submits to the Owner.

Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor's requests submitted to Owner within the time period and by the means described in this section shall constitute a waiver of these Subcontractor claims. The Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract. The consideration of such requests and claims under this section does not give any Person, not a party to the Contract the right to bring a claim against Owner, whether in this claims process, in litigation, arbitration, or in any dispute resolution process.

If the Owner denies the Contractor's request for adjustment to compensation or Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

D.1.6 No request or Claim by the Contractor for additional costs or an adjustment of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Final payment application must be made by Contractor within the time required under Section E.6.4.

D.1.7 [Not used.]

D.1.8 Owner may at any time and at its discretion issue a Change Directive adding to, modifying or reducing the scope of Work. Contractor and Owner shall negotiate the need for any additional compensation or additional Contract Time related to the change, subject to the procedures for submitting requests or Claims for additional compensation or additional Contract Time established in this Section D. Unless otherwise directed by Owner, Contractor shall proceed with the Work while any request or Claim is pending, including but not limited to, a request or Claim for additional compensation or additional Contract Time resulting from Work under a Change Order or Change Directive. Regardless of the review period or the final decision of the Owner, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease Work without a written stop work order from the Owner.

D.2 DELAYS

D.2.1 [Not used.]

D.2.1.1 [Not used.]

D.2.1.2 Contractor shall be entitled to seek an adjustment of the Contract Time to the extent of delays:

(a) Caused by any actions of the Owner, or any other employee or agent of the Owner, or by separate contractor employed by the Owner.

(b) Caused by any site conditions which differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be inherent to the construction activities defined in the Contract Documents. The Contractor shall notify the Owner immediately of differing site conditions before the area has been disturbed. The Owner will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular Contract. If Contractor and the Owner agrees that a differing site condition exists, Contractor shall, in addition to a corresponding adjustment to the Contract Time, be entitled to an appropriate adjustment of the Contract Price. Any such adjustment to the Contract Price or Contract Time will be determined based on the process set forth in Section D.1.5 for adjustments to or deletions from Work. If the Owner disagrees that a differing site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

(c) Caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.

(d) [Not used.]

D.2.2 The remedies provided in Section D2.1.2, shall be Contractor's exclusive remedy for any such delays. Contractor shall not be entitled to additional compensation or additional Contract Time for any other delays, regardless of cause.

D.2.3 In the event of any requests for additional Contract Time, other than requests for additional compensation or additional Contract Time for differing site conditions for which a review process is established under Section D.2.1.2 (b), Contractor shall submit a written notification of the delay to the Owner within two (2) Days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Contract Time extension resulting from the delay. If the Owner denies Contractor's request for adjustment of Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If Contractor does not timely submit the notices required under this Section D.2, then unless otherwise prohibited by law, Contractor's Claim shall be barred.

D.3 CLAIMS REVIEW PROCESS

D.3.1 Contractor's Claims, including Claims for adjustments to compensation or Contract Time, shall be submitted in writing by Contractor to the Owner within five (5) Days after a denial of Contractor's

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initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these Eastern Oregon University General Conditions. Within thirty (30) Days after the initial Claim, Contractor shall submit to the Owner in writing a complete and detailed description of the Claim (the "Detailed Notice") that includes all information reasonably required by Owner to evaluate the Claim. Unless the Claim by Contractor is made in accordance with the time and procedural requirements in these General Conditions, it shall be deemed waived.

D.3.2 [Not used.]

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

D.3.4 [Not used.]

D.3.5 The decision of the Owner shall be final and binding unless the Contractor delivers to the Owner its request for mediation, which shall be a non-binding process, within fifteen (15) Days of the date of the Owner's decision. The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) Days of the commencement of the mediation through the mediation process set forth herein.

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

D.3.6 The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree

to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Owner's administrative rules governing the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator nor otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

- D.3.7 Unless otherwise directed by Owner, Contractor shall proceed with the Work while any Claim, or mediation or litigation arising from a Claim, is pending. Regardless of the review period or the final decision of the Owner, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease or Delay Work, in whole or in part, without a written stop work order from the Owner.
- D.3.8 Should any suit, action or arbitration be commenced in connection with any dispute arising out of this Contract, the prevailing party shall be entitled to recover its costs and disbursements, investigation costs and fees, expert witness costs and fees, and attorney costs and fees, as the court or arbitrator may adjudge reasonable, incurred in connection with such dispute before trial or arbitration, at trial or arbitration, upon any motion for reconsideration, upon any appeal or petition for review, and upon any collection efforts or proceedings.

SECTION E PAYMENTS

E.1 SCHEDULE OF VALUES

The Contractor shall submit, by or before the pre-construction conference, a schedule of values ("Schedule of Values") for the contracted Work. This schedule shall provide a breakdown of values for the contracted Work and will be the basis for progress payments. The breakdown shall demonstrate reasonable, identifiable, and measurable components of the Work. Unless objected to by the Owner, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Owner, Contractor shall revise the schedule of values and resubmit the same for approval of Owner.

E.2 APPLICATIONS FOR PAYMENT

- E.2.1 If the Work for a Project is expected to take more than sixty (60) days, Owner shall make progress payments on the Contract monthly as Work progresses, in accordance with the requirements of this Section E.2. Applications for payment shall be based upon estimates of Work completed. As a

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condition precedent to Owner's obligation to pay, all applications for payment shall be approved by the Owner. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Owner shall pay to Contractor interest for overdue invoices at the rate of two thirds of one percent per month on the progress payment, not including retainage, due the Contractor. Overdue invoices will be those that have not been paid within fourteen (14) days from the date of the receipt of the accurate invoice.

Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within ten (10) Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute.

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

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

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

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

Signed: _____

Dated: _____"

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

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

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

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

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

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

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

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

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

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

(a) Work that is defective or non-conforming and not remedied, or that has been demonstrated or identified as failing to conform with Applicable Laws or the Contract Documents,

(b) third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by the Contractor;

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(c) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Owner may issue checks made payable jointly to Contractor and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under Section C.3.2.1);

(d) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;

(e) damage to the Work, Owner or another contractor;

(f) reasonable evidence that the Work will not be completed within the Contract Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

(g) failure to carry out the Work in accordance with the Contract Documents; or

(h) assessment of liquidated damages, when withholding is made for offset purposes.

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

(a) Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in Section E.5. Pending final determination of cost to the Owner of changes in the Work, no amounts for changes in the Work can be included in applications for payment until the Contract Price has been adjusted by a payment until the Contract Price has been adjusted by a Change Order;

(b) Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner pursuant to Section E.2.3, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section E.5;

(c) Subtract the aggregate of previous payments made by the Owner; and

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

- E.2.6 Contractor's applications for payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier.
- E.2.7 The Contractor warrants to Owner that title to all Work covered by an application for payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Work for which payments are received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided financing, labor, materials and equipment relating to the Work.
- E.2.8 If Contractor disputes any determination by Owner with regard to any application for payment, Contractor nevertheless shall continue to expeditiously perform the Work. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.
- E.2.9 Contractor shall submit its initial D/M/W/ESB/SDVBE Report within ten (10) Days of Contractor's execution of the Contract, or if there will be a Guaranteed Maximum Price (GMP) Amendment, then within ten (10) Days of Contractor's execution of the GMP Amendment. Contractor shall submit annual D/M/W/ESB/SDVBE Reports on June 30 of each year the Contract is active. Contracts (or GMP Amendments) first executed by Contractor within ninety (90) Days before June 30 of the year of execution by Contractor may at the discretion of Owner be exempt from submitting the annual D/M/W/ESB/SDVBE Report otherwise due on that June 30. The final D/M/W/ESB/SDVBE Report shall be filed with the application for final payment. Timely receipt of D/M/W/ESB/SDVBE Reports by Owner shall be a condition precedent to Owner's obligation to pay any progress payments or final payment otherwise due.
- E.2.10 If the Work of a Project is expected to take less than 60 days for Contractor to achieve Substantial Completion, then Owner shall pay Contractor as provided in the Work Order. If not specified in the Work Order, payment will be made within forty-five (45) days following Final Completion, or the date the invoice is received, whichever is later. Payment under this Section E.2.10 shall be subject to section E.6.2 and E.6.3.

E.3 PAYROLL CERTIFICATION REQUIREMENT

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

E.4 DUAL PAYMENT SOURCES

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

E.5 RETAINAGE

- E.5.1 Retainage may be withheld in an amount equal to not more than five percent (5%) of the Contract Price as provided under ORS 701.420.
- E.5.1.1 As Work progresses, Owner may reduce the amount of retainage on or may eliminate retainage on any remaining monthly Contract payments after 50 percent of the Work under the Contract is completed if, in the Owner's discretion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is 97-1/2 percent completed the Owner may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Owner shall respond in writing within a reasonable time.
- E.5.1.2 [Not used.]
- E.5.1.3 The retainage held by Owner shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Owner shall pay to Contractor interest at the rate of one percent per month on the final payment due Contractor under a Work Order for a Project, interest to commence thirty (30) Days after the date Contractor has completed and Owner has accepted the Work under a Work for which final payment is due.. The Contractor shall notify Owner in writing when the Contractor considers the Work complete and deliver to Owner its final application for payment and Owner shall, within fifteen (15) Days after receiving the written notice and the application for payment, either accept the Work or notify the Contractor of Work yet to be performed on the Contract. If Owner does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run thirty (30) Days after the end of the 15 Day period.
- E.5.1.4 [Not used.]
- E.5.1.5 Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection E.5 as apply to Owner's retainage from any progress payment due to Contractor.
- E.5.2 As provided in subsections C.2.2 and C.2.3, additional retainage in the amount of 25% of amounts earned shall be withheld and released in accordance with ORS 279C.845(7) when the Contractor fails to file certified statements as required by section C.2.1.

E.6 FINAL PAYMENT

- E.6.1 For Projects subject to monthly progress payments, upon completion of all the Work for a Project required by the Contract Documents, the Contractor shall notify the Owner, in writing, that Contractor has completed Contractor's obligations for the Project under the Contract and shall prepare its application requesting final payment. Upon receipt of such notice and application for payment, the Owner will inspect the Work, and, if acceptable, make final payment of all remaining amounts no later than seven (7) days after the date the Owner approves the Work. .
- E.6.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner all documents required by the Contract Documents and, if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees. References to liens and lien waivers in these General Conditions shall not be construed as Owner's concession that such liens are valid under Oregon law.
- E.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.
- E.6.4 Contractor agrees to submit its final payment application within ninety (90) Days after Substantial Completion, unless written extension is granted by Owner. Contractor shall not delay final payment application for any reason, including without limitation nonpayment of Subcontractors, suppliers, manufacturers or others not a party to this Contract, or lack of resolution of a dispute with Owner or any other person of matters arising out of or relating to the Contract. If Contractor fails to submit its final payment application within ninety (90) Days after Substantial Completion, and Contractor has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Contract Time shall be waived.

SECTION F ***JOB SITE CONDITIONS***

F.1 USE OF PREMISES

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

F.2 PROTECTION OF WORKERS, PROPERTY AND THE PUBLIC

- F.2.1 Contractor shall maintain continuous and adequate protection of all of the Work from damage and shall protect the Owner, workers, and property from injury or loss arising in connection with this Contract. Contractor shall remedy acceptably to the Owner any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Owner. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.
- F.2.2 Contractor shall be solely responsible for safety in performance of all Work and shall take all necessary precautions for the safety of all personnel on the job site or otherwise engaged in the undertaking of the Work or at or near the worksite. Contractor shall, at a minimum, comply with best practices and all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for protection of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Work site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Owner. The Owner has no responsibility for Work site safety. Work site safety shall be the sole responsibility of the Contractor.
- F.2.3 Contractor shall not enter upon private property without first obtaining permission from the property owner or its duly authorized representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and make, or arrange to make, full restitution. Contractor shall, immediately and in writing, report to the Owner, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.
- F.2.4 Contractor shall be responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, vehicles and materials on the site.

- F.2.5 Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials shall be conducted so no release will occur that may pollute or become hazardous.
- F.2.6 In an emergency affecting the safety of life or limb or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Owner, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by the Owner. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with section D.
- F.2.7 Without relieving Contractor of its sole responsibility for safety, Contractor shall comply, at a minimum, with all Owner safety rules and regulations. Prior to commencement of any Work, Contractor may be required to complete an Owner Contractor Safety Orientation and submit all Owner required safety plans.

F.3 CUTTING AND PATCHING

- F.3.1 Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.
- F.3.2 Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

F.4 CLEANING UP

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

F.5 ENVIRONMENTAL CONTAMINATION

- F.5.1. To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel of Owner's choice), reimburse and hold harmless Owner from and against any costs, expenses, damages, claims, and causes of action, (including attorney fees), or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation, and handling during the performance of the Work or Contractor's obligations under the Contract to the

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extent caused by the negligence or other actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section F.5.1 shall limit Contractor's responsibility for obtaining insurance coverages required under Section G.3 of this Contract, and Contractor shall take no action that would void or impair such coverages.

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

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

(a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all Applicable Laws;

(b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Work site; and

(c) promptly clean up and remediate, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all Applicable Laws.

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

(a) Description of items released (identity, quantity, manifest numbers, and any and all other documentation required by law.)

(b) Whether amount of items released is EPA/DEQ reportable, and, if so, when reported.

- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.
- (e) Summary of communications about the release between Contractor and members of the press or State, local or federal officials other than Owner.
- (f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- (g) Personal injuries, if any, resulting from, or aggravated by, the release.

F.6 ENVIRONMENTAL CLEAN-UP

- F.6.1 Unless disposition of environmental pollution is specifically a part of this Contract, or was caused by the Contractor (reference F.5 Environmental Contamination), Contractor shall immediately notify Owner of any hazardous substance(s) which Contractor discovers or encounters during performance of the Work required by this Contract. "Hazardous substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl (PCB), or petroleum, and any substances, materials or wastes regulated by 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Owner of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the project where a hazardous substance(s) has been discovered or encountered if continued work in such area would present a risk or danger to the health or wellbeing of Contractor's or any Subcontractor's work force, property or the environment.
- F.6.2 Upon being notified by Contractor of the presence of hazardous substance(s) on the project site, Owner shall arrange for the proper disposition of such hazardous substance(s).

F.7 FORCE MAJEURE

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

SECTION G

INDEMNITY, BONDING, AND INSURANCE

G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY

- G.1.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay to the extent caused by, or result from, the carrying out of the Work to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, employees, guests, visitors, invitees and agents.
- G.1.2 To the fullest extent permitted by law, the Contractor shall indemnify, hold harmless, reimburse and defend (with counsel approved by Owner) the Owner and Owner's agents, employees, officers and directors from, for, and against suits, actions, awards, penalties, liabilities, claims, damages, losses and expenses, whether actual or merely alleged and whether directly incurred or from a third party, including but not limited to attorneys' and expert witnesses' fees, and related costs, disbursements, and expenses, arising out of or resulting from performance of the Work including, but not limited to, any such suit, action award, penalty, liability, claim, damage, loss, or expense attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligence, breach of contract, or other wrongful acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they are responsible, or by failure of any such person or entity to perform as required by this Agreement.
- G.1.3 To the fullest extent permitted by law, in claims against any person or entity indemnified under Section G.1.2 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section G.1.2 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND

- G.2.1 When the Contract Price for a Project is \$100,000 or more (or \$50,000 or more in the case of Contracts for highways, bridges and other transportation projects), the Contractor shall furnish and maintain in effect at all times during performance of the Project a performance bond in a sum equal to the Contract Price and a separate payment bond also in a sum equal to the Contract Price. Contractor shall furnish such bonds even if the Contract Price is less than the above thresholds if otherwise required by the Contract Documents.

- G.2.2 Bond forms furnished by the Owner and notarized by awarded Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.
- G.2.3 Before execution of the Contract the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting any Subcontractor to start Work.

G.3 INSURANCE

- G.3.1 Contractor shall comply and shall require Subcontractors to comply with the Insurance Requirements in Exhibit B.

SECTION H SCHEDULE OF WORK

H.1 TIME OF THE ESSENCE

- H.1.1 Time is of the essence of the Contractor's performance under the Contract. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein. If required by the Contract Documents, Contractor shall commence Work on the site within fifteen (15) Days of Notice to Proceed, unless directed otherwise.
- H.1.2 Unless specifically extended by a Change Order, all Work shall be complete by the date contained in the Contract Documents.
- H.1.3 The Owner shall not waive any rights under the Contract by permitting the Contractor to continue or complete in whole or in part the Work after the date described in Section H.1.2 above.

H.2 SCHEDULE

- H.2.1 Contractor shall provide, by or before the pre-construction conference, the initial as-planned schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by project components, labor trades, and long lead items broken down by building and/or floor where applicable. If Owner shall so elect, Contractor shall provide the schedule in CPM format showing the graphical network of planned activities, including i) a reasonably detailed list of all activities required to

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complete the Work; ii) the time and duration that each activity will take to completion; and iii) the dependencies between the activities. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. The schedule shall include the following: Notice to Proceed or the date the Work commences, if no Notice to Proceed is issued by Owner, Substantial Completion, and Final Completion. Schedules shall be updated monthly, unless otherwise required by the Contract Documents, and submitted with the monthly application for payment. Acceptance of the Schedule by the Owner does not constitute agreement by the Owner as to the Contractor's sequencing, means, methods, or durations. Any positive difference between the Contractor's scheduled completion and the Contract completion date is float owned by the Owner. Owner reserves the right to negotiate the float if it is deemed to be in Owner's best interest to do so. In no case shall the Contractor make a claim for delays if the Work is completed within the Contract Time but after Contractor's scheduled completion.

H.2.2 All Work shall be completed during normal weekdays (Monday through Friday) between the hours of 7:00 a.m. and 5:00 p.m. unless otherwise specified in the Contract Documents. Unless otherwise specified in the Contract Documents, no Work shall be performed during the following holidays:

- New Year's Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

When a holiday falls on a Sunday, the following Monday shall be recognized as a legal holiday. When a holiday falls on Saturday, the preceding Friday shall be recognized as a legal holiday.

H.3 PARTIAL OCCUPANCY OR USE

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

SECTION I

CORRECTION OF WORK

I.1 CORRECTION OF WORK BEFORE FINAL PAYMENT

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects, and that the Work will conform to the requirements of the Contract Documents. Work failing to conform to these requirements shall be deemed defective or non-conforming. Contractor shall promptly remove from the premises and replace all defective or non-conforming materials and equipment as determined by the Owner, whether incorporated in the Work or not. Removal and replacement shall be without loss or expense to the Owner, and Contractor shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than thirty (30) Days after Substantial Completion for completion of defective or non-conforming (Punch List) work. At the end of the thirty-day period, or earlier if requested by the Contractor, Owner shall arrange for inspection of the Work by the Architect/Engineer. Should the work not be complete, and all corrections made, the costs for all subsequent reinspections shall be borne by the Contractor. If Contractor fails to complete the Punch List work within the thirty (30) Day period, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand without affecting Contractor's obligations.

I.2 WARRANTY WORK

- I.2.1 Neither the final payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective or non-conforming Work and, unless a longer period is specified, Contractor shall correct all defects that appear in the Work within a period of one year from the date of issuance of the written notice of Substantial Completion by the Owner. Contractor shall perform such corrective work within a reasonable time after Owner's demand. If Contractor fails to complete the corrective work within such period as Owner determines reasonable, or at any time in the event of corrective work consisting of emergency repairs, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand, without affecting Contractor's obligations. The Contractor shall perform the warranty Work by correcting defects within twenty-four (24) hours of notification by Owner, unless otherwise specified in the Contract Documents. Should the Contractor fail to respond within the specified response time, the Owner may, at its option, complete the necessary repairs using another contractor or its own forces. If Owner completes the repairs using Owner's own forces, Contractor shall pay Owner at the rate of one and one-half (1½) times the standard hourly rate of Owner's forces, plus related overhead and any direct non-salary costs. If Owner completes the repairs using another contractor, Contractor shall pay Owner the amount of Owner's direct costs billed by the other contractor for the work, plus the direct salary costs and related overhead and direct non-salary expenses of Owner's forces who are required to monitor that contractor's work. Work performed by Owner using Owner's own forces or those of another contractor shall not affect the Contractor's contractual duties under these provisions, including warranty provisions.

- I.2.2 Nothing in this Section I.2 provision shall limit or negate Contractor's obligation to perform the Work in accordance with the Contract Documents (or time limitations for Owner's enforcement of those obligations), guarantees or warranties for periods longer than one year including without limitation, such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.
- I.2.3 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until such portion of the Work covered by the applicable warranty has been accepted in writing by the Owner.
- I.2.4 The one-year period for correction of Work shall be extended with respect to portions of Work performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work, and shall be extended by corrective Work performed by the Contractor pursuant to this Section, as to the Work corrected. The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- I.2.5 Nothing contained in this Section I.2 shall be construed to establish a period of limitation or repose with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section I.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.
- I.2.6 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

SECTION J

SUSPENSION AND/OR TERMINATION OF THE WORK

J.1 OWNER'S RIGHT TO SUSPEND THE WORK

- J.1.1 The Owner has the authority to suspend portions or all of the Work under one or more Work Orders in whole or in part at any time for the Owner's convenience.

J.1.2 [Not used.]

J.2 CONTRACTOR'S RESPONSIBILITIES

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

J.2.2 When the Work is recommenced after the suspension, the Contractor shall replace or renew any Work damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete the Work in every respect as though its prosecution had been continuous and without suspension.

J.3 COMPENSATION FOR SUSPENSION

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

J.4 OWNER'S RIGHT TO TERMINATE

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

- (a) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;
- (b) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner; or
- (c) If Contractor is otherwise in breach of any part of the Contract.

(d) If Contractor is in violation of Applicable Laws, either in the conduct of its business or in its performance of the Work.

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

J.5 TERMINATION FOR CONVENIENCE

J.5.1 Owner may terminate the Contract or one or more Work Orders for Owner's convenience in whole or in part whenever Owner determines, in the Owner's sole discretion, that termination of the Contract is in the best interest of Owner and/or the public.

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

J.6 ACTION UPON TERMINATION

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

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

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

SECTION K

CONTRACT CLOSE OUT

K.1 RECORD DOCUMENTS

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

K.2 OPERATION AND MAINTENANCE MANUALS

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

K.3 COMPLETION NOTICES

- K.3.1 Contractor shall provide Owner written notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and the time within which the Contractor shall finish all items on the Punch List accompanying the Certificate. Both completion notices must be signed and notarized by the Contractor and signed by the Architect/Engineer (if applicable) and Owner to be valid. The Owner shall provide the final signature on the notices. The notices shall take effect on the date they are signed by the Owner.
- K.3.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of thirty (30) continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner. All equipment contained in the Work, plus all other components necessary to enable the Owner to operate the facility in the manner that was intended,

shall be complete on the Substantial Completion date. The Contractor may request that a Punch List be prepared by the Owner with submission of the request for the Substantial Completion notice.

K.4 [Not used.]

K.5 [Not used.]

K.6 ENVIRONMENTAL CLEAN-UP

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

K.7 CERTIFICATE OF OCCUPANCY

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

K.8 OTHER CONTRACTOR RESPONSIBILITIES

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

The Owner's property is tobacco free, drug free, and weapons free areas. Contractor shall be required to ensure that its employees, Subcontractors and agents shall comply with the Owner Drug, Tobacco and Weapon Free Campus policies, hereby incorporated by reference.

K.9 SURVIVAL

Without limiting the survivability of any other provision of the Contract, that by its nature survives termination, all corrective obligations, warranty and indemnification provisions of this Contract, and all of Contractor's other obligations under this Contract that are not fully performed by the time of Final Completion or termination, shall survive Final Completion or any termination of the Contract.

**EXHIBIT A – WORK ORDER FOR
MASTER AGREEMENT FOR SMALL CONSTRUCTION PROJECTS
WORK ORDER #TBD Per Project for MSA # _____**

This Work Order is entered into between EOU and Contractor pursuant to the master Contract referenced above. Pursuant to Section 4 of the Master Agreement, the Contractor agrees that the terms and conditions of the Master Agreement shall exclusively govern the parties' rights and obligations. No additional or supplemental terms and conditions included in any proposal, quote, or bid shall apply or be enforceable.

1. THE PROJECT (state or identify the project (the "Project")):

2. SCOPE OF WORK (provide a detailed description of the Work for the Project in the space provided below (and/or as Attachments to Exhibit A), including any Plans or Specifications):

3. CONTRACT TIME:

Contractor agrees to achieve Substantial Completion of the Work by: [insert deadline(s)]

A. Time of the Essence. The Contractor acknowledges that the Owner will incur significant damages if the Project is not completed within the Contract Time, including without limitation, damages in the form of: inability to use the Project and all related facilities (i.e. "loss of use"); delay costs for completion of portions of the Project or related projects to be constructed by the Owner or the Owner's separate contractors; or costs of extended services of the Owner's project management staff, any outside construction management firms, any separate contractors and consultants, and others performing work or services related to the Project. In consideration of the factors set out in this paragraph, the Contractor acknowledges and agrees that time is particularly of the essence in the Contractor's performance of the Work.

B. Loss of Use Liquidated Damages.

☐ This Work Order is not subject to Liquidated Damages for loss of use.

☐ This Work Order is subject to Liquidated Damages for loss of use.

If the box indicating that this Work Order is subject to Liquidated Damages for loss of use is checked, then Contractor agrees that if Substantial Completion is not achieved by the date required above, as may be modified pursuant to the Contract Documents, then Owner shall be entitled to Liquidated Damages for loss of use in the amount of \$« _____ » per day for each partial or full day of delay. Owner and Contractor agree that Owner's actual damages for loss of use will be difficult, impractical, or impossible to determine and that the Liquidated Damages amount provided for herein is reasonable in comparison to the approximate scope of actual delay damages for loss of use. The Parties further acknowledge that these liquidated damages are meant to reimburse the Owner only for loss of use delay damages and that Owner

reserves the right to claim other types of damages against Contractor resulting from delays.

4. CONTRACT PRICE: *(Invoices must be submitted via email to FP-Billing@eou.edu)*

A. Contractor's compensation for the Work performed pursuant to this Work Order (the "Contract Price") shall be: [_____

_____]

B. ☐ The Work of the Project is anticipated to take less than 60 days. Accordingly, Owner and Contractor agree to the following variation to the payment terms set forth in the General Conditions:
Invoices must be submitted to EOU's Representative at the following address pursuant to the terms of the Contract: One University Boulevard, La Grande, OR, 97850.

SIGNATURES: <<TO BE SIGNED UPON EOU'S DIRECTION AND ONLY AFTER EXECUTION AN MSA>>

IN WITNESS WHEREOF, the parties have caused their authorized representatives to execute this Work Order as of the dates written below.

CONTRACTOR SIGNATURE:

EASTERN OREGON UNIVERSITY SIGNATURES

By _____
Signature Date

By _____
John Garlitz, Director of F&P Date

Print Name Title

By _____
LeeAnn Case, VPFA Date

EXHIBIT A1 – CHANGE ORDER #0x
THIS CHANGE ORDER MODIFIES WORK UNDER WORK ORDER #TBD Per Project

This Change Order modifies the above referenced Work Order under the Contract between EOU and Contractor.

1. DESCRIPTION OF CHANGE IN WORK:

2. THE CHANGE TO WORK ORDER PRICE:

Original Work Order Amount	\$
Current Amount Adjusted by Previous Change Orders	\$
The Change Order Amount Due to this Change Order will be Increased/(Decreased)	\$
The New Work Order Amount Including this Amendment	\$
% Change from Original Work Order Amount	\$

This Change Order constitutes full compensation to the Contractor and is full resolution for any and all impacts arising from or relating to the subject matter of this Change Order (or from the cumulative effect of all prior Change Orders). Contractor waives all claims relating to any such impacts. Except as provided herein, all terms and conditions of the Contract remain in full force and effect.

3. THE CHANGE TO THE WORK ORDER TIME:

The original Substantial Completion date was «original date»; it has now been revised to «new date».

SIGNATURES: <<TO BE SIGNED ONLY UPON EOU'S DIRECTION IF A CO OCCURS>>

IN WITNESS WHEREOF, the parties have caused their authorized representatives to execute this Change Order as of the dates written below.

CONTRACTOR SIGNATURE:

By _____
 Signature Date

 Print Name Title

EASTERN OREGON UNIVERSITY SIGNATURES

By _____
 John Garlitz, Director of F&P Date

By _____
 LeeAnn Case, VPFA Date

EXHIBIT B – INSURANCE REQUIREMENTS
MASTER AGREEMENT FOR SMALL CONSTRUCTION PROJECTS
PROCUREMENT # FP-20xx-0x, MSA # _____

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Workers' Compensation Insurance 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

2. Professional Liability Insurance.

Professional Liability Insurance is not required under this Contract, as professional design services are not within the scope of work.

3. General Liability Insurance.

- (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

These limits may be satisfied using any combination of primary CGL and excess/umbrella coverage so long as the excess/umbrella is true follow-form and meets the scope of coverage and exclusions outlined herein.

- (ii) 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

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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.

4. Automobile Liability Insurance.

- (i) Combined Bodily Injury and Property Damage
\$1,000,000 Each Accident
- (ii) The following coverages must be included:
 - (1) Owned Automobiles
 - (2) Non-Owned and Hired Automobiles.

5. Certificates of Insurance

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.

6. Notice of cancellation or change

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

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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.

7. 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.

8. 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.

9. 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.

10. Builders Risk.

For each Project, Contractor shall procure and pay for an All Risk Builder's Risk Policy, providing full replacement value, covering Owner, Contractor and all Subcontractors of every tier as their interests may appear. The policy shall include coverage for theft, vandalism, malicious mischief, collapse, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition and replacement occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. The policy shall provide Flood and Earthquake coverage, cover damage from water from any source, cover materials in temporary storage or transit and provide coverage for resultant damage even if caused by faulty workmanship or defective products. The policy shall not have any co-insurance provisions. Deductibles shall be approved by Owner in writing or shall be the sole obligation of the Contractor.

11. 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:

**EXHIBIT C – CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR
MASTER AGREEMENT FOR SMALL CONSTRUCTION PROJECTS
PROCUREMENT # FP-20xx-0x, MSA # _____**

(All Contractors are required to complete Exhibit C unless they are registered as a Corporation or a Professional Corporation)

Oregon Revised Statute (ORS) 670.600 provides a standard definition of “independent contractor” to be used by certain Oregon agencies. EOU will rely on the factors provided in ORS 670.600 to verify Contractor’s independent contractor status.

To be considered and “independent contractor”, Contractor must:

1. Be licensed or certified to provide the services contemplated in this Contract (if required). If Contractor provides services for which a license is required under ORS Chapter 671 (Architects/Landscape Architects) or 701 (Constructions Contractors) they must be licensed and certified as required in ORS Chapter 671 or 701.
2. Provide services for remuneration and be free from direction and control over the means and manner of providing its services and be engaged in an “independently established business”.
3. Contractor is considered to be engaged in an “independently established business” if **three** of the following requirements are met (check all that apply):
 - ☐ The labor or services are primarily carried out at a location that is separate from Contractor’s residence or is primarily carried out in a specific portion of the Contractor’s residence, which is set aside as the location of the business.
 - ☐ Contractor assumes financial responsibility for defective workmanship related to the business or services (as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the services to be provided).
 - ☐ Contractor has provided contract services for two or more different people in the last twelve (12) month period.
 - ☐ Contractor routinely engages in business advertising, solicitations, or other marketing efforts.
 - ☐ Contractor makes a significant investment in the business (as evidenced by purchasing tools and/or equipment, paying for the premises or facilities where services are provided, or paying for all required licenses and/or certificates).
 - ☐ Contractor has the authority to hire other persons to provide or assist in providing the services (and has the authority to fire those persons).

Contractor Signature: _____

Date: _____

**EXHIBIT D –TRAVEL REIMBURSEMENT POLICY
MASTER AGREEMENT FOR SMALL CONSTRUCTION PROJECTS
PROCUREMENT # FP-20xx-0x, MSA # _____**

The Contractor is required to consult the **EOU Travel webpage** (<https://www.eou.edu/busserv/travel/>) each invoice to confirm the latest **Contractor Travel Guidelines** are being invoiced.

The most recent **Contractor Travel Guidelines** are located here:
<https://www.eou.edu/busserv/files/2025/01/Contractor-form-2025.pdf>

Note: EOU's travel guidelines differ from the State of Oregon's. Frequent errors include:

- Not applying La Grande, OR as a low-cost city for meal and lodging rates.
- Not submitting required mileage documentation, such as maps or mileage tracking reports. IRS-compliant mileage tracker apps are recommended.
- Seeking reimbursement for non-allowable expenses, such as gratuities, alcohol, laundry, or meals on one-day trips.
- Not providing itemize recipients when not seeking per diem.
- Requesting duplicate reimbursement for mileage and fuel or rental vehicle costs.

Contractors are responsible for ensuring their travel reimbursements adhere to the current rates and policies. Failure to follow these guidelines will result in reimbursement delays or denials.

END ATTACHMENT A