

ATTACHMENT A--SAMPLE CONTRACT

STATE OF OREGON

Professional Services and Related Services Contract

This contract ("Contract") is between the State of Oregon, by and through its Oregon Department of Corrections (the "Owner" or "ODOC") and

Company	_____	Contract #	_____
Address	_____	PCA Project/Phase	_____
City, State Zip	_____	E-mail	_____
Phone	_____		

(the "Consultant") (collectively Owner and Consultant are referred to as the "Parties" and individually as a "Party").

Owner's Representative: Steven Walborn - Steven.M.Walborn@doc.oregon.gov – 503-407-8014

This Contract is for design services associated with completion of the replacement of the Oregon State Penitentiary and related correctional facilities project more particularly described as follows (the "Project"):

Owner intends to seek funding for replacement of the Oregon State Penitentiary with a new maximum security facility, for construction of a new medical facility and for construction of any additional supporting facilities to be located on ODOC property shown in **Exhibit G** to the Contract.

As part of an initial phase of Project development, the Owner will need the Consultant to conduct a feasibility study for each Project site, create a conceptual design for the facilities and provide construction cost estimates for the Owner's legislative funding request related to further design services and construction work for the Project..

1. Contract Effective Date and Term. This Contract shall become effective on the date the Contract is fully executed by the Parties and all required State of Oregon approvals have been obtained (the "Effective Date"). No Services shall be performed prior to the Effective Date. This Contract shall expire, unless otherwise terminated or extended, two (2) years after Final Completion of construction work for the facilities contemplated by the Project. **[enter date]**.
2. Statement of Work. Generally, the Services to be performed by Consultant on the Project consist of the following (the "Services"):

Performance of comprehensive planning and design services associated with evaluating potential sites and developing conceptual designs for new correctional facilities, medical facilities and other supporting facilities. Services include conducting feasibility studies of selected sites and assessing utility access, environmental and community impacts, regulatory requirements, and geological conditions. The Consultant's design team will also provide conceptual design services for the correctional facilities, medical facilities and other supporting facilities, including architectural layouts, site plans, and cost projections with long-term price escalation estimates. Early-stage reporting will identify site advantages, disadvantages, and conceptual design-level cost estimates for the facilities. Extensive Project stakeholder engagement with Owner's personnel will inform planning decisions, while all Services must align with relevant regulatory frameworks and strategic Owner initiatives, such as the 10-Year Strategic Plan and The Oregon Way (Norway Model).

The Services are more specifically described in the **EXHIBIT A, Statement of Work**.

3. Compensation and Payment. The maximum amount payable to Consultant under this Contract, which includes the amount of any allowable and reimbursable expenses, is \$ **[redacted]**, as detailed further in **Exhibit B, Compensation**. No payment shall be made for Services that are performed before: i) the Contract Effective Date and ii) a notice to proceed ("NTP") has been issued by Owner.

Owner reasonably believes that, as of the Effective Date of this Contract, it has sufficient funds available and authorized for expenditure to finance the costs of the Contract within Owner's appropriation or limitation. Consultant

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understands and agrees that Owner's payment of amounts under the Contract is contingent on Owner receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under the Contract. In the event Owner staff responsible for oversight of the Contract become aware that sufficient funds are not available and authorized for expenditure to finance the costs of the Contract within Owner's appropriation or limitation, Owner shall give prompt written notice to Consultant.

4. Definitions. For purposes of this Contract:

- a) "Business Days" means 8:00 a.m. to 5:00 p.m., Pacific Time, Monday through Friday, excluding State of Oregon holidays;
- b) "Calendar Days" means any day appearing on the calendar, whether a weekday, weekend day, national holiday, State of Oregon holiday or other day;
- c) "Days" means calendar days, unless Business Days is specified;
- d) "Professional Services" means architectural, engineering, photogrammetric mapping, transportation planning or land surveying services that must be procured using qualifications-based selection procedures [see ORS 279C.100 and ORS 279C.110].
- e) "Related Services" is defined in ORS 279C.100; and
- f) "State" means State of Oregon.

5. Contract Documents and Order of Precedence. This Contract includes following exhibits, each of which is attached hereto and incorporated herein by this reference:

EXHIBIT A: Statement of Work
EXHIBIT B: Consultant Compensation
EXHIBIT C: Insurance Requirements
EXHIBIT D: [RESERVED]

EXHIBIT E: Delivery Schedule
EXHIBIT F: Key Personnel & Rate Schedule
EXHIBIT G: Project Site Descriptions

Unless a different order is required by law, this Contract shall be interpreted in the following order of precedence: this Contract (including all amendments, if any) less all Exhibits, attachments and other documents/information incorporated into this Contract, then the Statement of Work, then all Exhibits, then any other attachments or documents/information incorporated into this Contract by reference.

6. Professional Standard of Care; Responsibility of Consultant; Representations and Warranties.

- a. Professional Standard of Care. Consultant shall perform all Services under the Contract in accordance with the degree of skill and care ordinarily used by competent practitioners of the same professional discipline when performing similar services under similar circumstances, taking into consideration the contemporary state of the practice and the Project conditions.
- b. Responsibility of Consultant.
 - i. Consultant shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other Services and deliverables furnished by Consultant under the Contract. Consultant shall prepare, in accordance with the Standard of Care, all drawings, plans, specifications, deliverables and other documents so they accurately reflect, fully comply with and incorporate all applicable laws, rules, and regulations, and so that they are complete and functional for the purposes intended, except as to any deficiencies due to causes beyond the control of Consultant. Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications and other Services.
 - ii. Owner's review, approval or acceptance of, or payment for, the Services required under the Contract shall not be construed as an approval of the adequacy of the Services or to operate as a waiver of any rights under the Contract or of any cause of action arising out of the performance of the Contract, and Consultant shall be and remain liable to Owner in accordance with applicable law for all damages to

- Owner caused by Consultant's negligent performance of any of the Services furnished under the Contract or negligent failure to perform any of the Services under the Contract.
- iii. The rights and remedies of Owner provided for under the Contract are in addition to any other rights and remedies provided by law.
 - iv. If Consultant is comprised of more than one legal entity (for example, a joint-venture or partnership), each such entity shall be jointly and severally liable under the Contract.
 - v. Permits and Licenses:
 - 1. Permits and licenses to conduct business. Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold, maintain and fully pay for during the term of the Contract all permits and licenses required by law for Consultant to conduct its business and perform the Services under the Contract.
 - 2. Permits and licenses required for the Project. Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold and maintain during the term of the Contract all permits and licenses required for the Project (for example, permits from regulatory authorities and use permits or licenses from owners of real and personal property), but Owner shall pay for such permits and licenses. Consultant shall review the Project site, if applicable, and the nature of the Services that Consultant shall perform under the Contract. Consultant shall advise Owner throughout the course of the Project as to the necessity of obtaining all Project permits and licenses, the status of the issuance of any such permits and licenses, and any issues or impediments related to the issuance or continuation of any such permits and licenses.
- c. Consultant represents and warrants to Owner that:
- i. Consultant has the power and authority to enter into and perform this Contract and the persons executing the Contract on behalf of Consultant has the actual authority to bind Consultant to the terms of this Contract;
 - ii. this Contract, when executed and delivered is a valid and binding obligation of Consultant, enforceable in accordance with its terms;
 - iii. the provisions of this Contract do not conflict with or result in a default under any agreement or other instrument binding upon Consultant and do not result in a violation of any law, regulation, court decree or court order or other legal process applicable to Consultant;
 - iv. the Services under the Contract will be performed in accordance with the professional standard of care set forth in this Section;
 - v. Consultant is duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, is duly qualified and professionally competent to perform the Services;
 - vi. Consultant is an experienced firm having the skill, legal capacity, professional ability and capabilities and resources necessary to perform all the Services required under the Contract;
 - vii. Consultant is, or shall become, in a manner consistent with the Standard of Care, familiar with all current laws, rules, and regulations which are applicable to the performance of the Services; and
 - viii. Consultant has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.
 - ix. The Project, when completed and if constructed in accordance with the intent established by the drawings, plans, specifications, deliverables and other documents prepared by Consultant pursuant to this Contract, shall be code-compliant, structurally sound, and a complete and properly functioning facility suitable for the purposes for which it is intended;
 - x. The published specifications of the "Automated Systems" that Consultant has specified, designated and planned pursuant to this Contract conform to the Contract requirements. For the purposes of this subsection, "Automated Systems" shall mean any computers, software, firmware, heating, ventilation and air conditioning ("HVAC") systems, elevators, electrical systems, fire or life safety systems, security systems and any other electrical, mechanized or computerized devices serving the Project.
- d. Warranties Cumulative. The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

7. Key Persons.

- a. Consultant acknowledges and agrees that Owner selected Consultant and is entering into the Contract because of the special qualifications of Consultant's key personnel ("Key Persons" or "Key Personnel"), which may include specific staff agreed upon during Contract negotiations. In particular, Owner, through the

Contract is engaging the expertise, experience, judgment and personal attention of the Key Persons listed in **Exhibit F**.

- b. No Key Person may delegate performance of any management powers or other responsibilities the Key Person is required to provide under the Contract to another of Consultant's or subconsultant's personnel without first obtaining the written consent of Owner. Further, Consultant shall not re-assign or transfer any Key Person to other duties or positions such that the Key Person is no longer available to provide Owner with the Key Person's expertise, experience, judgment, and personal attention according to any schedule established under the Contract without first obtaining Owner's prior written consent to such re-assignment or transfer. Notification of request to change a Key Person shall be in writing (via e-mail or other form as may be required by Owner.) Throughout the term of the Contract, Consultant shall provide updated information (if requested by Owner) to demonstrate the continuing qualifications of any staff working on Owner projects, including those approved as Key Persons.
- c. Reassignment or Transfer of Key Person. In the event Consultant requests that Owner approve a reassignment or transfer of a Key Person:
 - i. Consultant shall provide a resume for the proposed substitute demonstrating that the proposed replacement has qualifications that are equal to or better than the qualifications of the person being replaced.
 - ii. Owner shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person.
 - iii. Any substitute or replacement for a Key Person must be approved in writing (e-mail acceptable) and shall be deemed to be a Key Person under the Contract.
 - iv. Consultant agrees that the time/costs associated with the transfer of knowledge and information for a Key Person replacement is not a cost borne by Owner and shall not be billed to Owner. This includes labor hours spent reviewing Contract/Project documentation, participation in meetings with personnel associated with the Contract/Project, and participating in site visits to become familiar with the Project.

8. Subconsultants.

- a. Consultant shall provide a list of all sub-consultants which Consultant intends to utilize on the Project (the "Sub-Consultants"). This list shall include such information on the qualifications of the Sub-Consultants as may be requested by Owner. Owner reserves the right to review the Sub-Consultants proposed. Consultant shall not retain a Sub-Consultant to which Owner has a reasonable objection. Consultant shall obtain Owner's written consent prior to entering into any subcontracts for any of the Services required by the Contract.
- b. In addition to any other provisions Owner may require, Consultant shall include, in any permitted subcontract under the Contract, contractual provisions that shall require any subcontractor (which may also be referred to as "subconsultant") to comply with Sections 6, 10, 12, 13, 16(g), 16(k), and 16(o) of these Contract provisions and the limitations provided in **Exhibit B Compensation**, in the performance of the subcontracted Services under the Contract, as if the subcontractor were the Consultant. Owner's consent to any subcontract shall not relieve Consultant of any of its duties or obligations under the Contract, including with respect to any Services, whether performed or to be performed by Consultant or a subcontractor.
- c. Consultant shall pay all Sub-Consultants and other subcontractors as required by Consultant's contracts with those Sub-Consultants and subcontractors. Consultant agrees that Owner has no direct or indirect contractual obligation or other legal duty whatsoever to pay the Sub-Consultants and other subcontractors of Consultant or otherwise ensure that Consultant makes full and timely payment to those Sub-Consultants and subcontractors for services performed on the Project.

9. Design Within Funding Limit.

- a. Consultant shall accomplish the design Services required under the Contract so as to permit construction of the Project within Owner's budget for construction, once that budget has been established. Consultant shall promptly advise Owner's Contract Administrator if it finds that the Project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable Project within these limitations. Upon receipt of such information, the Contract Administrator will review Consultant's revised estimate of construction cost. Owner may, if it determines that the estimated construction contract price set forth in this Section is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in this Section, or Owner may adjust such estimated construction contract price.
- b. Prior to releasing the bid for the construction contract, Owner will prepare an estimate of constructing the

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design submitted. If Owner's estimator(s) determines Consultant's design exceeds Owner's budget for the construction contract as set forth in Section (a) above (and as may be revised per Section (a) above), then Consultant shall perform such redesign and other Services as are necessary to permit contract award within the funding limitation. These additional Services shall be performed at no increase in the price of the Contract. However, Consultant shall not be required to perform such additional Services at no cost to Owner if Consultant's design exceeds Owner's budget (as set forth in Section (a) above) as a result of conditions beyond Consultant's reasonable control.

10. Ownership of Work Product.

- a. Definitions. The following terms have the meanings set forth below:
 - i. "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Contract.
 - ii. "Third Party Intellectual Property" means any intellectual property owned by parties other than Owner or Consultant.
 - iii. "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item, and all intellectual property rights therein, that Consultant is required to deliver to Owner pursuant to the Contract.
- b. Work Product. All Work Product created by Consultant pursuant to the Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of Owner. Owner and Consultant agree that Work Product that constitutes original works of authorship (the "Original Work Product") is "work made for hire" of which Owner is the author within the meaning of the United States Copyright Act. If for any reason Original Work Product created pursuant to the Contract is not "work made for hire," Consultant hereby irrevocably assigns to Owner any and all of its rights, title, and interest in all Original Work Product created pursuant to the Contract, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in Owner. Consultant forever waives any and all rights relating to Original Work Product created pursuant to the Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. However, see Sections 10.c, 10.d, 10.e and 10.f immediately below, for provisions applicable to Consultant Intellectual Property, Third Party Intellectual Property, Consultant Intellectual Property derivative works and Third Party Intellectual Property derivative works.
- c. Consultant Intellectual Property. In the event that any Work Product is Consultant Intellectual Property or a derivative work based on Consultant Intellectual Property or a compilation that includes Consultant Intellectual Property, or in the event any Consultant Intellectual Property is needed by Owner to reasonably enjoy and use any Work Product, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Consultant Intellectual Property and the pre-existing elements of the Consultant Intellectual Property employed in the Work Product, including the right of Owner to authorize contractors, consultants and others to do the same on Owner's behalf. At the request of Consultant, Owner shall take reasonable steps to protect the confidentiality and proprietary interests of Consultant in any Consultant Intellectual Property licensed under this Section, within the limits of the Oregon Public Records Law (ORS 192.311 through 192.478) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).
- d. Third Party Intellectual Property. In the event that Work Product is Third Party Intellectual Property or a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, or in the event any Third Party Intellectual Property is needed by Owner to reasonably enjoy and use any Work Product, Consultant shall secure on Owner's behalf and in the name of Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, including the right of Owner to authorize contractors, consultants and others to do the same on Owner's behalf.
- e. Limited Owner Indemnity. To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.400, Owner shall indemnify and hold Consultant harmless from liability arising out of Owner's re-use or alteration of the Work Product.
- f. Consultant Use of Work Product. Notwithstanding anything to the contrary in this Section 10, Consultant may refer to the Work Product in its brochures or other literature that Consultant uses for advertising purposes

and, unless specified otherwise in **Exhibit A – Statement of Work**, Owner hereby grants to Consultant a non-exclusive, non-transferable, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Owner-owned Work Product on other unrelated projects, except for any “Confidential Information” protected from disclosure under the provisions of Section 12 below, pertaining to Confidentiality and Non-Disclosure.

11. Certified Firms and Certified Firm Outreach Plan.

- a. **Certified Firms.** Respecting certification as a disadvantaged business enterprise, minority-owned business, woman-owned business, business that a veteran owns or an emerging small business under ORS 200.055 (a “Certified Firm”), as and when applicable, the Consultant shall maintain any certifications applicable to the Consultant, and require in its subcontracts that Sub-Consultants and subcontractors maintain any applicable certifications required by Section 2, Chapter 325, Oregon Laws 2015, as amended by Section 26, Chapter 565, Oregon Laws 2015 as a material condition of the Contract.
- b. If the Consultant, Sub-Consultant, or subcontractor was awarded the Contract or any underlying subcontract, as applicable, in the course of the Owner’s carrying out an affirmative action goal, policy or program under ORS 279A.100 – 279A.107, and fails to maintain the required certification, Owner may terminate the Contract, require the Consultant to terminate the Sub-Consultant or subcontractor, or exercise any of the remedies reserved for breach of the Contract. Pursuant to ORS 279A.110, Consultant shall not discriminate against a Certified Firm, in the awarding of subcontracts under this Contract; and
- c. **Certified Firm Outreach Plan.** Consultant’s Certified Firm Outreach Plan submitted as part of the procurement process for this Contract is incorporated by reference into this Contract as though fully set forth herein, and Consultant shall conduct the outreach, subcontracting and assistance efforts included in Consultant’s Certified Firm Outreach Plan.

12. Confidentiality and Nondisclosure.

- a. **Confidential Information.** Consultant acknowledges that it and its employees and agents may, in the course of performing their responsibilities under the Contract, be exposed to or acquire information that is confidential to Owner. Any and all information that Owner provides to Consultant or its employees or agents in the performance of the Contract that Owner designates as confidential (either on the document itself or through related correspondence), as well as all reports and other documents and materials (including software) that result from Consultant’s use of such information and any other Work Product that Owner designates as confidential, is deemed to be confidential information of Owner (“Confidential Information”). Confidential Information does not include information that (i) is or becomes (other than by disclosure by Consultant) publicly known; (ii) is furnished by Owner to others without restrictions similar to those imposed by the Contract; (iii) is rightfully in Consultant’s possession without the obligation of nondisclosure prior to the time of its disclosure under the Contract; (iv) is obtained from a source other than Owner without the obligation of confidentiality, (v) is disclosed with the written consent of Owner, or; (vi) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.
- b. **Non-Disclosure.** Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and shall not, without Owner’s prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services to Owner hereunder. Consultant shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Consultant shall use reasonable efforts to assist Owner in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Consultant shall advise Owner immediately if Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section 12(b), and Consultant shall, at its expense, cooperate with Owner in seeking injunctive or other equitable relief in the name of Owner against any such person. Consultant agrees that, except as directed by Owner, Consultant will not at any time during or after the term of the Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with the Contract, and that upon termination of the Contract or at Owner’s request, Consultant shall turn over to Owner all documents, papers, and other matter in Consultant’s possession that embody Confidential Information. In the event Consultant is required to disclose Confidential Information pursuant to a subpoena or other legal process, Consultant shall notify Owner of such subpoena or other legal process, provide Owner with copies of any subpoena, other legal process and any other written materials supporting the subpoena or other legal process, and otherwise cooperate with Owner in the event

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Owner decides to oppose the disclosure of the Confidential Information. In the event Owner decides not to oppose such subpoena or other legal process or Owner's decision to oppose the subpoena or legal process has not been successful, Consultant shall be excused from the confidentiality provisions of this Section, to the extent necessary to meet the requirements of the subpoena or other legal process controlling the required disclosure.

- c. Injunctive Relief. Consultant acknowledges that breach of this Section, including but not limited to, disclosure of any Confidential Information, will give rise to irreparable injury to Owner that is inadequately compensable in damages. Accordingly, Owner may seek and obtain injunctive relief against the breach or threatened breach of this Section, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Owner and are reasonable in scope and content;
- d. Publicity, Media and Third Party Contacts. Consultant shall provide no news release, press release, or any other statement to a member of the news media, any third party or the public regarding this Project, without Owner's prior written authorization.
- e. Security. Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of Owner when using, having access to, or creating systems for any of Owner's computers, data, systems, personnel, or other information resources, or when accessing the Owner's buildings and real property.

13. Indemnity.

- a. CLAIMS FOR OTHER THAN PROFESSIONAL LIABILITY. Consultant shall indemnify, defend, save, and hold harmless the State of Oregon, its agencies, their officers, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the acts or omissions of Consultant or its subcontractors, or their respective agents or employees, under the Contract.
- b. CLAIMS FOR PROFESSIONAL LIABILITY. To the fullest extent permitted by law, and except to the extent prohibited under ORS 30.140(4), Consultant shall indemnify, defend, save, and hold harmless the State of Oregon, its agencies, their officers, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, arising out of the professionally negligent acts, errors or omissions of Consultant or its subcontractors, or their respective agents or employees, in the performance of Consultant's professional services under the Contract.
- c. INDEMNITY FOR INFRINGEMENT CLAIMS. Without limiting the generality of Section 13.a or 13.b, Consultant expressly agrees to indemnify, defend, save and hold harmless the State of Oregon, and its agencies, subdivisions, officers, directors, agents, and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, arising out of or relating to any claims that Consultant's Services, the Work Product or any other tangible or intangible items delivered to Owner by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or Owner's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that state shall provide Consultant with prompt written notice of any infringement claim. Provided, however, Consultant shall not be obligated to indemnify, defend, save and hold harmless the state and agency under this Section 13.c, based solely on the following: Consultant's compliance with Owner specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by Owner.
- d. DEFENSE QUALIFICATION. Notwithstanding Consultant's foregoing defense obligations, neither Consultant nor any attorney engaged by Consultant shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election, assume its own defense and settlement in the event that it determines that Consultant is prohibited from defending the State of Oregon, or that Consultant is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against Consultant if the State of Oregon elects to assume its own defense.
- e. OWNER'S ACTS OR OMISSIONS. This Section does not include indemnification by Consultant of the State of Oregon or Owner or their officers, agents, and employees, for the acts or omissions of the State of Oregon, Owner or their officers, agents, and employees, whether within the scope of the Contract or otherwise.

14. Insurance. Consultant shall maintain in effect for the duration of this Contract, or any other periods required herein, the insurance set forth in **Exhibit C**.

15. Termination.

- a. Termination by Mutual Consent. The Contract may be terminated at any time, in whole or in part, by mutual written consent of the Parties.
- b. Owner's Right to Terminate for Convenience. Owner may, at its sole discretion, terminate this Contract, in whole or in part, when such termination is in the public interest of the Owner, upon written notice to Consultant specifying the scope of the termination and the termination date of the Contract.
- c. Owner may terminate this Contract immediately, in whole or in part, upon written notice to Consultant, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:
 - i. Owner fails to receive appropriations, limitations or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments for Consultant's Services;
 - ii. Federal, State or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under the Contract are prohibited or Owner is prohibited from paying for such Services from the planned funding source;
 - iii. Consultant no longer holds any license or certificate that is required to perform the Services;
 - iv. Consultant has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State; or
 - v. Consultant commits any material breach or default of any covenant, warranty, obligation, certification or agreement under the Contract, fails to perform the Services under the Contract within the time specified or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within 30 calendar days after Owner's notice to Consultant, or such longer period as Owner may specify in such notice.
- d. Cessation of Services. Upon receiving a notice of termination, and except as otherwise directed in writing by Owner, Consultant shall immediately cease all activities related to the Services or the Project.
- e. Consultant's Right to Terminate for Cause.
 - i. Consultant may terminate this Contract if Owner fails to make any payment to Consultant required under this Contract within forty-five (45) calendar days after receiving written notice from Consultant of such failure; or
 - ii. Consultant may terminate this Contract, for reasons other than non-payment, if Owner commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the time specified, or so fails to perform as to endanger Consultant's performance under this Contract, and such breach, default or failure is not cured within thirty (30) calendar days after delivery of Consultant's notice, or such longer period as Consultant may specify in such notice.
- f. Delivery of Work Product/Retained Remedies of Owner. As directed by Owner, Consultant shall, upon termination, promptly deliver to Owner all documents, information, works in progress, Work Product and other property that are deliverables or would be deliverables if the Contract had been completed. By Consultant's signature on this Contract, Consultant allows Owner to use Work Product and other property for Owner's intended use. The rights and remedies of Owner provided in this are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- g. Payment upon Termination.
 - i. In the event of termination pursuant to Sections 15(a), 15(b), 15(c)(i), 15(c)(ii) or 15(e), Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by Owner plus Consultant's reasonable Contract close-out costs, less previous amounts paid and any claim(s) which Owner has against Consultant, except in the event of a termination under Section 15(c)(i), where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium, consistent with Section 3. Within thirty (30) days after termination, Consultant shall submit an itemized invoice for all un-reimbursed Services completed before termination and all Contract close-out costs actually incurred by Consultant. Owner shall not be obligated to pay for any such costs invoiced to and received by Owner later than thirty (30) days after termination. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall promptly refund any excess amount upon demand; or
 - ii. In the event of termination pursuant to Sections 15(c)(iii), 15(c)(iv), 15(c)(v), Owner shall have any remedy available to it in law or equity, including, but not limited to, undertaking collection by administrative offset, or garnishment if applicable, of all monies due for Services to recover liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State

of Oregon. Offsets or garnishment may be initiated after the Contractor has been given notice, if required by law. Such remedies may be pursued separately, collectively or in any order whatsoever. If it is determined for any reason that Consultant was not in default under Sections 15(c)(iii), 15(c)(iv), or 15(c)(v), the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 15(b).

16. General Provisions.

- a. **Contract Performance.** Consultant shall at all times perform the Services in accordance with the terms and conditions of this contract, diligently and without delay, to carry out the project and to achieve Owner's objectives. Consultant shall punctually fulfill all Contract requirements consistent with the schedule for the performance of Services set forth in **Exhibit A** and **Exhibit E**. Expiration or termination of the Contract shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance.
- b. **Owner's Separate Contracts.** Owner may retain the services of an independent project manager and other consultants as needed to fulfill Owner's objectives.
- c. **Independent Contractor; Responsibility for Taxes and Withholding; Consultant Oversight.**
 - i. Consultant, by its signature on the Contract, certifies that it is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779, which is available at: <https://www.irs.gov/pub/irs-pdf/p1779.pdf>. Consultant shall perform all required Services as an independent contractor. Although Owner reserves the right (i) to determine the delivery schedule (as mutually acceptable to Owner and Consultant) for the Services to be performed and (ii) to evaluate the quality of the completed performance, Owner cannot and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant is not an "officer", "employee", or "agent" of Owner, as those terms are used in ORS 30.265.
 - ii. Consultant shall be responsible for all federal or state taxes applicable to compensation or payments paid to Consultant under the Contract and, unless Consultant is subject to backup withholding, Owner will not withhold from such compensation or payments any amount(s) to cover Consultant's federal or state tax obligations. Throughout the duration of the Contract, Consultant shall submit an updated W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>) to Owner whenever Consultant's backup withholding status or any other information changes. Consultant is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Consultant under the Contract, except as a self-employed individual. If any payment under this Contract is to be charged against federal funds, Consultant certifies that it is not currently employed by the federal government.
 - iii. Consultant shall not be responsible for or have control over the means, manner, methods or techniques required of or used by other consultants or contractors under contract with Owner who are performing services or construction work on projects within the scope of the Contract, unless otherwise expressly agreed to in writing by the Parties. The Parties agree, however, that this provision does not in any way revise or adjust Consultant's professional responsibility to report to Owner any information pertaining to a project, or to performance by other consultants or contractors on a project, that would adversely affect Owner or a particular project, to the extent any such information may come to the attention of Consultant during the performance of Services within the scope of the Contract.
- d. **Compliance with Conditions Concerning Hours of Labor (ORS 279C.520)**
 - i. Consultant shall not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
 - ii. Consultant shall pay employees at not less than time and one-half for all overtime worked in excess of 40 hours in any one week and for work on legal holidays, except for individuals who are excluded from receiving overtime under personal services contracts pursuant to ORS 653.010 to 653.261 or under other applicable law.
 - iii. Consultant shall give notice in writing to employees who work on this contract, either at the time of hire or before work begins on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the contractor may require the employees to work.

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- e. Prohibition on Discriminatory Wage Rates. Consultant shall comply with the prohibitions set forth in ORS 652.220, and shall not discriminate against any of Consultant's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a "protected class." For purposes of this provision, a "protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, veteran status, disability or age. Consultant's failure to comply with these requirements is a breach of the Contract that entitles the Owner to terminate the Contract for cause.
- f. Compliance with Applicable Law. Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services. Owner's performance under this Contract is conditioned upon Consultant's compliance with the provisions of ORS 279C.505, 279C.515, 279C.520, and 279C.530, which are hereby incorporated by reference. Consultant, the Sub-Consultants, if any, and all employers providing Services, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017. All rights and remedies available to the Owner under applicable federal, state and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract.
- g. Successors and Assigns. The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. After the original Contract is executed, Consultant shall not enter into any Sub-Consultant agreements for any of the Services, assign or transfer any of its interest in this Contract or delegate any of its duties or performance under this Contract, without the prior written consent of Owner. Any purported assignment, delegation or disposition, without the prior written consent of Owner is prohibited, whether voluntary or involuntary, by merger, consolidation, stock transfer, asset sale, change in control, dissolution, operation of law, or by any other manner. Any purported assignment, delegation, or disposition, without the prior written consent of Owner, is void.
- h. No Third Party Beneficiaries. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against Owner or Consultant. Consultant's Services under this Contract shall be performed solely for Owner's benefit and no other entity or person shall have any claim against Consultant because of this Contract for the performance or nonperformance of Services hereunder.
- i. Access to Records. For not less than six (6) years after the Contract's expiration or termination, Owner, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Consultant and the Sub-Consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If, for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Consultant shall provide Owner and the other entities referenced above with full access to these records in preparation for and during litigation.
- j. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to executing this Contract.
- k. Force Majeure. Neither party shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to fire, riot, acts of God, terrorist acts or war where such cause was beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.
- l. Survival. All rights and obligations shall cease upon termination or expiration of the Contract, except for the rights and obligations set forth in Sections 5, 6, 10,12,13,15(d), 15(g), 16(g),16(j), 16(k), 16(o) and all other rights and obligations which expressly or by their nature or context are intended to survive.
- m. Time is of the Essence. Consultant agrees that time is of the essence in Consultant's performance of its obligations under the Contract.
- n. Notice. Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, e-mail, or first class mail, postage prepaid, to Consultant or Owner at the address or number set forth in **Exhibit A**, or to such other address or number as either party may provide pursuant to this "Notice" section. Any notice delivered by mail shall be deemed to be given five (5) calendar days after the postmark. Any notice by personal delivery shall be deemed to be given when actually

- delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.
- o. Severability. The Parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
 - p. Counterparts. The Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.
 - q. Governing Law; Venue; Consent to Jurisdiction. This Contract shall be governed by, construed in accordance with and enforced in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively “Claim”) between Owner and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this “Governing Law; Jurisdiction; Venue” section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. **CONSULTANT, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**
 - r. Amendments. Owner may amend the Contract to the extent permitted by applicable statutes and administrative rules and as mutually agreed upon by Owner and Consultant. Consultant shall not commence any Services authorized under an amendment, and the amendment is not effective, unless it is in writing, signed by the Parties, and all approvals required by applicable law have been obtained.
 - s. Merger Clause; Waiver; Interpretation. The Contract, including everything incorporated by reference, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Contract. No waiver, consent, modification or change of terms of the Contract shall bind either Party, unless such waiver, consent, modification or change of terms is in writing and signed by the Parties, and all necessary State of Oregon governmental approvals have been obtained. Such a waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Either Party’s failure to enforce any provision of the Contract shall not constitute a waiver by that Party of that or any other provision. The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.
 - t. State-owned Assets. All State-owned assets, if any, in Consultant’s possession must be promptly returned to Owner when the Services are complete, when the Contract is terminated, or when requested by Owner, whichever occurs first.
 - u. Consultant shall perform professional services for the design of the Project, as more particularly detailed in **Exhibit A**, to obtain the greatest long-term value for the State of Oregon, and to result in the prudent expenditure of public funds within the constraints of the Project program, context, and budget. In pursuing these goals, Consultant, with Owner's assistance, shall:
 - i. Perform Services which are appropriate for the context of the Project and the nature of its function, both present and future;
 - ii. Avoid expenditures for aesthetic effect which are disproportionate when compared to the additional benefit to the Project as a whole;
 - iii. Help assure the Project is completed on time and within budget.;
 - iv. Strive to reduce the construction cost of the Project while keeping life-cycle costs low;
 - v. Reduce the number of toxic chemicals used on the Project in specified products, like those indicated on the Oregon DEQ Toxics Focus List, in compliance with the Oregon Department of Administrative Services (“DAS”) Green Chemistry Procurement Guidelines” policy number 107-009-0080-PO;
 - vi. Comply with the Oregon Sustainability Act, ORS 184.421 and 184.423;
 - vii. In compliance with the Office of the Governor State of Oregon Executive Order No. 17-20 and Executive Order No. 20-04, where applicable, address the reduction of greenhouse gas emissions and embodied carbon in the design, construction, specified materials and operation of State of

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Oregon construction projects, strive to meet the requirement that all new State of Oregon buildings constructed from 2022 onward shall be designed to be carbon neutral ready.

- v. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Contract and amendments, submitted or exchanged via email are “Electronic Signatures” under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. Owner reserves the right at any time to require the submission of the hard copy originals of any documents.
- w. **Conflict of Interest.** Except with Owner’s prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear to, compromise Consultant’s professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTERS ADDRESSED HEREIN. THE TERMS OF THIS CONTRACT CANNOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES AND CONTAINING ALL REQUIRED STATE OF OREGON APPROVALS. ANY SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION OR AMENDMENT SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS CONTRACT EXCEPT AS CONTAINED, INCORPORATED OR REFERENCED HEREIN. CONSULTANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS THIS CONTRACT, AND AGREES TO BE BOUND BY ALL OF THIS CONTRACT’S TERMS AND CONDITIONS. THIS CONTRACT, AND ANY AMENDMENTS TO IT, MAY BE EXECUTED IN COUNTERPARTS (EACH OF WHICH SHALL BE AN ORIGINAL AND ALL OF WHICH SHALL CONSTITUTE BUT ONE AND THE SAME INSTRUMENT) OR IN MULTIPLE ORIGINALS. AN ELECTRONICALLY TRANSMITTED FORM OF THIS CONTRACT OR ANY AMENDMENT THERETO, EXECUTED BY ONE OR MORE OF THE PARTIES, WILL CONSTITUTE A COUNTERPART HEREOF, AS LONG AS THE COUNTERPART BEARING THE PARTY’S ORIGINAL SIGNATURE IS PROMPTLY TRANSMITTED TO THE OTHER PARTY AND RECEIVED BY THAT PARTY FORTHWITH.

CERTIFICATION:

A. Any individual (the undersigned) signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to Owner, in the manner and format requested by Owner.
- (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding.
- (3) The undersigned is authorized to act on behalf of Consultant, the undersigned has authority and knowledge regarding Consultant’s payment of taxes, and to the best of the undersigned’s knowledge, Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means (i) any state taxes administered by the Oregon Department of Revenue (“DOR”) under the tax laws of this state and local taxes administered by DOR under ORS 305.620;; and (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor; and (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

B. Any individual (the undersigned) signing on behalf of Consultant hereby certifies the undersigned is authorized to sign this Contract and that:

- (1) Consultant has read this Contract, understands it, and agrees to be bound by its terms and conditions.
- (2) Consultant understands and agrees that various Exhibits to the Contract are not physically attached, but are incorporated by reference in Section 5 and have the same force and effect as if fully set forth herein.
- (3) Consultant has, and gives employees a written notice of, a policy and practice, that meets the requirements described in ORS279A.112. Such policy both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault and discrimination against employees who are members of a protected class. Consultant agrees,

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as a material term of the Contract, to maintain the policy and practice in force during the entire term of the Contract (see additional information and sample policy template at <https://www.oregon.gov/DAS/Procurement/Pages/hb3060.aspx>).

- (4) Consultant is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779 (<https://www.irs.gov/pub/irs-pdf/p1779.pdf>).
- (5) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this Contract constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Contract.
- (6) Consultant understands and acknowledges it is subject to the Oregon False Claims Act (ORS 180.750 to 180.785) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the Contract or the Project for which the Services are being performed, including but not limited to Consultant's statement of proposal and any invoices, reports, or other deliverables. Consultant shall immediately disclose (in writing) to Owner whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Consultant has credible evidence that a principal, employee, agent, or subcontractor of Consultant has committed:
- (a) A violation of the Oregon False Claims Act; or
 - (b) A violation of State or federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.

Consultant must include subsections (A) and (B) of this Certification in each subcontract Consultant may award in connection with the performance of the Contract. In doing so, Consultant may not modify the terms of those subsections, except to identify the subcontractors or sub grantee that will be subject to those provisions.

Consultant

Name/Title

Date

Department of Corrections

Name/Title

Date

Approved for Legal Sufficiency for the Owner
Oregon Department of Justice

Approved by

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT A
STATEMENT OF WORK

I. GENERAL PROVISIONS

a. Deliverable Submission, Review and Comment

Consultant shall provide all draft and final deliverables to [insert name(s)/position(s)] unless otherwise specified within the deliverables description within the Phase of Services. Unless otherwise stated elsewhere in the Agreement, all deliverables must be submitted as follows:

- Consultant shall use electronic submittal and receipt of files as necessary for the Project.
- Consultant shall submit draft deliverables in digital format via email (with hard copy if requested).
- Consultant shall also submit all graphic files accompanying reports separately in .jpg or .tif formats unless specified differently by Agency.
- Each draft and final text-based or spreadsheet-based deliverable must be provided in MS Office file formats (i.e., MS Word, Excel, etc.) and must be fully compatible with version used by Agency.
- Additional format requirements may be listed with specific tasks/deliverables in this SOW.

The Owner will provide consolidated comments on Consultant deliverables within a reasonable timeframe accounting for circumstances existing at the time of deliverable. Following receipt of Agency comments on any deliverables, Consultant shall coordinate with Contracting Agency personnel to revise draft deliverables to incorporate Contract Agency feedback. Consultant shall return the revised deliverables to with Contracting Agency comments incorporated, within 14 business days of Consultant's receipt of Contracting Agency's comments, unless a different timeframe is specified for specific tasks or otherwise agreed to in writing by Contracting Agency.

b. Formant Requirements

(i) SPECIFICATIONS.

All specifications shall be prepared using the 3-part and 50-division format widely used as the standard for organizing specifications and other written information for commercial and institutional building projects. If applicable, the Consultant will be provided a copy of the Agency's standard specifications for use in the Project or development of additional specifications or special provision.

All specified items shall be standard items, cataloged items, manufactured items, or "off-the-shelf" items. No custom items shall be designed or specified without prior written authorization of Owner. No proprietary or "sole source" items shall be specified. Brand name products may be specified so long as "approved equal" is included with their specification, if there is no other practical method of specification.

"Outline specifications" must include an itemized list, using brief, concise statements, of significant materials, systems, and equipment and their criteria and levels of quality.

(ii) STATEMENTS OF PROBABLE COST OF CONSTRUCTION.

Consultant shall be organized to provide a level of detail corresponding to the Construction Specification Institute's ("CSI") format and shall include the costs of systems, assemblies, and functional areas.

c. Deliverable Schedule

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The delivery schedule is shown in the table below which includes the required timeframes for deliverables. Consultant can request a time extension to these timeframes in writing to Agency containing sufficient information to support the requested additional time. If Agency is willing to approve the time extension, it must be documented as an amendment to this Scope of Work.

d. Statutory Project and Design Requirements.

- (i) **ENERGY EFFICIENCY DESIGN REQUIREMENTS.** Consultant shall refine and incorporate the design criteria and energy efficiency measures identified in Phase 1 for the Project that are required under the SEED program (ORS 276.900 through 276.915 and OAR 330-130-0010 through 330-130-0080). Consultant shall integrate the energy conservation measures into the Consultant's development of the Project design, in compliance with the requirements of ORS 276.900 through 276.915 and OAR 330-130-0010 through 330-130-0080. When completed, the Project must exceed the State Building Code requirements for energy efficiency by 20% or more, and shall be a "model of energy efficiency" as that term is described in the above-referenced administrative rules. Consultant shall document the energy efficiency measures used to comply with the requirements of ORS 276.900 through 276.915 and OAR 330-130-0010 through 330-130-0080.
- (ii) **GREEN ENERGY REQUIREMENTS.** Consultant shall define the green energy technology criteria and design elements consistent with the requirements of ORS 279C.527 and 279C.528 and the rules of the State of Oregon Department of Energy (1.5% for green energy technology in public building construction contracts). Consultant shall integrate those green energy technology design elements and shall document with particularity those green energy technology costs and design elements used to meet the requirements.
- (iii) **FINE ARTS AND CRAFTS REQUIREMENTS.** [NOTE: Fine Arts and Crafts Services do not apply to projects when construction cost is less than \$100K or if certain other circumstances are present.] Consultant shall comply with the 1% for Art Program, pursuant to ORS 276.073-276.090 as it is related to acquisition of fine arts or crafts to be part of the Project and shall consult on the selection, commissioning and implementation of those fine arts or crafts.

e. Required Design Considerations.

- (i) **LESS TOXIC/SAFER MATERIALS SPECIFICATIONS AND LISTS.** Where applicable, Consultant shall include the following: less toxic materials specifications or materials lists reviewed by third-party certification programs; safer products which are already commercially available to the extent that is practical; safer options that also limit premium costs and overall lifecycle costs.
- (ii) **OWNER DESIGN REQUIREMENTS FOR STATE CORRECTIONAL FACILITIES.** Where applicable, Consultant shall provide the Services in compliance with and consistent with any Owner design requirements for State correctional facilities, whether related to general design standards, security requirements or other requirements.

II. SERVICES

PHASE 1 PRIMARY SERVICES – PROGRAMMING AND FEASIBILITY STUDY SERVICES

During the programming and feasibility study phase of the Services, Consultant shall provide those Primary Services necessary to refine the Owner's programming requirements, any Project site-related limitations and general requirements for the Project. Some of the described Services will be provided during this activity phase and some during other phases of Project design. Consultant's Services during Phase 1 shall consist of the following:

1.0 PROGRAMMING AND PROJECT REQUIREMENTS

1.0.1 PROGRAMMING SERVICES -

1.0.1.1 Information and Analysis. Consultant shall gather information from Owner and Project stakeholders to identify requirements, problems, issues, expectations, concerns, as well as Project goals. The programming

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information shall include but is not limited to a list of spaces, their sizes, activities, hours of use, finishes, equipment, furniture and systems, and a brief narrative describing the relationship between spaces. Consultant shall confirm and refine the program information already developed for the Project, detailing the space needs, dimensions, interrelationships and special requirements such as telecommunications systems, access control, standby power and security for each area of the new facility.

a. Site Development Considerations. Consultant shall analyze site development considerations including land utilization, structure placement, circulation and parking, utilities, subsurface conditions, ecological requirements, and landscape concepts. Consultant shall provide a comparative evaluation of feasible site development options.

b. Space Planning. Consultant shall analyze space utilization needs in accordance with DAS Office Space Planning and Standards requirements (available at: https://www.oregon.gov/das/Policies/107-011-100_PR.pdf) Consultant shall provide diagrams showing functional relationships of the various program areas of the Project. Consultant shall provide an efficiency analysis of the programmed space needs. Consultant shall work with Owner and comply with current DAS Policy.

c. DAS Construction Reference Standards. Consultant shall review DAS Construction Reference Standards and identify applicable Standards at the direction of Owner.

1.0.1.2 Community Stakeholder Report. Consultant shall deliver a Community Stakeholder Report that summarizes feedback regarding the Project from neighborhood associations, advocacy organizations focused on the needs of adults in custody, regional geriatric and health care service providers and the public. A full list of contacts will be provided to the Consultant by the Owner.

1.0.1.3 Programming Report. Consultant shall prepare a Programming Report to include a description of all information gathered and analyzed, including the space and site develop analyses. The Programming Report shall include an executive summary, a narrative report describing the Consultant's findings regarding the building size, layout, spaces, and site development recommendations. Consultant shall prepare a refined program report, in an 8 1/2" X 11" format and with any drawings and plans attached and in an 11" X 17" format ("Programming Report"), for presentation to and approval by Owner.

1.0.2 PROJECT REQUIREMENTS REPORT - Based on Owner's approved Programming Report, Consultant shall identify all requirements applicable to the Project design and construction, including any approvals and permits that may be needed, including but not limited to those listed below. Consultant shall prepare and provide a comprehensive report detailing all such requirements, recommendations for compliance, and associated timelines for securing approvals.

1.0.2.1 ON-SITE AND OFF-SITE UTILITY STUDIES. Consultant shall establish requirements and prepare initial designs for on-site utilities required for the Project and shall determine the requirements for Project connections to required utilities.

1.0.2.2 PERMITS AND LAND USE. Consultant shall determine all permit and land use requirements.

1.0.2.3 GREEN ENERGY REQUIREMENTS. Consultant shall establish criteria and design elements to incorporate appropriate green energy technology in the Project that meets the requirements of ORS 279C.527 and 279C.528 and the rules of the State of Oregon Department of Energy (1.5% for green energy technology in public building construction contracts).

1.0.2.4 ENERGY EFFICIENCY DESIGN REQUIREMENT. Consultant shall establish design criteria and energy conservation measures to comply with the requirements of ORS 276.900 through 276.915 and OAR 330-130-0010 through 330-130-0080, that are applicable to the Project. When completed, the Project must exceed the State Building Code requirements for energy efficiency by 20% or more, and shall be a "model of energy efficiency" as that term is described in the above-referenced administrative rules.

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1.0.2.5 FINE ARTS AND CRAFTS. Consultant shall establish criteria for compliance with the 1% for Art Program, pursuant to ORS 276.073-276.090, as it is related to acquisition of fine arts or crafts to be part of the Project and shall consult on the selection, commissioning and implementation of those fine arts or crafts.

1.0.2.6 CULTURAL RESOURCES AND HISTORIC PRESERVATION. Consultant shall identify all cultural resources and historic preservation requirements applicable to the Project. As directed by Owner, Consultant shall coordinate with the independent and qualified Historic Preservation personnel familiar with the Secretary of the Interior's Standards for the Treatment of Historic Properties to assist Owner and make recommendations. All background research, fieldwork, and report preparation dealing with historic architecture shall be supervised by an Architectural Historian meeting, at minimum, the Secretary of the Interior's Professional Qualifications Standards for Architectural History or Historic Architecture. (48 FR 44739).

1.0.2.7 ENVIRONMENTAL SITE ASSESSMENTS AND NATIONAL ENVIRONMENTAL POLICY ACT. Consultant shall identify the environmental and (if applicable) NEPA requirements applicable to the Project.

1.0.2.8 OWNER INPUT AND INTERVIEWS. Owner's Project Manager will arrange stakeholder teams to be available to Consultant for specific needs and targets for the Project facilities:

- a. Owner Personnel
 - i. Central Office Executive Team
 - ii. Facilities Construction Management
 - iii. Facilities Communication and Infrastructure
 - iv. Distribution Services
 - v. Institutional Executive Team(s)
 - vi. Physical Plant Management
 - vii. Health Service
 - viii. Information Technologies
 - ix. Sustainability Programs
 - x. Operations
 - xi. Staff Wellness and Safety
 - xii. Oregon Corrections Enterprises
 - xiii. Other Personnel by Request
- b. Review Workshops
 - i. Sites Feasibility and Options
 - ii. Sites Selection Final Determinations
 - iii. Design Concept Options and Decisions
 - iv. Progress Concept Design Workshops
 - v. Conceptual Design Final Review

1.0.2.9 OWNER INITIATIVES – CONSIDERATIONS AND COMMENTS. Consultant shall review and comment on the following Owner initiatives, providing Consultant's comments in a designated section of the Project Requirements Report.

- a. 2020 10-Year Strategic Plan
- b. 2022 10-Year Strategic Plan Update
- c. The Oregon Way (Norway Model)
- d. Falcon Group Health Services Review Key Findings

1.1 FEASIBILITY STUDY

1.1.1 TOPOGRAPHICAL SURVEYING. Consultant shall complete the following topographical surveying services for the Project sites:

- a. Order the utility line locates within the public rights of way as well as up to the service points on subject properties.
- b. Locate all underground utility markings as marked by private locating company.

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- c. Locate all surface features over subject property including but not limited to: access ways, driveways, curbs, structures, fences, poles, disposal areas, drainage areas, etc.
 - d. Locate all ground and above ground utilities including but not limited to: utility poles, overhead power wires, manholes, catch basins, cleanouts, meters, valves, vaults, boxes, hydrants, etc.
 - e. Obtain invert elevations and pipe sizes of all storm and sewer manholes and catch basins to the nearest 0.1 foot.
 - f. Provide spot grades over subject property to accurately map contours at one (1) foot intervals.
 - g. Identify trees 6-inches and larger (measured at chest height).
 - h. Identify major vegetation and plantings.
 - i. Establish site control to comply with local authorities having jurisdiction.
- 1.1.2 BOUNDARY SURVEY/RIGHTS OF WAY RESOLUTION. Consultant shall complete the following boundary/rights of way resolution services for the Project sites:
- a. Complete all necessary research of survey and deed records for the subject property.
 - b. Locate all necessary monumentation to resolve the boundary of the subject property and adjacent rights of way.
 - c. Perform a boundary resolution of the subject property and public rights of way.
 - d. Note overall site acreage and current ownership according to public records.
- 1.1.3 WETLAND DELINATION. Consultant shall complete a wetland delineation assessment of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner.
- 1.1.4 SOIL SAMPLING. Consultant shall complete comprehensive soil samples of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner.
- 1.1.5 GEOTECHNICAL AND GEOLOGICAL INVESTIGATIONS. Consultant shall complete comprehensive geotechnical and geological investigations of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner.
- 1.1.6 HISTORICAL PRESERVATION INSPECTIONS. Consultant shall complete comprehensive historical preservation inspections of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner.
- 1.1.7 ENVIRONMENTAL SITE ASSESSMENT. Consultant shall complete comprehensive Level I and Level II environmental assessments of the Project sites; Consultant shall also assess the following specific environmental conditions at the Project sites: material testing and lab reporting as required by the contract documents and the Owner; mortar analysis, paint analysis and dendrochronology.
- 1.1.8 CULTURAL RESOURCES ASSESSMENT. Consultant shall complete a cultural resources assessment of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner
- 1.1.9 TRAFFIC CONDITIONS ASSESSMENT. Consultant shall complete a traffic conditions assessment of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner
- 1.1.10 UTILITIES INVESTIGATION. Consultant shall complete an investigation of the utilities at the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner
- 1.1.11 COMMUNITY AND STAKEHOLDER RESOURCES ASSESSMENT. Consultant shall complete a community/stakeholder resources assessment of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner.
- 1.1.12 REGULATIONS ASSESSMENT. Consultant shall complete a regulations assessment of the Project sites and provide an accurate and complete report of the Consultant's findings to the Owner, with the Consultant's assessment and report to include the following:
- a. Zoning
 - b. Oregon Revised Statutes for New Prison Construction
 - c. Oregon Administrative Rules

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- d. DEQ
- e. Permitting
- f. Fire Marshal
- g. Americans With Disabilities Act (“ADA”) Requirements (State and federal)
- h. Prison Rape Elimination Act (“PREA”) Requirements

1.1.13 NATIONAL ENVIRONMENTAL POLICY ACT (“NEPA”) COMPLIANCE.

1.2 PHASE 1 – PROGRAMMING AND FEASIBILITY STUDY SERVICES - DELIVERABLES

- 1.2.1 Community Stakeholder Report - Consultant shall provide the Report on or before [REDACTED].
- 1.2.2 Programming Report – Consultant shall provide the Report on or before [REDACTED].
- 1.2.3 Project Requirements Report - Consultant shall provide the Report on or before [REDACTED].
- 1.2.4 Feasibility Study - Consultant shall provide the Study on or before [REDACTED].

PHASE 2 PRIMARY SERVICES -- CONCEPTUAL DESIGN SERVICES

In the Conceptual Design Phase, from the Owner-approved programming information, identified Project requirements and the Feasibility Study, Consultant shall provide those Primary Services necessary to prepare conceptual design documents consisting of drawings, plans and other documents illustrating the general scope, scale and relationship of Project components (the “Conceptual Design Documents”) for review, comment and eventual acceptance by Owner. Throughout design, Consultant shall give consideration to availability of materials, equipment and labor, construction sequencing and scheduling, economic analysis of construction and operations, Owner's safety and maintenance requirements, sustainability and energy conservation. Designs will be conceptual in nature. Generally, the Conceptual Design Documents advance the Project design to approximately 20% design completion. Consultant shall address the following items during this Conceptual Design Services phase of the design process: Building Footprints; Elevations; Base Floor Plans with Space Descriptions; Architectural Concepts; and Base Site Plan Concepts.

- 2.01 Conceptual Design Package. Consultant shall prepare Conceptual Design Documents that identify potential architectural materials, systems and equipment (including their criteria and quality standards) which are consistent with the conceptual design. In doing so, Consultant shall investigate availability and suitability of alternative architectural materials, systems and equipment and coordinate similar activities of other disciplines. Consultant shall include research for less toxic materials that provide safer alternatives for people and the building environment. The Conceptual Design Package shall include:
 - 2.01.1 Architectural Conceptual Design Documents. Consultant shall respond to program requirements and prepare conceptual building plans and conceptual sections and elevations and develop approximate dimensions, areas and volumes. These Documents shall also include the following:
 - a. Single-line drawings showing complete building layout, identifying the various major areas, core areas and their relationships.
 - b. Identification of all proposed finishes (includes all exterior surfaces, doors and windows).
 - 2.01.2 Structural Conceptual Design Documents. Consultant shall recommend basic structural materials and systems, analyses, and develop conceptual design solutions for a primary structural system and alternate structural systems. These Documents shall also include the following:
 - a. Structural systems layout with overall dimensions and floor elevations. Identification of structural system (such as pre-cast, structural steel with composite deck, or structural steel with bar joists).
 - b. Identification of foundation requirements (such as fill requirements, piles, caissons, and spread footings).
 - 2.01.3 Mechanical Conceptual Design Documents. Consultant shall consider alternate materials, systems and equipment and develop conceptual design solutions for energy sources, energy conservation, heating and ventilating, air conditioning,

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plumbing, fire protection, and general space requirements necessary to allow for installation and utilization. These Documents shall also include the following:

- a. Block heating, ventilating and cooling load calculations including envelope and internal loads.
 - b. Minimum of two HVAC systems that appear compatible with loading conditions for subsequent life-cycle costing.
 - c. Single-line drawings of all mechanical equipment spaces, duct chases and pipe chases.
 - d. Location of all major equipment in allocated spaces.
- 2.01.4 Electrical Conceptual Design Documents. Consultant shall respond to program requirements and recommend basic electrical materials and systems, analyses, and develop conceptual design solutions for lighting, electrical, security and telecommunications systems. These Documents shall also include the following:
- a. An illumination plan showing estimated quantity of light from all sources and for all areas. Incorporation of daylight strategies to minimize artificial lighting. Recommendations for types and quantities of fixtures to be used.
 - b. Major electrical equipment roughly scheduled indicating size and capacity.
 - c. Complete conceptual-level one-line electrical distribution diagrams with indications of final location of service entry, switchboards, motor control centers, panels, transformers and onsite power generator.
 - d. Legend showing all symbols used on drawings and plans.
- 2.01.5 Civil Conceptual Design Documents. Consultant shall consider alternate materials and systems and develop conceptual design solutions for on-site utility systems and fire protection systems.
- 2.01.6 Interior Conceptual Design Documents. Consultant shall provide interior space planning based on functional relationships, DAS policy, code requirements, finishes, colors, systems, furniture and equipment. Consultant shall integrate interior space planning with conceptual design solutions for architectural, structural, mechanical, electrical and equipment requirements in order to establish an integrated design approach for a fully functional and coordinated building environment. Consultant shall obtain design input from Owner. The space plan shall include the number and location of all workstations and office layouts, loose furniture, special equipment, high density filing systems, and other rooms. Consultant shall perform these Services within the constraints of the proposed furniture system, taking into account panel dimensions and standards to provide basic workstation layouts that provide block dimensions.
- 2.01.7 Landscape Conceptual Design Documents. Consultant shall develop and expand landscape programming and develop outline specifications or materials lists to establish final scope and conceptual-level details for landscape work.

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- 2.03 Cost Estimating Services. Consultant shall develop a probable construction cost range, +/- 20%, for the Project (the “Conceptual Design Phase Statement of Probable Construction Cost”) based on the most recent conceptual design studies, current area, volume, or other unit costs, and expected Project contingencies and consistent with the construction cost budget. Consultant shall also provide the following deliverables:
- 2.03.1 Current Cost Study;
 - 2.03.2 5-Year Escalation; and
 - 2.03.3 10-Year Escalation.
- 2.04 Early Reporting Milestones. In developing the Conceptual Design Package for the Project, Consultant shall consider and report to the Owner on the following:
- 2.04.1 Sites advantages/disadvantages – as early as possible during the Feasibility Study.
 - 2.04.2 Early Opinion of Probable Construction Cost Analysis – as soon as possible, during the course of cost estimates for Project conceptual design;

2.05 Phase 2: CONCEPTUAL DESIGN DELIVERABLES

- 2.04.1 Draft Conceptual Design Documents Package: Consultant shall provide a Draft Conceptual Design Documents Package as detailed in Article 2.01 on or before [REDACTED].
- 2.04.3 Final Conceptual Design Documents Package: Consultant shall provide a Final Conceptual Design Documents Package on or before [REDACTED].
- 2.04.3 Conceptual Design Phase Statement of Probable Construction Cost – Consultant shall provide the Statement on or before [REDACTED].

PHASE 3 PRIMARY SERVICES -- SCHEMATIC DESIGN SERVICES

[RESERVED AT THIS TIME]

PHASE 4 PRIMARY SERVICES DESIGN DEVELOPMENT SERVICES

[RESERVED AT THIS TIME]

PHASE 5 PRIMARY SERVICES CONSTRUCTION DOCUMENTS SERVICES

[RESERVED AT THIS TIME]

PHASE 6 PRIMARY SERVICES BIDDING SERVICES

[RESERVED AT THIS TIME]

PHASE 7 PRIMARY SERVICES -- CONSTRUCTION CONTRACT ADMINISTRATION SERVICES

[RESERVED AT THIS TIME]

PHASE 8 CONTINGENCY-SUPPLEMENTAL SERVICES

[RESERVED AT THIS TIME]

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT B
CONSULTANT COMPENSATION

1.0 BASIS OF COMPENSATION

1.01 Owner shall compensate Consultant for the performance of Services set forth in **Exhibit A**, as follows:

The maximum amount payable under this Contract is \$ for the Services (the combination of Primary Services, and, if authorized, Contingency Services) and Reimbursable Expenses, as detailed below.

- Consultant shall perform the Primary Services for a fixed price of \$.
- Upon Owner authorization, Consultant shall provide Contingency Services up to a maximum amount of \$.
- Owner shall reimburse Consultant for any allowable Reimbursable Expenses up to a maximum amount of \$.

1.01A: Price Breakdown: Primary Services

Task/Phase	Deliverable	Fixed Price

1.01B: Price Breakdown: Contingency Services (Owner preauthorization required)

Contingency Service	Deliverable	Fixed Price

1.02 Payments for Services and Reimbursable Expenses shall be made monthly, following Owner's review and approval of Consultant's detailed monthly invoices as described in Section B.1.07 and acceptance of the Services, including all reports, designs, certificates, and documents covered by the invoice. Payment for all Services performed and Reimbursable Expenses shall not exceed the amounts indicated in Section B.1.01, above. Payments are subject to the provisions of ORS 293.462.

1.05 Reimbursable Expenses, as described in Section B.2, are defined as the direct costs expended by Consultant, Consultant's employees and Sub-Consultants for performance of Services rendered to complete the Project. The estimated dollar amounts for each of the identified Reimbursable Expense items are as follows:

1	Travel Related Expenses	\$.00
2	General Reimbursable Expenses	\$.00
Total		\$.00

It is understood that the actual total amount payable for each individual Reimbursable Expense item (travel or general) may be more or less than the estimate above, however, the total amount of all Reimbursable Expenses shall not exceed the maximum amount stated in Section B.1.01 for Reimbursable Expenses without a Contract amendment. Payments

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for Reimbursable Expenses shall be identified and tracked on monthly invoices according to the expense items listed above.

- 1.06 Consultant shall not submit invoices for, and Owner will not pay, any amount in excess of the maximum, not to exceed amount payable under this Contract set forth in Section B.1.01. If this amount is increased by Contract amendment, the amendment must be effective before Consultant performs Services subject to the amendment. Consultant shall notify Owner's Representative identified in this Contract in writing of the expiration of the Contract, thirty (30) days prior to such expiration. No payment will be made for any Services performed prior to the Effective Date or after the expiration date of the Contract.
- 1.07 Consultant shall submit monthly invoices for Services performed. To be processed for payment by Owner, the invoices shall include the following basic information:
- A. The correct name of Owner's authorized representative
 - B. Invoice date
 - C. Date range during which the Services being invoiced for were provided
 - D. Invoice number that ends in a "—##", which represents the correct invoice sequence of issue. The last invoice submitted on the Project must be clearly labeled "Final Invoice"
 - E. The correct Contract number
 - F. Original Contract total, not to exceed amount broken out by: Services released to date by line item and Reimbursable Expenses separated by two categories of Travel Expenses and General Reimbursables
 - G. Statement of changes to the original total, not to exceed amount by amendment(s) and broken out in the same way as in item F, showing the revised Contract amounts
 - H. Paid to date amounts showing the amounts submitted for prior to the current invoice (regardless of payment status) and broken out the same way as in item F
 - I. Amounts being invoiced for in the current invoice and broken out the same way as in item F, with a roll up of a "Total Amount Billed For This Invoice" line item amount
 - J. Balances Remaining after receipt of payment for the current invoice broken out the same way as in item F

Consultant shall describe all Services performed with particularity and by whom it was performed and shall itemize and explain all expenses for which reimbursement is claimed. Reimbursable Expenses shall be broken out into to line item categories, 1) Travel Expenses and 2) General Reimbursable Expenses.

Invoices shall indicate the percentage of the total Services that the amount invoiced represents.

Consultant shall send invoices to Owner's Representative identified in this Contract, using the following address:

facilitiesinvoices@doc.oregon.gov and Steven.M.Walborn@doc.oregon.gov

Consultant shall not indicate or invoice for any past due amounts in the current invoice. All such notifications of a past due amount must be handled by a separate Statement of Account.

Owner shall have the right to reject any invoice which does not have the proper information as required by this section without incurring penalty liabilities for late payment.

- 1.08 Owner and Consultant agree in accordance with the terms and conditions of this Contract that:
- a. If the scope of the Project or the Services are changed materially, Consultant shall request in writing an amendment to the Contract before additional Services are provided and before compensation is adjusted. All legally required approvals must be obtained for any Contract amendment before the amendment is effective and before Services may be performed or payment made under the amendment.
 - b. Consultant's fee for preparing routine change orders adding or deleting Services from the Project shall be included in the amount for Services stated in Section B.1.01.

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- c. Upon Owner's request and without additional compensation, Consultant shall make such revisions to completed Contract Documents as are necessary to correct errors or omissions appearing therein, in accordance with the Standard of Care.

2.0 REIMBURSABLE EXPENSES

- 2.01 Reimbursable Expenses are in addition to compensation for Services and shall not exceed the maximum amount stated in Section B.1.01 without prior authorization by Owner. This amount is separated into two categories, **Travel Expenses** and **General Reimbursable Expenses**, as outlined below. Reimbursable Expenses include actual, allowable and reasonable expenditures made by Consultant and Consultant's employees in performing the Services required in **Exhibit A**. Reimbursable Expenses must be evidenced by copies of actual third-party invoices or receipts delivered to Owner to qualify for reimbursement and are limited to the types of actual expenses listed below.

B.2.01.1 General Reimbursable Expenses consist of:

- a. Long distance communications.
- b. Reproductions, postage and handling of drawings and specifications and other documents, excluding reproductions of drawings, specifications and other documents used by Consultant and Consultant's Sub-Consultants.
- c. Data processing and photographic production techniques when used in connection with Services.
- d. Third-party models and mock-ups requested by Owner.
- e. The printing of master or reproducible sets of plans and project manuals including specifications.
- f. Plan check fees.

B.2.01.2 Travel Expenses:

Travel expenses are allowable only if they are authorized under the Contract and if the travel is essential to the normal discharge of Agency's responsibilities and is related to official Agency business. In accordance with the Statewide Travel Policy in Oregon Accounting Manual (OAM) chapter 40.10.00, available at: <https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf>, all travel shall be conducted in the most efficient and cost-effective manner that results in the best value for the state. Personal expenses shall not be authorized at any time. All expenses are included in the total maximum Contract amount stated in Section B.1.01.

Consultant understands and agrees that travel expenses shall be reimbursed in accordance with the Statewide Travel Policy and the rates in effect at the time the expense was incurred. Consultant understands and agrees that the rates are subject to change and, in such event, the changed rates shall immediately become part of this Contract and govern reimbursement of any travel expenses incurred after the date of the change. Under no circumstances shall travel, mileage, lodging and per diem rates exceed the maximums set forth by the State Controller in OAM 40.10.00. The approved mileage rate follows the current United States General Services Administration ("GSA") federal rate. Lodging and meal per diem rates are based on the GSA per diem rates. The Travel Policy provides a GSA website link to view the standard rate for continental United States ("CONUS") and rates for locations that are paid above the CONUS rate. Per diems for Alaska, Hawaii, and U.S. Territories and Possessions can be found at the U.S. Department of Defense website link provided in the Travel Policy. International per diems can be found at the U.S. Department of State website link provided in the Travel Policy.

Consultant shall submit receipts for travel-related expenses billed to Agency, such as but not limited to, lodging, rental vehicles, and air fare. If lodging is shared by two or more travelers, the lodging receipt must indicate the names of any travelers on official state business who shared the room.

For any exceptions to the Travel Policy, Consultant must obtain the separate written approval of Owner's Representative prior to incurring any expense for which reimbursement will be sought. Owner will not pay any mark up over actual allowable reimbursement costs. Any costs associated with recordkeeping or labor to create reproductions of receipts is considered indirect overhead and therefore part of Consultant's Professional Hourly Rates.

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT C
INSURANCE PROVISIONS

INSURANCE REQUIREMENTS

Contractor/Consultant shall obtain at Contractor/Consultant's expense the insurance specified in this Exhibit prior to performing under this Contract. Contractor/Consultant shall maintain such insurance in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Contractor/Consultant shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. All coverage shall be primary and non-contributory with any other insurance and self-insurance with the exception of Professional Liability and Workers' Compensation. Contractor/Consultant shall pay for all deductibles, self-insured retention, and self-insurance, if any.

If Contractor/Consultant maintains broader coverage and/or higher limits than the minimums shown in this Exhibit, the Agency shall be entitled to the broader coverage and/or higher limits maintained by Contractor/Consultant.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY INSURANCE:

All employers, including Contractor/Consultant, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If Contractor/Consultant is a subject employer, as defined in ORS 656.023, Contractor/Consultant shall also obtain Employers' Liability Insurance coverage with limits not less than \$1,000,000 each accident.

If Contractor/Consultant is an employer subject to any other state's workers' compensation law, Contractor/Consultant shall provide Workers' Compensation Insurance for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$1,000,000.

As applicable, Contractor/Consultant shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

Contractor/Consultant shall require and ensure that each of its Subcontractor/Consultants complies with these requirements.

COMMERCIAL GENERAL LIABILITY INSURANCE:

☒ **Required** ☐ **Not required**

Contractor/Consultant shall provide Commercial General Liability Insurance covering bodily injury and property damage written on an ISO CG 00 01 10 01 (or equivalent). This insurance must include personal and

advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Contract and must have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and not less than \$2,000,000 annual aggregate.

AUTOMOBILE LIABILITY INSURANCE:

☒ **Required** ☐ **Not required**

Contractor/Consultant shall provide Automobile Liability Insurance covering Contractor/Consultant's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,00,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

PROFESSIONAL LIABILITY INSURANCE:

☒ **Required** ☐ **Not required**

Contractor/Consultant shall provide Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the work, including design services, to be provided under this Contract by the Contractor/Consultant and Contractor/Consultant's subcontractors, agents, officers or employees in an amount not less than \$2,00,000 per claim and not less than \$2,000,000 annual aggregate.

If coverage is provided on a claims made basis, the retroactive date of the policy must be prior to the inception of the work and an extended reporting period equal to the statute of ultimate repose shall be included in the Professional Liability Insurance coverage.

EXCESS/UMBRELLA INSURANCE:

☒ **Required** ☐ **Not required**

Excess/umbrella insurance coverage in the sum of \$3,000,000 shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Automobile Liability, and Employers' Liability coverage. The amounts of insurance for the insurance required under this Contract, including this Excess/Umbrella insurance requirement, may be met by the Contractor/Consultant obtaining coverage for the limits specified under each type of required insurance or by any combination of underlying, Excess and Umbrella limits so long as the total amount of insurance is not less than the limits specified for each type of required insurance added to the limit for this Excess/Umbrella insurance requirement.

If Excess/Umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/Umbrella insurance.

WAIVER OF SUBROGATION:

Contractor/Consultant grants to Owner a waiver of any right to subrogation that the Contractor/Consultant or its insurers may acquire against the Owner by virtue of the payment of any loss under any Workers' Compensation, Commercial General Liability, Automobile Liability and Excess/Umbrella insurance required under this Contract. Contractor/Consultant agrees to obtain from their insurer(s) any endorsements necessary to affect this waiver of subrogation.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, Directors and Officers Liability and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees, and agents as Additional Insureds, but only with respect to Contractor/Consultant's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, the state requires additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under the Contract. The Additional Insured endorsement with respect to liability arising out of Contractors ongoing operations must be on or least as broad as ISO Form CG 20 10 07 04 and the Additional Insured endorsement with respect to completed operations must be on or at least as broad as ISO form CG 20 37 07 04.

CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance provided is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor/Consultant shall maintain Continuous Claims Made Coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor/Consultant's completion and Agency's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor/Consultant termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor/Consultant shall provide to Agency Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall include all required endorsements or copies of the applicable policy language affecting coverage required by this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also verify a waiver of subrogation provision in favor of the Owner is included in the Workers' Compensation, Commercial General Liability, Automobile Liability, and Excess/Umbrella policies. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

The Contractor/Consultant or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Contractor/Consultant agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor/Consultant and Agency.

STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor/Consultant shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit.

(DRONE) / UNMANNED AIRCRAFT SYSTEMS / UNMANEED AERIAL VEHICLE LIABILITY INSURANCE:

☐ **Required** ☐ **Not required**

Contractor/Consultant shall provide Drone Liability Insurance covering bodily injury, property damage, and personal and advertising injury caused by owned and non-owned drones including the drone's payload and/or dispensable loads in a form and with coverage that are satisfactory to the Owner. This insurance shall include premises liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, operation, or territory of operation. Coverage shall be written on an occurrence basis in a combined single limit amount of not less than \$ per occurrence.

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT D
[RESERVED]

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT E
DELIVERY SCHEDULE

Programming Complete - _____

Feasibility Study Complete - _____

Conceptual Design Complete - _____

Conceptual Design Phase Statement of
Probable Construction Cost Complete - __ __

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT F
KEY PERSONNEL & RATE SCHEDULE

For performing the Services as set forth in **Exhibit A**, Owner shall compensate Contractor at the rates set forth below, not to exceed the total amount payable provided under **Exhibit B**, without a Contract amendment.

Key Personnel	Position/Title	Hourly Rate
Other Personnel (or Professional Staff)	Position/Title	Hourly Rate

Owner is engaging the expertise, experience, judgment and personal attention of the Consultant's Key Personnel identified above. No Key Person may delegate performance of any management powers or other responsibilities the Key Person is required to provide under the Contract to another of Consultant's or subconsultant's personnel without first obtaining the written consent of Owner in conformance with Section 7 of the Contract.

EXHIBIT G

PROJECT SITE DESCRIPTIONS

OSCI LEGAL DESCRIPTION

Parcel I:

Parcel 2 of Partition Plat No. 2007-11, in the City of Salem, County of Marion and State of Oregon.
Recorded
January 30, 2007 in Reel 2767, Page 119, Marion County Deed Records.

Parcel II:

Parcel 2, Partition Plat No. 2012-21, recorded July 10, 2012 in the Record of Partition Plats and in Reel 3403,
Page 265, Deed Records for Marion County, Oregon.





SCI LEGAL DESCRIPTION

Parcel 1 of PARTITION PLAT 2019-61, recorded September 27, 2019 in Reel 4247, Page 138, Records of Marion County, Oregon.

Junction City Map

