

REQUEST FOR QUALIFICATIONS
COMMISSIONING CONSULTING SERVICES



REDMOND SCHOOL DISTRICT
145 SE SALMON AVE
REDMOND, OR 97756
APRIL 25, 2025

TABLE OF CONTENTS

Section 1

Announcement of Request for Qualifications	page 3
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Section 2

2.1	Form of Consultants Response	page 4
2.2	Prohibition of Alterations	page 5
2.3	Equal Employment Compliance Requirement	page 5
2.4	Disclosure of Interest/Public Record	page 5
2.5	Reservations	page 5
2.6	Insurance Coverage	page 6
2.7	Selection Process Schedule	page 6
2.8	Commissioning Agent Qualifications	page 7
2.9	Selection Criteria	page 8
2.10	Pre-Qualification to Submit Proposals	page 9
2.11	Inquiries	page 9
2.12	Collusion	page 9
2.13	Disclosure	page 9

Section 3

3.1	Introduction	page 9
3.4	Required Proposal and Response Criteria Information	page 10
3.5	Protest Procedure	page 12
3.6	Attachments	page 14

Attachments

ATTACHMENT A	Description of Work	page 15
ATTACHMENT B	Certifications	page 16
ATTACHMENT C	Insurance Requirements	page 17
ATTACHMENT D	Form of Agreement	page 19



SECTION 1

ANNOUNCEMENT OF REQUEST FOR QUALIFICATIONS

Qualifications Responses will be received will be accepted via **ELECTRONICALLY** by Steve Earle, Senior Project Manager, HMK Company until **2:00 PM** Local Time, **May 13, 2025** at which time and place bids will be closed. It is the responsibility of the Contractor to ensure that bids have been received by contacting Steve Earle at steve.earle@hmkco.org.

The Redmond School District is seeking to select Commissioning and Commissioning Control Experts to provide Services for approximately 15 Projects to be designed and constructed between 2025 and 2030:

Projects Description:

The purpose of this project is to provide comprehensive building systems commissioning services for a new or renovated facility to ensure that all systems are designed, installed, tested, and operate in accordance with the Owner's Project Requirements (OPR) and project documents. The Commissioning Agent (CxA) will act as an independent third-party representative of the owner, responsible for verifying the performance and integration of critical building systems including HVAC, plumbing, lighting, life safety, fire protection, and security and access control systems.

A comprehensive list of potential proposed projects is included in Attachment A

The total value of the program is approximately \$67 million, to be funded by the Capital Bond of May 2024. Firm(s) will be prequalified for projects included in the Redmond School District 2024 bond program. The district may elect to pre-qualify multiple firms, at their discretion. Pre-Qualified firms will be invited to respond to Request for Proposals for individual projects, as determined by the district. Pre-Qualification does not guarantee selection for project(s).

The District reserves the right to reject any qualifications response not in compliance with all prescribed public procedures and requirements and to waive informalities in this qualifications response process.

The Request for Qualifications (RFQ) may be reviewed and obtained from <https://hmkco.org/bid-documents/redmond-school-district/>

Steve Earle
Senior Project Manager
HMK Company, on behalf of
Redmond School District

SECTION 2

2.1 FORM OF CONSULTANTS RESPONSE

- A. **IMPORTANT NOTICE:** Oregon State Statutes under the Qualifications Based Selection (QBS) process allow the School District to go through a prescribed process to solicit qualifications for architectural and engineering services and award professional services contracts. The District takes the QBS process seriously, and it is its intent to solicit professional consultant qualification submittals that are accurate and that each consultant intends to honor. Consultants are expected to submit responses that are accurate, complete, and contain all terms and conditions that they feel are necessary. If after submitting a response, the consultant finds changes are necessary, the consultant may change or withdraw their response at any time up to the time of response opening. However, after the due date and time, the response may not be changed or altered in any way. If accepted, a response is considered complete and the consultant will be expected to honor their submittal.
- B. Qualifications Based Selection (QBS) is allowed under Oregon Administrative Rules to solicit professional services. This Request for Qualifications allows consultants the opportunity to submit to the District the qualifications response that they feel will best serve the interests of the District.
- C. The Request For Qualifications Proposal shall be emailed to Steve Earle, Senior Project Manager, at steve.earle@hmkco.org, the subject line should be as follows: REDMOND SCHOOL DISTRICT – COMMISSIONING CONSULTANT REQUEST FOR QUALIFICATIONS
- D. Responses including cover letter & resumes are limited to 30 pages of content, single-sided, 8 1/2" x 11", and minimum 11-point font. Any additional information deemed appropriate should be submitted as a separate document
- Front and back covers are not included in the page count.
 - Table of Contents is not included in the page count.
 - Divider Tabs are not included in the page count as long as they contain no material other than section numbers or names

Attachment B is included in the 30 pages.

- E. In addition, the name and address of the consultant and the title of the proposal, IDENTICAL IN WORDING to that appearing on the cover of this RFQ MUST appear on the outside of said response, i.e., Request for Qualifications: Commissioning Consultation Services
- F. All responses must be received by the District no later than **2:00 PM, May 13, 2025** as specified in this RFQ. The District will not be responsible for responses that were not received due to technological error. **It is the proposing firm's responsibility to ensure that the District has received their statement of qualifications.**
- G. The original Certificate of Understanding of Request for Qualifications (ATTACHMENT B) shall be signed with blue ink.

2.2 PROHIBITION OF ALTERATIONS

- A. Responses that are incomplete or conditioned, or that contain any alterations, addition of items not called for in the RFQ, or that contain irregularities of any kind, or that are not in conformity with the law or requirements of this RFQ may be rejected.

2.3 EQUAL EMPLOYMENT COMPLIANCE REQUIREMENT

- A. By submitting this response, the consultant certifies conformance to the applicable Federal Acts, Executive Orders and Oregon Statutes and Regulations concerning affirmative action toward equal employment opportunities. All information and reports that are required by the Federal or Oregon Governments having responsibilities for the enforcement of such laws shall be supplied to the District upon request, for purposes of investigations to ascertain compliance with such acts, orders, statutes, or regulations.

2.4 DISCLOSURE OF INTEREST/PUBLIC RECORD

- A. No employee or elected official of the District may own more than 5% of a business that is submitting a response to this RFQ unless it is fully disclosed in the proposal documents.
- B. Responses will not be made a part of the public record until AFTER the evaluation process is completed. Said files, including the evaluation report, will then be available for public review. **If a response contains any information that is considered a trade secret under ORS 192.501(2), respondents must mark that information in bold, red text as follows:**

"This information constitutes a trade secret under ORS 192.501(2) and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192." (See Section 3.5.7)

Such identification is for Owner's information and is not itself binding on the Owner. In all instances, Owner will make the final decision as to what information must be disclosed under a public records request or otherwise.

2.5 RESERVATIONS

- A. The School Board of the Redmond School District herein expressly reserves the following rights:
 - 1. To negotiate separately with any source whatsoever in any manner necessary to serve the best interest of the District. The District does not intend to award a contract solely on the basis of any response made to this Request for Qualifications or in any way to pay for information solicited or obtained. The information obtained will be used in determining what seems to best serve the interest of the District. The District intends to award a contract on the basis of quality of services offered, qualifications, experience, accessibility, and communication skills.

2. To reject any or all responses as permitted by Oregon Statutes or Administrative Rule and to waive informalities in responses if it is in the public's best interest to do so.
3. To consider the competency and responsibility of consultants and of their proposed sub--consultants (if any) in making the award.
4. In the event any consultant or consultants to whom the contract(s) is awarded shall default in executing said formal contract or in furnishing satisfactory Errors and Omissions insurance coverage within the time and in the manner hereinafter specified, to terminate the contract negotiations and to solicit a fee contract with another consultant or consultants.
5. In the event only one response is received; the Superintendent or Board of Directors may, at their election, return the proposal unopened.
6. To make the recommendation to award based on its best judgment as to which qualifications response best meets the District's expectations of a program, balancing the highest standards of quality, innovativeness and services requested.
7. To make such changes or corrections in the RFQ as it may deem necessary or desirable prior to the response opening. Consultants will be notified of such changes in writing by addenda electronically transmitted to the address on file in HMK Company.
8. The District shall not be responsible for any costs of preparation of the responses.
9. The District will not discriminate against any person or firm based upon race, color, national origin, gender, age, religion, disability, political affiliation or marital status. The District extends equal opportunity to all persons and specifically encourages disadvantaged and businesses owned by women to access and participate in this and all District projects, programs, and services.

2.6 INSURANCE COVERAGE

- A. The District will require the successful consultant to obtain and furnish a Certificate of Insurance listing the District as Certificate holder and is further detailed in ATTACHMENT C.

2.7 SELECTION PROCESS SCHEDULE

- | | |
|---|-----------------------|
| A. Request for Qualifications Issued | April 25, 2025 |
| B. Deadline, Request for Clarifications | May 6, 2025 |

1. Inquiries for clarification or additional information as described in Section 2.11, if any, must be received by **May 6, 2025 2:00 pm**.

- C. Solicitation Protest Period Ends** **May 6, 2025**
1. Protests to the RFQ, the Contract or any aspect of the selection process as set out in Section 3.5 must be received by David McKay, Program Director at the HMK Company by **2:00 PM on May 6, 2025**.
- D. Qualification Response Due Date** **May 13, 2025**
1. Responses must be received by the District no later than **2:00 PM, May 13, 2025**. Responses submitted after this time will be subject to rejection at the District's discretion.
- E. Review Responses by District** **May 16, 2025**
- F. Notification of Pre-Qualified firm(s)** **May 20, 2025**
1. Firm(s) will be pre-qualified, if at all, tentatively by tentative **May 20, 2025** **and** sent a notice. The unsuccessful consultants will be sent a copy of the selection notice.
- G. Selection Protest Period Ends** **May 27, 2025**
1. Any protests of the selection decision must be received 7 calendar days after consultant selection by District. Any hearing on a protest will be scheduled as soon as reasonably possible.
- G. Notification of Pre-Qualification** **May 28, 2025**

The schedule of events in Section 2.7 is intended to allow prospective Consultants sufficient time for requests for information, objections to the requirements of this RFQ, and preparation of responses. Prospective Consultants who think that the schedule is unreasonable should notify the District immediately. If the District receives a substantial number of adverse comments, the District will consider extending the schedule of events by issuing an addendum.

Proposed process schedule subject to change

2.8 Commissioning Agent Qualifications

The CxA will satisfy as many of the following requirements as possible:

1. The CxA has acted as the principal Commissioning Provider for at least three projects.
2. The firm providing the CxA has been qualified, or working toward qualification, by the Oregon Department of Energy as an Acceptable Commissioning Firm.
3. The CxA has extensive experience in the operation and troubleshooting of HVAC systems and energy management systems.
4. The CxA has extensive experience in the operation and troubleshooting of DDC systems.

5. The CxA has at least five years of field experience providing or assisting in commissioning processes.
6. The CxA has provided or assisted in the commissioning processes for at least five K-12 schools.
7. The CxA is knowledgeable in the test and balance of both air and water systems.
8. The CxA is knowledgeable in energy-efficient equipment design and control strategy optimization.
9. The CxA is knowledgeable and has demonstrated experience in Allerton DDC system, Salto Access Control system, Potter fire alarm control system

2.9 SELECTION CRITERIA

- A.** The established criteria to be used to select the qualifications response that best meets the overall goals and public contracting needs of the District may include, but are not limited to:
 1. Experience and expertise of the firm.
 2. Quality & substance of qualifications response.
 3. Response compliance with format stipulated in this RFQ.
 4. Firm and personnel experience in commissioning services in (K-12 schools preferred) in Oregon and SW Washington. Firm must have extensive experience with Oregon Public Bidding Statutes.
 5. Service, which could include adequate personnel.
 6. Specific personnel experience with public projects.
 7. Reliability of performance, related professional skills, schedule and budget adherence.
 8. Team approach to working with project participants.
 9. Management ability, planning ability and philosophy.
 10. Communication skills, with the public and in committee work.
 11. Quality of design documents in relation to errors omissions and coordination.
 12. References, both clients and contractors.
- B.** The evaluation criteria and maximum number of points available for each criterion is further detailed in Section 3.4.
- C.** The Consultants response submittals will be evaluated and scored by a panel made

up of a combination of District's represented consultants.

- D. The District will issue notice of Pre-Qualification with the firm(s) it deems the most qualified provider who provides the best overall qualifications. The District is seeking to select the most qualified firm(s) to act as the **Commissioning Consultant** for the Redmond School District. The District will then issue a Request for Proposals for each state project, as necessary to support the 2024 bond program.
- E. The selected firm(s) to do the work will be required to submit a total detailed fee proposal and identify their time by project and activity for each billing issued for the District's internal cost accounting use. And for an individual Professional Services Contract per site.

2.10 PRE-QUALIFICATION TO SUBMIT PROPOSALS

- A. Following the "Notice of pre-qualified commissioning firm(s)", the District will issue Request for Proposals to the firm(s) that have been Pre-Qualified.

2.11 INQUIRIES

- A. All inquiries related to the RFQ documents, response format and selection process, are to be directed to Chad Franke, Regional Director, HMK Company, email: chad.franke@hmkco.org.
- B. Clarification questions will be answered in the form of written addenda and sent to all RFQ holders who attend the mandatory Pre-Qualifications meeting and Orientation.

2.12 COLLUSION

- A. A consultant submitting a proposal hereby certifies that no officer, agent or employee of the District has a pecuniary interest in this RFQ; that the response is made in good faith without fraud, collusion or connection of any kind with any other consultant and that the consultant is competing solely in its own behalf without connection with, obligation to any undisclosed person or firm.

2.13 DISCLOSURE

- A. Responses will not be made part of the public record until after the evaluation process is completed.

SECTION 3

3.1 INTRODUCTION

The purpose of this project is to provide comprehensive building systems commissioning services for a new or renovated facility to ensure that all systems are designed, installed, tested, and operate in accordance with the Owner's Project Requirements (OPR) and project documents. The Commissioning Agent (CxA) will act as an independent third-party representative of the owner,

responsible for verifying the performance and integration of critical building systems including HVAC, plumbing, lighting, life safety, fire protection, and security and access control systems.

- A. Request for Proposals for commissioning services are to be issued after further development of a specific scope of work and schedule with the pre-qualified firms(s) prior to the issuing of a Professional Services Contract.

3.4 REQUIRED PROPOSAL AND RESPONSE CRITERIA INFORMATION

- A. Cover Letter
- B. Section One — Capability to perform the architectural services for the project being considered. (25 Points)
 - 1. Describe your firm, including your service area, Commissioning Services, and experience.
 - 2. Discuss how your firm can assure the District of a complete set of documents, what quality control measures your office uses, your method of peer review, and consultant's coordination processes used.
 - 3. Describe your firm's ability to work in a collaborative manner with District, District's Representatives, Community, and other Project Stakeholders.
 - 4. Is your firm or consultants proposed on your team currently involved in Dispute Resolution defined as Mediation (binding or non-binding), Arbitration or Litigation related to a construction project? If so, please explain.
 - 5. Has your firm or consultants proposed on your team been involved in Dispute Resolution defined as Mediation (binding or non-binding), Arbitration or Litigation in the past ten years related to a construction project? If so, please explain.
 - 6. Has your firm or any of its owners, officers, or partners ever been found liable in a civil suit, or found guilty in a criminal action, for making any false claim or material misrepresentation to any public agency or entity? If so, please explain. (Answer this question for each of your consultants also).
 - 7. Has your firm or any of its owners, officers, or partners ever been convicted of a crime involving any federal, state, or local law related to construction? If so, please explain. (Answer this question for each of your consultants also).
 - 8. Has your firm or any of its owners, officers, or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty? If so, please explain. (Answer this question for each of your consultants also).
- C. Section Two — Project approach, staffing level, and design philosophy. (30 Points)
 - 1. Describe your philosophy of service.
 - 2. Identify company personnel who will have the responsibility for the District's

projects. Include names, titles, experience, and resumes. Provide resumes for key subcontracted consultants and engineers.

3. Describe your identified personnel's experience and ability to perform the project scope of services.
4. Indicate your capability to assure that key personnel will remain assigned to the District account for the duration of the projects or to cover the assigned personnel for extended absences or vacations.
5. Describe any innovative methods or procedures that will be of interest to or benefit the District in accomplishing the intended goals of the project.
6. Describe your current workload and the firm's capability to provide the requested services.
7. Discuss how your firm can assure the District of adequate administration during the construction phase.

D. Section Three — Performance history on past projects; Public Facilities. (20 Points)

1. Describe the relevant Consultant experience with Commissioning to add, modernize and/or remodel public facilities (K-12 schools preferred) in Oregon and SW Washington in the last five (5) years. Provide a case study of at least two (2) similar projects.
2. Provide a list of five (5) substantial public & private facilities (K-12 schools preferred) in Oregon and SW Washington projects you have designed in the last 10 years; provide a brief title, summary of work, date of construction, total cost of construction, and total project change orders.
2. Give examples of successful projects for meeting project budgets and design and construction work schedules.
3. Specific experience with district standard systems
4. Describe your experience with Public Contracting statutes ORS 279C and corresponding OAR's.

E. Section Four — References of other clients served. (25 Points)

1. Provide a reference contact person and phone number for completed projects in listed in Section 3.4. D.

F. Appendix --- Add as an appendix document proposed hourly rates for proposed team and fees from previous like projects. This information will not be used in scoring qualifications

3.5 PROTEST PROCEDURE

- A. All responses will become part of the public record for this Project, without liability to the Redmond School District. The District reserves the right to reject any or all responses received as a result of this RFQ and, if doing so would be in the public interest, cancel this solicitation. The District reserves the right to consider a response or responses in whole or in part, and to determine the responsiveness of a submittal by reference to the response taken as a whole. Commissioning Consultant Firms will be held to the terms submitted in their responses.
- B. Requests for changes or clarifications of the Request for Qualifications, as described in Section 2.01, shall be delivered in writing by **2:00 PM on May 6, 2025**. Protests of the requirements, evaluation criteria, or contractual provisions in this Request for Qualifications, shall be delivered in writing by **2:00 PM on May 6, 2025**, as stated in the Schedule set forth in Section 2.7 above and to the person and at the address set forth in Section 3.5.5 below. Protests of, and requests for, changes to technical or contractual requirements, specifications or provisions shall include the reason for the protest and any proposed changes to the requirements. No such protests or requests shall be considered if received after the deadline. No oral, telegraphic, telephone, facsimile, or email protests or requests will be accepted. The District will consider all protests and requested changes and, if appropriate, amend the RFQ. Only amendments issued in writing by the District will change the requirements, specifications, or provisions of this RFQ.
- C. Any responding to this RFQ claiming to have been adversely affected or aggrieved by the selection of a competing response, shall have seven (7) calendar days after notification of selection to submit a written selection protest to the person designated in Section 3.5.4 below. Written notification must be received by **2:00 PM** within the identified seven (7) calendar day period as stated in the Schedule set forth in Section 2.7 above. No oral telegraphic, telephone, facsimile, or email protests will be accepted. No protest against Consultant selection shall be considered if received after the established protest deadline.
- D. In order to be considered, a protest shall be in writing and shall include:
1. The name and address of the aggrieved person;
 2. The contract title under which the protest is submitted;
 3. A detailed description of the specific grounds for protest and any supporting documentation; and
 4. The specific ruling or relief requested. In addition, in the event the protesting party asserts another proposer's lack of responsibility as a ground for protest, it must address in detail each of the matters in its written protest.
 5. The written protest shall be mailed or delivered to HMK Company, Chad Franke, Regional Director, 916 SW 17th Street, Suite 204, Redmond, Oregon 97756

6. And shall be labeled: "Protest".
- E. Upon receipt of a written protest, the District shall promptly consider the protest. The District may give notice of the protest and its basis to other persons, including Consultants involved in or affected by the protest; such other persons may be given an opportunity to submit their views and relevant information. If the protest is not resolved by mutual agreement of the aggrieved person and the District, the District will promptly issue a decision in writing stating the reasons for the action taken. A copy of the decision shall be mailed by certified mail, return receipt requested, or otherwise promptly furnish to the aggrieved person and any other interested parties. The District's decision may be appealed to the Superintendent by written notice together with all supportive evidence, received at the address set forth in Section 2 not more than two (2) working days after receipt of the decision. The Superintendent's decision shall be final and conclusive.
- F. Strict compliance with the protest procedures set forth herein is essential in furtherance of the public interest. Any aggrieved party that fails to comply strictly with these protest procedures is deemed, by such failure, to have waived and relinquished forever any right or claim with respect to alleged irregularities in connection with the solicitation or award. No person or party may pursue any action in court challenging the solicitation or award of this contract without first exhausting the administrative procedures specified herein and receiving the District's final decision.
- G. The District shall retain this RFQ and one copy of each original response received from all responding Consultants, together with copies of all documents pertaining to the selection of qualified Consultants, and award of a contract. These documents will be made a part of a file or record, which shall be open to public inspection, after Consultant selection and award, is announced. If a response contains any information that is considered a trade secret under ORS 192.501(2), respondents must mark each sheet of such information with the following legend:
- "This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."
- Such identification is for Owner's information and is not itself binding on the Owner. In all instances, Owner will make the final decision as to what information must be disclosed under a public records request or otherwise.
- H. The Oregon Public Records Law exempts from disclosure only bona fide trade secrets and the exemption from disclosure apply only "unless the public interest requires disclosure in the particular instance". Therefore, non-disclosure of documents or any portion of a document submitted as part of a response may depend upon official or judicial determination made pursuant to the Public Records Law.
- I. In order to facilitate public inspection of the non--confidential portion of the response, material designated as confidential shall accompany the response but shall be readily separable from it. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment shall be publicly available

regardless of any designation to the contrary. Any response marked as a trade secret in its entirety may be considered non-responsive.

3.6 ATTACHMENTS

A. Attachments to this RFQ include:

1. ATTACHMENT A, Description of Work
2. ATTACHMENT B, Certifications
3. ATTACHMENT C, Insurance Requirements
4. ATTACHMENT D, Form of Agreement

End of Request for Qualifications

ATTACHMENT A

DESCRIPTION OF WORK

The District recently has passed a Capital Bond. That bond will fund the work needed across the District and is the basis for seeking to select a firm to provide Commissioning Consulting Services for:

Projects Description:

The purpose of this project is to provide comprehensive building systems commissioning services for a new or renovated facility to ensure that all systems are designed, installed, tested, and operate in accordance with the Owner's Project Requirements (OPR) and project documents. The Commissioning Agent (CxA) will act as an independent third-party representative of the owner, responsible for verifying the performance and integration of critical building systems including HVAC, plumbing, lighting, life safety, fire protection, and security and access control systems.

The total value of the program is approximately \$67 million, to be funded by the Capital Bond of May 2024. Firm(s) will be prequalified for projects included in the Redmond School District 2024 bond program.

The Qualifications-Based Selection (QBS) process has been created to help establish clear and concise qualifications as the basis for the selection of Commissioning Consultant Firms to assist the District with the commissioning aspect of the Capital Bond projects. The district may elect to pre-qualify multiple firms, at their discretion. Pre-Qualified firms will be invited to respond to Request for Proposals for individual projects, as determined by the district. Pre-Qualification does not guarantee selection for project(s).



ATTACHMENT B CERTIFICATIONS

CERTIFICATION OF UNDERSTANDING OF REQUEST FOR QUALIFICATIONS

The undersigned offers and agrees to furnish all material, supervision and personnel to the Greater Albany Public Schools for Architectural Design and Consulting Services in accordance with this Request for Qualifications.

Acknowledgement of Addendum: _____

The undersigned further certifies that he/she has read, understands and agrees to abide by all terms and conditions of this Request for Qualifications and if awarded the contract to furnish the Architectural / Engineering Services to Greater Albany Public Schools as delineated by this Request for Qualifications.

The Consultant certifies that it does not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, handicap, financial ability, age or other non-job-related factors as per ORS 659a and 42 U.S.C. § 2000e et seq.

RESIDENCY STATEMENT

A resident is defined as a respondent that has paid employment taxes or income taxes in Oregon during the 12 calendar months immediately preceding submission of the RFQ Response, has a business address in this state and has stated that they are a resident.

The undersigned hereby states their resident status is as follows:

RESIDENT: YES _____ NO _____

FIRM NAME: _____

BY: _____ TITLE: _____
Signature

BY: _____ DATED: _____
Print/type name

ATTACHMENT C

INSURANCE REQUIREMENTS PER PROFESSIONAL SERVICES CONTRACT ISSUED

- A. **Insurance Coverages.** The Consultant shall procure and maintain at its expense during the performance of the Contract and thereafter as required below the following insurance from one or more companies authorized to do business in the State of Oregon with a policyholder's rating of not less than A-IX in the most recent edition of Best's Rating Guide. Except as approved otherwise by the Owner in advance, such insurance shall protect against claims which arise out of or relate to all of the Consultant's services under the Contract, whether performed by the Consultant or a person or entity for which the Consultant may be responsible.

Workers' Compensation Insurance, if required by law, with statutory limits.

Employer's Liability Insurance, if employees are employed for other than secretarial or bookkeeping services, with a limit of not less than \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limit.

Commercial General Liability Insurance, applicable to all premises and operations, including Bodily Injury, Property Damage, Personal Injury, Contractual Liability, Independent Contractors, Products and Completed Operations, Broad Form Property Damage (including Completed Operations), and coverage for explosion, collapse, and underground hazards, with limits of not less than \$2,000,000 per occurrence, \$3,000,000 aggregate applicable specifically to the Project.

Business Automobile Liability Insurance, applicable to owned, non-owned and hired automobiles, with a limit of not less than \$1,000,000 combined single limit each accident, \$2,000,000 aggregate.

Professional Liability Insurance, applicable to all acts and omissions of Consultant and its consultants at all tiers, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

- B. **Deductibles.** The Consultant shall pay all deductibles on all policies required by Paragraph 1. Maximum allowable deductible is \$50,000 without Owners express written approval.
- C. **Waivers of Subrogation Re Liability Insurance.** The Workers' Compensation and Employer's Liability policies shall be subject to a waiver of subrogation in favor of Owner and its members, partners, officers, directors, agents, and employees, and the successors in interest of the foregoing.
- D. **Cross-Liability Coverages.** The Commercial General Liability and Automobile Liability policies shall provide cross-liability coverages as would be achieved under the standard International Organization for Standardization ("ISO") separations of insureds clause.
- E. **Additional Insureds.** The Commercial General Liability and Automobile Liability policies shall name the Owner and its members, partners, officers, directors, agents, and employees, and the successors in interest of the foregoing, as Certificate Holder, using ISO additional insureds endorsement CG 20 10 11 85 or a substitute providing equivalent coverages. Such coverages provided to the additional insureds shall (a) be primary and noncontributory with respect to any insurance or self-insurance retention of the additional insureds, including but not limited to any Excess Liability coverage maintained by the additional insureds, (b) provide the same types and extents of coverages as the coverages provided to the primary insured, and shall not be limited to the "vicarious liability" of the additional insureds, (c) waive all rights of subrogation against the additional insureds, and (d) be maintained for the same durations as the coverages provided to the primary insured, including but not limited to the continuation of the Products and Completed Operations coverage until three (3) years after final payment to the Owner's prime contractor on the Project, and shall not be limited to "ongoing operations". Notwithstanding the foregoing, this Paragraph shall not be construed to require the Consultant to provide insurance coverage of the additional insureds in a way or to an extent that results in a violation of ORS § 30.140.

- F.** Duration of Coverages. The insurance coverages required by this Exhibit shall be written on an occurrence basis, except the Professional Liability Insurance. The Professional Liability policy shall provide for a retroactive date of placement prior to or coinciding with the commencement of the performance of the design professional services under the Contract. All other policies shall be in effect as of the date of commencement of the Consultant's services under the Contract. All policies shall be maintained and remain in effect until at least one (1) year after final payment to the Owner's prime contractor on the Project and thereafter when the Consultant is assisting or advising the Owner regarding the correction of defective or nonconforming Work; provided that the Products and Completed Operations policy and the Professional Liability policy shall remain in effect until three (3) years after final payment to the Owner's prime contractor on the Project. The Consultant shall notify the Owner of any claims that may materially impair the coverage under Consultant's Professional Liability policy.
- G.** Proof of Insurance. The Consultant shall file with Owner, upon execution of the Contract, certificates of insurance acceptable to the Owner as well as copies of all insurance policies, with all riders and endorsements, all separate exclusions, conditions and waivers, and all other amendatory documents attached, evidencing the insurance required by this Exhibit. The Consultant will notify the Owner with at least thirty (30) days' written notice, if the policy will be cancelled or allowed to expire. If any of the required coverages are to renew during the period when such coverages is to remain in effect, or are required to remain in effect in force after final payment to the Owner's prime contractor on the Project, an additional certificate evidencing continuation of such coverage shall be submitted upon renewal or with the Consultant's final invoice.
- H.** Effect of No or Insufficient Insurance. The Consultant's failure to comply with the requirements of this Exhibit shall constitute a material breach of the Contract entitling the Owner to terminate the Contract for cause. In the alternative, the Owner in its sole discretion may purchase the insurance required of, but not obtained or maintained, by the Consultant pursuant to this Exhibit and charge such costs thereof to the Consultant. The Owner's rights under this Paragraph shall be in addition to, and without waiver of, its other rights and remedies under the Contract or applicable law.
- I.** Limitation to This Exhibit. Nothing in this Exhibit shall negate, abridge, or reduce the Consultant's responsibilities or liabilities under the Contract or applicable law, the meaning and effect of the provisions of this Exhibit being limited to setting out the Consultant's express obligations with respect to insurance.

ATTACHMENT D
FORM OF AGREEMENT

The form of agreement between the Owner and Chosen Consultant will be the sample version of the Professional Services Contract as follows. A contract will be issued per site.



FORM OF CONTRACT

THIS **PROFESSIONAL SERVICES CONTRACT** (the "Contract") made as of the _____ day of _____ 2022 is between the **SCHOOL DISTRICT** (hereinafter "the Owner"), and _____ (hereinafter "the Consultant"). (Collectively Owner and Consultant are referred to as the "Parties").

The Project is: School
Project Name

The Owner is: School District
Signatory Name, Title
School Address
School City, OR 97xxx

The "Consultant" is: Company Name
Consultant Name, title
Mailing Address
CITY, OR 97XXX

Contract Start Date: Date of Notice to Proceed

Scope of Work (hereinafter "Services") is attached as **EXHIBIT D**

Any proposals attached to this Contract are incorporated solely for: (i) any statement of fees and schedule that is consistent with the remainder of this Contract and (ii) any statement of Consultant's and its subconsultants' scope of services that is consistent with the remainder of this Contract, or that provides services in addition to those stated in the remainder of this Contract. No other provisions of the proposal are part of this Contract, including without limitation any purported limitation on liability. To the extent that a proposal term otherwise conflicts with the other terms of this Contract, the provision that provides a better quality or quantity of service to Owner shall control.

Consultant shall at all times perform the Services diligently and without delay except as excused by Owner and shall punctually fulfill all Contract requirements consistent with **Exhibit B** and any other schedules for the performance of Services set forth in the Exhibits. **TIME IS OF THE ESSENCE IN THE CONSULTANT'S PERFORMANCE OF THIS CONTRACT.**

The Services shall be performed only by qualified personnel, appropriately licensed if required by law or industry standard practice. If **Exhibit C** is attached, the Services shall be performed only by the appropriate personnel listed in Exhibit C, unless Owner authorizes in writing a particular Service being performed by another.

The Owner agrees to pay Consultant a sum not to exceed **XXXX DOLLARS AND 00/100, (\$XXXX.00)** for performance of the **Services**, which shall include all allowable reimbursable expenses, billed in accordance with **EXHIBIT A, Consultant Compensation**. Revisions necessary to correct errors or omissions in the Services or Work Product of Consultant shall be performed without charge.

Consultant shall not be entitled to additional compensation for any claimed additional service unless Owner has approved the additional service and its basis for compensation in writing in advance.

INDEPENDENT CONTRACTOR

Consultant is an independent contractor, obligated for methods and means used in performing the Consultant's Services under this Contract, and is not an employee, agent or partner of the Owner. Consultant is responsible for all federal, state or other taxes applicable to any compensation received under this Contract. 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.

STANDARD OF CARE

Consultant shall perform the Services in keeping with the care and skill ordinarily exercised by members of Consultant's profession practicing under similar conditions in the same locality, and in accordance with special instructions issued by Owner. Consultant is responsible for determining the appropriate means and manner of performing the Services.

LAWS APPLICABLE TO CONSULTANT AND WORK

- A. Consultant shall obtain, hold, maintain and pay for all licenses and permits required by law for Consultant to perform the Services on the Project. Consultant shall be duly licensed to perform the Services and prepare and deliver the Work Product.
- B. All drawings, specifications, deliverables and other documents prepared by Consultant shall 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.
- C. Consultant shall comply, and cause its subconsultants to comply, with all federal, state and local laws, regulations, rules, orders and ordinances applicable to the Services or Consultant, including without limitation compliance with the provisions of ORS 279B, ORS 279C.505, 279C.515, 279C.520, and 279C.530, and Social Security, unemployment compensation and workers' compensation laws, OSHA and all other health and safety laws of any kind, including the applicable laws, rules, and regulations identified in **Exhibit G – Public Contract Laws**.
- D. Consultant agrees to use the appropriate safety equipment while present at the Project Site.
- E. By signature on this Contract, the undersigned certifies, swears and affirms under penalty of perjury that the undersigned is authorized to act on behalf of Consultant and that Consultant is, to the best of the undersigned's knowledge, not in violation of any Oregon tax laws.
- F. If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly report to the Oregon Department of Revenue (ODR) on forms to be provided by ODR the total contract price, terms of payment, length of contract and such other information as ODR may require before the Consultant may receive final payment on the public Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to entering into this Contract, which includes establishing that Consultant is authorized to transact business in Oregon.
- G. Pursuant to Oregon Revised Statute (ORS) Chapter 200, Owner encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity ("COBID") in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business. Owner also encourages joint ventures or subcontracting with certified small business enterprises.
- H. No Unsupervised Contact with Students. "Unsupervised contact with students" means contact with students that provide the person opportunity and probability for personal communication or touch when not under direct supervision. The Consultant will ensure that the Consultant's employees, any subconsultants, and their officers, agents, and employees will have no direct unsupervised contact with students while on Owner's property. The Consultant will work with Owner to ensure compliance with this requirement. If the Consultant is unable to ensure through a security plan that none of its subconsultants, officers, agents, or employees will have direct, unsupervised contact with students in a particular circumstance or circumstances, Consultant shall so notify Owner prior to beginning any Services that could result in such contact. The Consultant authorizes Owner to conduct a criminal background check, including fingerprinting,

of any officer, agent, or employee of the Consultant that will have unsupervised contact with students. The Consultant also agrees to cause its subconsultants, if any, that will have unsupervised contact with students to authorize Owner to conduct such background checks.

INSURANCE

Consultant shall maintain in effect for the duration of this Contract, or any other time periods required herein, the insurance set forth in **EXHIBIT E – Insurance Requirements**, and shall otherwise comply with **EXHIBIT E**.

INDEMNITY

To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless the Owner, its board members, officers, employees, agents, successors and assigns, from and against any and all claims, liability, damages, losses, causes of actions, expenses, including but not limited to, attorney fees, expert witness fees, court costs, arbitration costs, mediation fees (the "Indemnity Claims") arising out of or resulting from the negligent performance or failure to perform, by Consultant or its officers, employees, agents, subconsultants, or independent contractors, the Services or any duties or obligations required by this Contract or the otherwise applicable standard of care.

OWNERSHIP OF WORK AND INTELLECTUAL PROPERTY

- A. All documents (in whatever form) Consultant delivers or is required deliver under this Contract, including all drawings, specifications, derivative works, compilations or other documents ("Work Product"), shall be the exclusive property of Owner. Consultant hereby irrevocably assigns to Owner any and all of its rights, title, and interest in all original Work Product created. Upon Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Owner. Consultant forever waives any and all rights relating to original Work Product.
- B. In the event any intellectual property is necessary for the use of any Work Product or any Work Product is derivative of Consultant's intellectual property, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use Consultant's intellectual property, including the right of Owner to authorize contractors, consultants and others to use Consultant Intellectual Property, for the purposes described in this Contract. In the event such intellectual property is not owned by Consultant, 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 the intellectual property, including the right of Owner to authorize contractors, consultants and others to use the intellectual property, for the purposes described in this Contract.

CONFIDENTIALITY

- A. Consultant acknowledges that it or its employees, subconsultants, subcontractors or agents ("Responsible Parties") may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is the confidential information of Owner. The following shall be deemed "Confidential Information":
 - 1. Any and all information provided by Owner regarding Owner business plans or finances, student or staff data, or that Owner or Owner's agent identifies as confidential; and
 - 2. Any reports, documents or other items that derive or result from Consultant's use of the information described in clause (1) or that Owner designates as confidential.
- B. 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 not to 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 under this Contract, and shall advise each of its Responsible Parties of their obligations to keep Confidential Information confidential. Upon termination of this Contract or at Owner's request, Consultant will turn over to Owner all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

- C. Confidential Information shall be deemed not to include information that:
1. is or becomes (other than by disclosure by a Responsible Party) publicly known;
 2. is obtained from a source other than Owner without the obligation of confidentiality;
 3. is disclosed with the written consent of Owner; or
 4. is independently developed by employees or agents of Consultant who are shown to have had no access to the Confidential Information.

TERMINATION

This Contract may be terminated at any time, in whole or in part, as follows:

- A. written mutual consent of the Parties;
- B. for material default of this Contract after ten (10) day's written notice to the defaulting party that is not cured, except in the case of emergency or where cure is not possible, in which less or no notice is permissible if reasonable under the circumstances; however Consultant shall not terminate this Contract, or suspend or withhold Services or delivery of Work Product, on the basis of Owner nonpayment of disputed sums, provided payment of undisputed sums is made.
- C. upon written notice that Owner lacks funding or applicable law or funding source guidelines prohibit payment from the planned funding source.
- D. the Owner may terminate this Contract, in whole or in part, upon written notice to the Consultant for the Owner's convenience and without cause. If Owner terminates for cause, Owner at any time may, by notice to Consultant, convert the termination to a termination for convenience. In the event Owner terminates for cause and it is determined that Owner did not have sufficient cause for termination, such termination automatically shall be converted to a termination for convenience and shall be deemed at Owner's convenience under this Section. Termination for convenience shall not impair Owner's other rights, including without limitation its rights and remedies for negligence and breach of this Contract. If the Owner terminates this Contract, Consultant's compensation shall not exceed the compensation amount stated in this Contract prorated to the amount of Services completed and accepted by the Owner, less Owner damages. In no event shall Consultant have a claim for damages, lost profits on services not performed, or otherwise on account of the termination of the Contract by Owner, with or without cause.
- E. Upon receipt of any termination notice, Consultant shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. As directed by Owner, Consultant shall, upon termination, without limitation of any of Owner's rights or remedies, promptly deliver to Owner all Work Product performed or created, regardless of the stage of completion.

CONFLICTS 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.

GENERAL PROVISIONS

- A. The terms of the Contract include all exhibits attached hereto or incorporated by reference.
- B. 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 subconsultant agreements for any of the Services or assign or transfer any of its interest in this Contract, without the prior written consent of Owner.
- C. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.
- D. 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.
- E. The failure of Owner to enforce any provision of this Contract shall not constitute a waiver by Owner of that or any other provision. Acceptance by Owner of Services or Work Product that is nonconforming, defective, incomplete or that does not meet the standard of care shall not be deemed a waiver of claims relating to the same.
- F. 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.
- G. In the event a suit, action, arbitration, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Contract or with respect to any dispute relating to this Contract, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys', paralegals', accountants', and other experts' fees, and all deposition, reporting and transcription costs, and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.



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 APPROVALS, INCLUDING WITHOUT LIMITATION ALL FUNDING 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. A FAXED 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.

COMPANY NAME

SCHOOL DISTRICT

By:

Consultant Name

By:

Signatory Name

Title:

Consultant Title

Title:

Signatory Title

Date:

Date:

Federal

ID #:

Consultant FIN

Exhibit A – Consultant Compensation
Exhibit A-1 – Hourly Rates
Exhibit B – Schedule
Exhibit C – Team Members Schedule
Exhibit D – Scope of Work
Exhibit E – Insurance Requirements
Exhibit F – Consultant Name Proposal Dated
Exhibit G – Public Contract Laws
Exhibit H – Claims and Dispute

EXHIBIT A
CONSULTANT COMPENSATION

BASIS OF COMPENSATION

- A. Rates for Services.** Subject to the terms and conditions of the Contract, Owner shall compensate Consultant for a **Not to Exceed fee of \$0.00** for the **Services**. **The fee shall be the lesser of Consultant's hourly charges in accordance with the rate schedule attached as Exhibit A-1, [or the percentage of work completed multiplied by the Not to Exceed Fee].**
- B. Reimbursable expenses** are the direct cost expended by Consultant, Consultant's employees, and subconsultants for performance of Services rendered to complete the Project. **Reimbursable Expenses are included in the Compensation for Basic Services and Supplemental Services** and include actual expenditures made by Consultant, Consultant's employees, and subconsultants in the interest of the Project for the expenses listed in the following Subparagraphs:
1. Long distance communications and other communication technology related to Project team collaboration.
 2. Expense of reproductions, postage and handling of drawings, specifications deliverables and other documents, excluding reproductions for the office use of Consultant and the subconsultants.
 3. Mileage and travel expenses based upon Federal rates. **Reimbursement of mileage expenses shall not exceed the Federal per mile rate for the current calendar year.**
- C. Payment schedule.** Subject to the terms and conditions of the Contract, payments to Consultant shall be made as follows:
1. [Monthly draws for percent of work completed as confirmed by Owner.]
 2. Final payment: Project Close-out and delivery of all required Work Product.

EXHIBIT A-1
HOURLY RATES

List here if provided

SAMPLE

EXHIBIT B
SCHEDULE

[ATTACH if provided]

[INCLUDE DEADLINE FOR DELIVERABLES]

SAMPLE

EXHIBIT C
TEAM MEMBERS SCHEDULE

[Attach if provided]

SAMPLE

EXHIBIT D
SCOPE OF WORK

[Identify required Work and Work Product, COPY AND PASTE AND RELIST SCOPE OF SERVICES FROM RFP]

SAMPLE

EXHIBIT E
INSURANCE REQUIREMENTS

- A. Insurance Coverages.** The Consultant shall procure and maintain at its expense during the performance of the Contract and thereafter as required below the following insurance from one or more companies authorized to do business in the State of Oregon with a policyholder's rating of not less than A-IX in the most recent edition of Best's Rating Guide. Except as approved otherwise by the Owner in advance, such insurance shall protect against claims which arise out of or relate to all of the Consultant's services under the Contract, whether performed by the Consultant or a person or entity for which the Consultant may be responsible.

Workers' Compensation Insurance, if required by law, with statutory limits.

Employer's Liability Insurance, if employees are employed for other than secretarial or bookkeeping services, with a limit of not less than \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limit.

Commercial General Liability Insurance, applicable to all premises and operations, including Bodily Injury, Property Damage, Personal Injury, Contractual Liability, Independent Contractors, Products and Completed Operations, Broad Form Property Damage (including Completed Operations), and coverage for explosion, collapse, and underground hazards, with limits of not less than \$2,000,000 per occurrence, \$3,000,000 aggregate applicable specifically to the Project.

Business Automobile Liability Insurance, applicable to owned, non-owned and hired automobiles, with a limit of not less than \$1,000,000 combined single limit each accident, \$2,000,000 aggregate.

Professional Liability Insurance, applicable to all acts and omissions of Consultant and its consultants at all tiers, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

- B. Deductibles.** The Consultant shall pay all deductibles on all policies required by Paragraph 1. Maximum allowable deductible is \$50,000 without Owners express written approval.
- C. Waivers of Subrogation Re Liability Insurance.** The Workers' Compensation and Employer's Liability policies shall be subject to a waiver of subrogation in favor of Owner and its members, partners, officers, directors, agents, and employees, and the successors in interest of the foregoing.
- D. Cross-Liability Coverages.** The Commercial General Liability and Automobile Liability policies shall provide cross-liability coverages as would be achieved under the standard International Organization for Standardization ("ISO") separations of insureds clause.
- E. Additional Insureds.** The Commercial General Liability and Automobile Liability policies shall name the Owner and its members, partners, officers, directors, agents, and employees, and the successors in interest of the foregoing, as Certificate Holder, using ISO additional insureds endorsement CG 20 10 11 85 or a substitute providing equivalent coverages. Such coverages provided to the additional insureds shall (a) be primary and noncontributory with respect to any insurance or self-insurance retention of the additional insureds, including but not limited to any Excess Liability coverage maintained by the additional insureds, (b) provide the same types and extents of coverages as the coverages provided to the primary insured, and shall not be limited to the "vicarious liability" of the additional insureds, (c) waive all rights of subrogation against the additional insureds, and (d) be maintained for the same durations as the coverages provided to the primary insured, including but not limited to the continuation of the Products and Completed Operations coverage until three (3) years after final payment to the Owner's prime contractor on the Project, and shall not be limited to "ongoing operations". Notwithstanding the foregoing, this Paragraph shall not be construed to require the Consultant to provide insurance coverage of the additional insureds in a way or to an extent that results in a violation of ORS § 30.140.

- F.** Duration of Coverages. The insurance coverages required by this Exhibit shall be written on an occurrence basis, except the Professional Liability Insurance. The Professional Liability policy shall provide for a retroactive date of placement prior to or coinciding with the commencement of the performance of the design professional services under the Contract. All other policies shall be in effect as of the date of commencement of the Consultant's services under the Contract. All policies shall be maintained and remain in effect until at least one (1) year after final payment to the Owner's prime contractor on the Project and thereafter when the Consultant is assisting or advising the Owner regarding the correction of defective or nonconforming Work; provided that the Products and Completed Operations policy and the Professional Liability policy shall remain in effect until three (3) years after final payment to the Owner's prime contractor on the Project. The Consultant shall notify the Owner of any claims that may materially impair the coverage under Consultant's Professional Liability policy.
- G.** Proof of Insurance. The Consultant shall file with Owner, upon execution of the Contract, certificates of insurance acceptable to the Owner as well as copies of all insurance policies, with all riders and endorsements, all separate exclusions, conditions and waivers, and all other amendatory documents attached, evidencing the insurance required by this Exhibit. The Consultant will notify the Owner with at least thirty (30) days' written notice, if the policy will be cancelled or allowed to expire. If any of the required coverages are to renew during the period when such coverages is to remain in effect, or are required to remain in effect in force after final payment to the Owner's prime contractor on the Project, an additional certificate evidencing continuation of such coverage shall be submitted upon renewal or with the Consultant's final invoice.
- H.** Effect of No or Insufficient Insurance. The Consultant's failure to comply with the requirements of this Exhibit shall constitute a material breach of the Contract entitling the Owner to terminate the Contract for cause. In the alternative, the Owner in its sole discretion may purchase the insurance required of, but not obtained or maintained, by the Consultant pursuant to this Exhibit and charge such costs thereof to the Consultant. The Owner's rights under this Paragraph shall be in addition to, and without waiver of, its other rights and remedies under the Contract or applicable law.
- I.** Limitation to This Exhibit. Nothing in this Exhibit shall negate, abridge, or reduce the Consultant's responsibilities or liabilities under the Contract or applicable law, the meaning and effect of the provisions of this Exhibit being limited to setting out the Consultant's express obligations with respect to insurance.



EXHIBIT F
CONSULTANT NAME RFP RESPONSE IN THE FORM OF A PROPOSAL DATED

SAMPLE

EXHIBIT G
PUBLIC CONTRACT LAWS

- A. **General.** The Public Contracting Code and the Attorney General's Model Public Contracting Rules contain certain requirements for public contracts, including but not limited to certain required contract provisions. The required contract provisions are contained in this Exhibit, and Owner and Consultant agree to comply with all applicable requirements of ORS Chapters 279A, 279B and 279C; the Attorney General's Model Public Contracting Rules; and other Oregon laws whether or not such provisions are included in this Exhibit or excised from this Exhibit. Consultant shall cause all its subconsultants also to comply with the requirements of this Exhibit. Consultant and subconsultant compliance with the requirements of this Exhibit is a material element of the Contract. Failure to comply is a breach that entitles the Owner to terminate the Contract for cause, without limitation to other remedies and claims.
1. As required by ORS 279A.110, Consultant shall not discriminate against minority-owned, women owned, or emerging small businesses certified under ORS 200.055 or a business enterprise that is owned or controlled by or employs a disabled veteran as defined in ORS 408.225. Consultant shall comply with all applicable requirements of federal and state civil-rights laws and rehabilitation statutes and must not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, source of income, or political affiliation in programs, activities, services, benefits, or employment. Without limitation, Consultant expressly agrees to comply with: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) ORS 652.220 (Prohibition of discriminatory wage rates based on sex; employer not to discriminate against employee who is a complainant); and (ix) all regulations and administrative rules established pursuant to the foregoing laws.
 2. Consultant shall comply with all applicable federal, state, and local laws, statutes, codes, regulations, rules, orders and rulings as well as all applicable construction industry standards, including without limitation those governing labor, materials, equipment, construction procedures, safety, health, sanitation and the environment. Consultant agrees to indemnify, hold harmless, reimburse, and defend the Owner from and against any penalties or liabilities arising out of violations of such obligations by Consultant or its sub consultants at any tier.
 3. Consultant represents and warrants that Consultant has complied with the applicable tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Consultant covenants that contractor will continue to comply with the tax laws of this state or a political subdivision of this state during the term of this contract. Failure by the Consultant to comply with the applicable tax laws of this state or a political subdivision of this state before the execution of this Contract or during the term of this Contract is a default for which the Owner may terminate this Contract and seek damages and other relief available under the terms of this Contract or under applicable law.
 4. To the extent applicable to the Services, no person shall be required or permitted to labor more than forty (40) hours in any one week, except in cases of necessity or emergency, or when the public policy absolutely requires it, in which event, the person so employed for excessive hours shall receive at least time and a half pay for (1) all overtime in excess of 40 hours in any one week; and (2) all work performed on any legal holiday specified in ORS 279C.540. This section does not apply to persons employed under this contract who are excluded under ORS 653.010 to 653.261 or under 29 USC 201 to 209 from receiving overtime.

5. Consultant may not prohibit any of the Consultant's 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 does so.
6. The Consultant, each sub consultant and each lower-tier sub consultant must give notice to its employees in writing, either at the time of hire or before commencement of work, or by posting a notice in a location frequented by its employees, of the number of hours per day and days per week that the employees may be required to work.
7. Consultant shall promptly, as due, make payment to any person, co partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Consultant, of all sums that the Consultant agrees to pay for the services and all moneys and sums that the Consultant collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services.
8. Consultant, its subconsultants, and all employers providing work, labor or materials under this Contract are subject to the Oregon workers' compensation law and shall comply with ORS 656.017, which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers. Consultant shall be responsible for all federal or state taxes applicable to compensation or payments paid to Consultant under this Contract. Consultant certifies that (i) it is not an employee of the Owner; (ii) if Consultant is currently performing work for the Owner or the federal government, Consultant's work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244; and (iii) if this payment is to be charged against federal funds, it is not currently employed by the federal government.
9. The Consultant, in performance of the Work, shall use recycled paper as defined in ORS 279A.010(1)(ee), recycled PETE products as defined in ORS 279A.010(1)(ff), and other recycled plastic resin products to the maximum extent economically feasible.
10. Consultant shall ensure its employees have identifying uniforms or other designation of identity such as badge, shirt, etc. with Consultant logo/name while on Owner's property.
11. Consultant agrees that each employee, sub consultants' employees and principals/owners under this contract may, at the option of the Owner, be subject to a security check at any time through means determined by the Owner, and that any person who may have direct, unsupervised contact with students as determined by the Owner will be subject to fingerprinting and a criminal records check. The Consultant also agrees to comply and cause all subconsultants to comply with any school access rules and regulations of the Owner. Owner retains the right to require immediate removal of any consultant, sub consultant, employee or agent. Notwithstanding the foregoing, Consultant remains solely responsible for performing background checks on and screening for public safety of all sub consultants and employees and, to the extent allowed by law, shall provide such screening methodologies and information to the Owner upon request.

B. Payment of Laborers: This provision is required by statute. In addition to applicable federal and local laws, ORS 279B.220 requires that Consultant

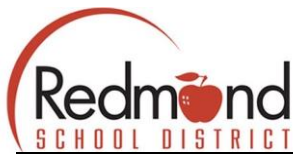
1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
2. Pay all contributions or amounts due to the Industrial Accident Fund by the contractor or subcontractors, if permitted, incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

4. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Consultant neglects or refuses to make prompt payment of any claim for labor or services furnished to it by any party in connection with this Contract as such claim becomes due, Owner may pay such claim to the party furnishing the goods or services and subtract the payment amount from funds due or to become due the Consultant. Owner's payment of such a claim shall not relieve Consultant or Consultant's surety, if any from its obligation to any unpaid claims.
- C. Payment for Medical Care: This provision is required by statute. As required by ORS 279B.230 and to the extent any of Consultant's employees are covered by Oregon employment laws, Consultant shall promptly, as due, make payment to any person, co-partnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Consultant, of all sums that Consultant agrees to pay for such services and all moneys and sums that Consultant collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for such service.
- D. Non-Appropriation: Adequate Funding: Owner is prohibited from contracting for services for which it has not received appropriated funds. If payment for work under this Contract extends into Owner's next fiscal year, Owner's obligation to pay for such work shall be subject to approval of future Board of Education ("Board") appropriations to fund this Contract. Moreover, continuation of this Contract at specified levels is specifically conditioned on adequate funding under the Owner's budget adopted in June of each year. Owner reserves the right to adjust the level of services provided for in this Contract in accordance with funding levels adopted by the Board.
- E. Independent Contractor Status. By its signature on this contract, Consultant certifies that the service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600, and that Consultant is solely responsible for the work performed under this Contract. Consultant represents and warrants that Consultant, its subcontractors, employees, and agents are not "officers, agents, or employees" of the Owner within the meaning of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Consultant shall be responsible for all federal, state, and local taxes and any and all fees applicable to payments for services under this Agreement.
- F. Hours of Labor. This provision is required by statute. As required by ORS 2798.020(5), 279B.235(3), and 279C.540(6), for Consultant's employees subject to Oregon employment laws:
1. Maximum Hours: Employees shall be paid at least time and a half pay for all time worked in excess of 40 hours in any one week and for work performed on Saturdays, Sundays, New Year's Day (Jan. 1), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Thanksgiving Day (fourth Thursday in November), and Christmas Day (December 25).
 2. Exemption: The requirements of Section 15(a) do not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
 3. Notice to Employees: Consultant must give notice in writing to its employees who perform work on this Contract, either at the time of hire or before commencement of work on this 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 employees may be required to work.
- G. Time Limitation on Claim for Overtime. This provision is required by statute. For Consultant's employees subject to Oregon employment laws and as required by ORS 279C.545, any worker employed by Consultant shall be foreclosed from the right to collect for any overtime provided in ORS 279C.540 unless a claim for payment is filed with Consultant within 90 days from the completion of this Contract, providing Consultant has:

1. Posted circular: Caused a circular clearly printed in boldfaced 12-point type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place that is readily available and freely visible to workers employed on the work, and
 2. Maintaining posted circular: Maintained such circular continuously posted from the inception to the completion of this Contract on which workers are or have been employed.
- H. Access to Records; Consultant Financial Records. Consultant agrees that Owner and its authorized representatives are entitled to review all Consultant books, documents, papers, plans, and records, electronic or otherwise ("Records"), directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Consultant shall maintain all Records, fiscal and otherwise, directly relating to this Contract in accordance with generally accepted accounting principles so as to document clearly Consultant's performance. Following final payment and termination of this Contract, Consultant shall retain and keep accessible all Records for a minimum of three years, or such longer period as may be required by law, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.
- I. Confidentiality; FERPA Re-disclosure. Family Education Rights and Privacy Act ("FERPA") prohibits the re- disclosure of confidential student information. Except in very specific circumstances, Consultant shall not disclose to any other party without prior consent of the parent/guardian any information or records regarding students or their families that Consultant may learn or obtain in the course and scope of its performance of this Contract. Any re- disclosure of confidential student Information must be in compliance with the re-disclosure laws of FERPA. Consultant is not to re-disclose information without prior written notification to and written permission of Oregon City Public Schools. If Oregon City Public Schools grants permission, Consultant is solely responsible for compliance with the re-disclosure under §99.32(b). Consistent with FERPA's requirements, personally identifiable information obtained by Consultant in the performance of this Contract must be used only for the purposes identified in this Contract.

EXHIBIT H
CLAIMS AND DISPUTES

1. In the event the Consultant or the Owner has a claim against the other arising out of or related to the Agreement, the party asserting the claim shall send a written notice of claim to the other party. A single notice shall suffice in the event of a continuing claim.
2. Notice of claims by Consultant shall be sent within a reasonable time, but not later than twenty-one (21) days, after the Consultant knew or reasonably should have known of the event or occurrence giving rise to the claim. The notice of claim shall be accompanied by such documentation and other information regarding the claim as is then available to the claimant; the claimant thereafter shall timely augment such documentation and information as it becomes available. Failure of Consultant to provide the written notice, documentation and other information required by this Paragraph shall result in waiver of the claim.
3. All claims and disputes between the Consultant and Owner arising out of or relating to the Agreement, the breach thereof, the Consultant's services hereunder or the Project shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, or at the election of the Owner, Arbitration Service of Portland (the service so selected by the Owner being the "Arbitration Service") then in effect unless the parties mutually agree otherwise and subject to prior mediation under Paragraph 4. Notice of the demand for arbitration shall be filed in writing with the other party to the Agreement and with the Arbitration Service and shall be made within a reasonable time after completion of mediation pursuant to Paragraph 4 without resolution of all claims or disputes; provided that in no event shall such demand be filed after the expiration of the statute of limitations applicable to the involved claims. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The agreement herein between the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.
4. At the election of the Owner, All claims or disputes subject to arbitration under Paragraph 3 shall be subject to prior mediation in accordance with the mediation rules of the Arbitration Service then in effect unless the parties mutually agree otherwise. Notice of demand for mediation shall be filed in writing with the other party to the Agreement and with the Arbitration Service and shall be made within a reasonable time after the claim or dispute has arisen. The parties shall share equally in the cost of the mediation but shall bear their own costs of counsel.
5. In addition to the agreements to mediate and arbitrate set out in Paragraphs 3 and 4, at Owner's election the Consultant agrees to a consolidated mediation and a consolidated arbitration of such claims, disputes or other matters in question between them arising out of or relating to the Project with claims, disputes or other matters in question between or among the Owner, Consultant, subconsultants at all tiers, Architects, Contractors, subcontractors, suppliers, and sureties, and any other person or entity under contract or otherwise engaged to perform work or services for the Project; provided that all such parties to the consolidated mediation and consolidated arbitration shall be persons or entities substantially involved in a common question or law or fact whose presence is required if complete relief is to be accorded in the consolidated proceeding.
6. In the event of any litigation between the Owner and a project consultant, design professional or construction contractor that involves work of the Consultant, The Owner may join the Consultant as a party in such litigation without mediation or arbitration.
7. Any mediation, arbitration or trial court suit or action arising out of or relating to the Agreement or the Project shall be conducted in the County where the Project is located.



8. The Agreement shall be governed by the law of the place where the Project is located.
9. Prevailing party attorney fees in arbitration shall be awarded if and to the extent stated in the Contract.

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