

Contract No: _____

This Contract is made and entered into by and between:

[Provider/Company Name] [Address]	Beaverton School District 16550 SW Merlo Road Beaverton, Oregon 97003 Attention: Business Services Purchasing
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SCOPE OF WORK: on a requirements basis.

SUPERSEDING EFFECT.

There are no covenants, promises, Contracts, conditions or understandings between the Parties, either oral or written, other than those contained in this Contract. This contract and all exhibits and attachments hereto together constitute the entire Contract between the Parties (listed in order of precedence): 1) Amendments to This Contract 2) This Contract; 3) Exhibit A Terms and Conditions, 4) Exhibit B District Solicitation (including issued addenda), Specifications and Drawings (included by reference); and 5) Exhibit C Provider Response.

Any Provider Response (proposals) attached to this Contract are incorporated solely for: (i) any statement of fees and schedule that is consistent with the terms of the Solicitation, this Contract and Exhibit A to this contract and (ii) any statement of Consultant's and its sub-consultants' scope of services that is consistent with the remainder of this Contract, or that provides basic services in addition to those stated in this Contract. No other provisions of any 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 terms of this Contract or is not included in this Contract, such proposed terms are void and are expressly and wholly subject to the terms of this Contract. In the event of overlap or inconsistency between the provisions of such proposals and the other terms of this Contract, the provision that provides a better quality or quantity of service to Owner shall control.

CONSIDERATION:

Contractor shall perform/deliver the Work required, on an as needed basis, in consideration for which the District agrees to pay for the Work in a manner further described in the contract and pursuant to the proposal pricing. Individual Project Work Authorizations (PWA) are required prior to any work being performed and will be issued by the District on a requirements basis. The District is not required to make any purchases under this Contract.

CONTRACT PERIOD:

The contract period shall be upon contract execution through _____.

RENEWAL OPTION:

The contract may be renewed upon mutual Contract of the Parties for four (4) additional one (1) year periods.

In consideration of the mutual covenants, stipulations and agreements, the Parties hereto do agree and acknowledge that they have read and understand this Contract and agree to be bound by its terms and conditions::

Beaverton School District _____ District Representative Date _____ Cost Center Authority Date _____ Business Services Purchasing Date Not a valid Contract until all signatories are complete	Contractor/Company Name _____ (typed or printed name of officer) _____ Signature Date Title: _____ Phone/Fax: _____ Email: _____ _____ CCB Number
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This contract is pursuant to Oregon Revised Statutes (ORS 279 A, B and C) and Beaverton School District Public Contracting Rules.

Exhibit A – Terms and Conditions

1. **ASSIGNMENT.** The Contractor may not assign, sell, dispose of, or transfer rights or subcontract Work under the Contract, either in whole or in part, without the District's prior written consent.
2. **REPRESENTATION.** Contractor represents and warrants to the District that (a) Contractor has the power and authority to enter into and perform this Contract, (b) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, (c) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards, and (d) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work.
3. **AUTHORITY.** The Contractor represents and warrants that it has the power and authority to enter into and perform the Contract and that the signer of this Contract has the authority to bind and obligate the Contractor.
4. **CHANGES.** All amendments shall be pursuant to OAR 137-047-0800. The terms and conditions contained in this Contract may not be added to, modified, superseded or otherwise altered except by a written modification signed by an authorized representative of the District and Contractor.
5. **CLEAN UP.** The Contractor shall keep the premises free from accumulation of waste materials rubbish caused by operations under this Contract. At completion of the Work, the Contractor shall remove all tools, equipment and waste/surplus and clean all surfaces. If Contractor fails to perform this clean-up operation the District after 24 hours notice to the Contractor may perform this function with cost being borne by the Contractor and deduct from monies due.
6. **COMPLIANCE WITH LAWS.**
 - a. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances as applicable. All laws, regulations and executive orders applicable to the Contract are incorporated by reference where so required by law. If the Contractor fails to comply the District shall have the right to terminate this Contract.
 - b. Contractor 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 659.425; (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) all regulations administrative rules established pursuant to the foregoing laws; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products, if applicable.
- c. Contractor, its subcontractors, 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. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract. Contractor certifies that (i) it is not an employee of the District; (ii) if Contractor is currently performing work for the District or the federal government, Contractor'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.
7. **CONFIDENTIAL INFORMATION:** Contractor acknowledges that it or its employees, sub-Contractors, or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is the confidential information of District or District's clients. Any and all information provided by District and marked confidential, or identified as confidential in a separate writing, that becomes available to Contractor or its employees, sub-Contractors, or agents in the performance of this Contract shall be deemed to be confidential information of District ("Confidential Information"). Any reports or other documents or items including software, that result from Contractor's use of the Confidential Information and any Work Product that District designates as confidential are deemed Confidential Information. Confidential Information shall be deemed not to include information that: (a) is or becomes (other than by disclosure by Contractor) publicly known; (b) is furnished by District to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is obtained from a source other than the District without the obligation of confidentiality; (e) is disclosed with the written consent of the District; or (f) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.
 - a. **NON-DISCLOSURE.** Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 the District under this Contract, and to advise each of its employees, sub-Contractors, and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist the District in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise the District immediately in the event Contractor 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 Contract and Contractor will at its expense cooperate with the District in seeking

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injunctive or other equitable relief in the name of the District or Contractor against any such person. Contractor agrees that, except as directed by the District, Contractor will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract, and that upon termination of this Contract or at the District's request, Contractor will turn over to the District all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

- b. **INJUNCTIVE RELIEF.** Contractor acknowledges that breach of this Section, including disclosure of any Confidential Information, will give rise to irreparable injury to the District that is inadequately compensable in damages. Accordingly, the District 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. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the District and are reasonable in scope and content.

8. CONTINUING OBLIGATION. Notwithstanding the expiration date of this Contract, the Contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.

9. CUTTING AND PATCHING. Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other contractors, subcontractors, or the District. Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided however, that if a different condition is specified in the Contract Documents, then the Contractor shall be responsible for restoring such surfaces to the condition specified.

10. DAMAGES. The Contractor is responsible for damage to any property, District owned or otherwise, that is a result of Contractor or subcontractor negligence while work is in progress.

- a. The Contractor shall be responsible for repairing and replacing anything damaged by his operations, within thirty (30) days after notification by the District.
- b. The Contractor shall:
 - i. Clean, repair and/or repaint all surfaces soiled, discolored or damaged by removal of tape, adhesive or other work to match existing surfaces.
 - ii. Bear all costs associated with damage incurred during the work, which includes but is not limited to gypsum board, windows, mullions, and elevator cars.
 - iii. Report to the District any damages found prior to performing work.
 - iv. If the Contractor fails to make repairs or replace damaged materials, as necessary, the District shall deduct the amount of any damages from the Contractor's payment.
- c. Should any of the Work, and such goods, materials, equipment and furnishings, be destroyed, mutilated, defaced or otherwise damaged prior to the time the risk of loss has shifted to the District, the Contractor shall

repair or replace the same.

11. DELAYS IN DELIVERY. Neither the District nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other cause which is beyond the party's reasonable control.

12. DISTRICT'S RIGHT TO CARRY OUT THE WORK. If the Contractor defaults or persistently fails or neglects to carry out the Work or portions of the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the District, after 10 days' written notice to the Contractor and without prejudice to any other remedy the District may have, may make good such deficiencies and may deduct the reasonable cost thereof, including District's expenses and compensation for Consultant services made necessary thereby, from the payment then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the District. The right of the District to carry out the Work shall not give rise to any duty on the part of the District to exercise this right for the benefit of the Contractor or any other person or entity.

13. DRUG STATEMENT. The use of drugs, alcohol, or any tobacco products is prohibited on all District property.

14. FOREIGN CONTRACTOR. If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if the Contractor is not domiciled in or registered to do business in Oregon, the Contractor shall promptly provide the Oregon Department of Revenue all information required by that Department.

15. IDENTIFICATION OF EMPLOYEES. Contractor shall ensure that its employees have identifying uniforms or other designation of identity (ID badge, hat, coat with Contractor logo/name) while on District property.

16. INDEMNIFICATION.

- a. To the fullest extent permitted by law the Contractor shall indemnify, defend and hold harmless the District, and its officers, agents and employees, and Architect, Architect's consultants and agents and employees from and against claims, actions, liabilities, damages, losses, costs and expenses, direct and indirect or consequential, including but not limited to reasonable attorneys' fees and other costs of defense and/or costs on such claims, and reasonable attorneys' fees and costs if the District is the prevailing party in disputes over the right to indemnification, arising out of or resulting from negligent performance of the Work, or any act or omission related to the Work performed under this Contract, and arising in whole or in part from the negligence of the Contractor, its agents, any of its subcontractors of any tiers and anyone directly or indirectly employed by the Contractor or subcontractors of any tier. Contractor's duty of defense shall arise immediately upon assertion of any claim actually or allegedly covered by this indemnification provision, and, to the fullest extent allowed by law, shall be independent of any limitations upon Contractor's duty of indemnification.
- b. Court Action: To the extent any portion of any

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indemnification or insurance provision of this Contract is stricken by a court for any reason; all remaining provisions shall retain their vitality and effect. Without limitations, to the extent the indemnity or insurance provisions of this Contract are covered by ORS 30.140, such provisions shall apply to the fullest extent permitted under ORS 30.140.

17. INDEPENDENT CONTRACTOR. The service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee or agent of the District.

18. INSPECTION AND ACCEPTANCE. The quality of Work shall be subject to inspection by the District. Should it be found that the quality of the Work is not satisfactory, and that the requirements of the plans and/or specifications are not being met, the District shall issue a written notice to comply and will provide the Contractor with a 'cure date'. If the Contractor does not comply the District may terminate the contract after providing 30 days written notice. Within a reasonable time, all work performed and goods delivered are subject to final inspection and acceptance after delivery or completion at the District's facility. If any goods or services are defective in material or workmanship or otherwise not in conformity with the requirements of this Contract or specifications, the District shall have the right to require correction or replacement at no additional cost to the District.

19. INSURANCE. Before commencing work, Contractor shall procure and maintain:

- a. WORKER'S COMPENSATION as required by law.
- b. EMPLOYER'S LIABILITY in the minimum amount of \$500,000 when the Provider has employees performing services under the contract.
- c. COMPREHENSIVE AUTOMOBILE LIABILITY including owned, non-owned and hired vehicles: \$1,000,000 Combined Single Limit Bodily Injury and Property Damage any one occurrence and a minimum of \$2,000,000 in the aggregate. May be waived if Provider has no vehicle while providing work under the contract.
- d. COMPREHENSIVE GENERAL LIABILITY to include premises operations, independent Providers, products/completed operations, and blanket contractual: \$1,000,000 Combined Single Limit Bodily Injury, Property Damage, and personal injury any one occurrence and \$2,000,000 in the aggregate. May be waived only by the District Risk Manager.
- e. "TAIL" COVERAGE. If any of the required liability insurance is on "claims made" basis, "tail" coverage will be required at the completion of this contract for duration of 24 months, or the maximum time period reasonably available in the marketplace. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of this Contract. If Continuous "claims made" coverage is used, Contractor shall be required to keep the coverage in effect for duration of not less than 24 months from the end of the Contract. This will be a condition of the final acceptance of work or

services.

- f. If the Work to be performed involves removal of hazardous materials such as asbestos, mold, lead, or others a POLLUTION COVERAGE provision shall be included with specific coverage for asbestos and lead with limits equal to the General Liability coverage.
- g. CERTIFICATES OF INSURANCE. The District, its employees, officials and agents shall be named as an Additional Insured on general liability and automobile policies and shall be provided a copy of the additional insured endorsement. Such insurance shall be primary. Certificates of Insurance shall be issued, prior to the commencement of the contract, to Beaverton School District, Attn: Risk Department, 16550 SW Merlo Rd, Beaverton, OR 97003. The Contractor agrees to pay for the insurance specified and agrees to provide the District with a 30 days' notice of cancellation if non-renewal occurs during the contract period. Insurance companies must have an A rating.
- h. The District reserves the right to require additional insurance coverage, limits, and terms which will be delineated in an attachment to this Contract.
- i. This insurance shall be considered as primary insurance and exclusive of any insurance carried by Beaverton School District, and the insurance evidenced by the required certificates shall be exhausted first, notwithstanding the fact that Beaverton School District may have other valid and collectible insurance covering the same risk.

20. INVOICING AND PAYMENT. Contractor shall issue invoice(s) for each Work segment as mutually agreed upon or progress payment(s) as acceptable to the District through the end of the calendar month. Payment shall not be made prior to receipt of a valid invoice. Credit and discount periods will be computed from the date of receipt of the invoice to the date the District's check is mailed. Payment will be made within thirty (30) days after the acceptance of a proper invoice less 5% retention. Final payment including retention shall be made upon completion and acceptance of the Work. The District will not pay any additional charges unless specifically agreed to in writing by the District. The invoice(s) shall be submitted to Beaverton School District, Accounts Payable Department, 16550 SW Merlo Road, Beaverton, OR 97003 with a copy to the District Representative. Each invoice must include the project work authorization number, purchase order number or contract number, an itemized list of the pricing elements that match the Pricing Schedule and the quote provided for the individual project (if applicable), the project name/number and the District Representative's name.

21. GOVERNING LAW/VENUE. The laws of the State of Oregon shall govern this contract. Any action or suit commenced in connection with this contract shall be in the Circuit Court of Washington District or the Federal District Court for Oregon. The prevailing party shall be entitled to reasonable attorney fees and costs as awarded by the Court, including any appeal. All rights and remedies of District and Contractor shall be cumulative and may be exercised successively or concurrently.

22. MANUFACTURES WARRANTIES. Manufactures warranties received by the Contractor which are applicable to any material equipment, parts, property and services furnished by the

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Contractor under this Contract shall survive acceptance and payment, and shall run to the District, its successors and assigns, and shall not be deemed to be exclusive.

23. NO WAIVER OF CONDITIONS. Failure of the District to insist on strict performance shall not constitute a waiver of any of the provisions of this Contract or waiver of any other default of the Contractor.

24. OTHER CONTRACTS. The District may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with such other Contractors and District's employees and carefully fit its own work to such additional work as may be contracted for by the District. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by District employees.

25. PERFORMANCE STANDARD. The Work under this Contract shall be performed in a manner consistent with a high standard of construction practices for projects of a similar nature. Contractor covenants and warrants that it shall be responsible for performing and completing, and for causing any Subcontractors to perform and complete the Work in accordance with all Laws applicable to the Site and/or the Work. The Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work.

26. PERMITS AND RESPONSIBILITIES. Without additional expense to the District, the Contractor shall be responsible for maintaining any necessary licenses and permits.

27. PERFORMANCE AND PAYMENT BOND. If the value of this Contract exceeds \$50,000 the Contractor shall, prior to starting Work, provide Performance and Payment Bonds equal to the Contract price.

28. PUBLIC WORKS BOND. If the value of this project exceeds \$50,000 Pursuant to 279C.836; Contractor shall file with the CCB a public works bond with a corporate surety authorized to do business in Oregon in the amount of \$30,000.

29. PREVAILING WAGES. If the value of this project exceeds \$50,000, pursuant to ORS 279C.840, the hourly rate of wage of any contractor or subcontractor or other person doing or contracting to do any part of the Work pays to workers employed in the performance of any part of this Contract shall not be less than the "prevailing rate of wage" for an hour's work in the same trade or occupation in the locality where such labor is performed, in accordance with ORS 279C.838. The existing 'prevailing rate of wage' as published by the Oregon Bureau of Labor and Industries are the Prevailing Wage Rates for Public Works Contracts in Oregon effective January 1, 2020. They may be found at the following website:
http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx, and are incorporated herein by this reference.

Workers will be paid not less than the applicable prevailing wage rate for the type of work being performed. ORS 279C.830(1)(c); OAR 839-025-0020(5)(a). If the project is subject to both the state prevailing wage rate law and the federal Davis-Bacon Act, every contract and subcontract must contain a provision that states the workers must be paid not less than the higher of the applicable

state or federal prevailing rate of wage. ORS 279C.830(1)(d); OAR 839-025-0020(5)(b). Every contract and subcontract must contain a provision that requires any subcontractor to have a public works bond filed with Construction Contractors Board before starting work on a public works project, unless the subcontractor is exempt from the bond requirement. ORS 279C.830(2)(b) and (c); OAR 839-025-0020(3) and (4) Contractors and subcontractors must pay workers on public works projects no less than the applicable prevailing rate of wage for the type of work they perform. ORS 279C.840; OAR 839-025-0035(1).

30. PRICING. All pricing is considered fixed and firm for the Contract term. The Contractor warrants that the price of the Goods and Services covered by this Contract are not in excess of the Contractor's lowest prices in effect on the date of this Contract for comparable quantities of similar Goods and Services.

31. PROTECTION OF PERSONS AND PROPERTY. The Contractor shall be responsible for all aspects of safety and safety precautions and programs in connection with the Work.

- a. The Contractor shall be responsible for the protection from loss, theft, mysterious disappearance of, or damage to all materials, equipment, supplies, and other items incorporated or to be incorporated into the Work, until the Work is completed and accepted by the District.
- b. DISTRICT-FURNISHED, CONTRACTOR-INSTALLED ITEMS: The Contractor shall be responsible for the protection from loss, theft, mysterious disappearance of, or damage to all materials, equipment, supplies, and other District-furnished items incorporated or to be incorporated into the Work, from the time the Contractor accepts receipt of the items, until the Work is completed and accepted by the District.
- c. The District shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of the Contractor or its employees, subcontractors or agents stored on District premises.

32. PUBLIC CONTRACTS. This contract includes the following terms and conditions as prescribed by Oregon Revised Statutes as applicable:

- a. 279B.020 Conditions concerning maximum hours of labor on public contracts.
- b. 279B.220 Conditions concerning payment, contributions, liens, withholding.
- c. 279B.225 Condition concerning salvaging, recycling, composting or mulching yard waste material.
- d. 279B.230 Condition concerning payment for medical care and providing workers' compensation.
- e. 279B.235 Condition concerning hours of labor.

33. SECURITY CHECK: The Contractor agrees that each of its employees, subcontractors' employees and principals / owners involved in the Work may, at the option of the District, be subject to a security check, at any time, through the Beaverton Police Department or other venue. The District retains the option to require the immediate removal of any subcontractor, employee or agent. Notwithstanding the foregoing, Contractor, and not the District, remains solely responsible for performing background checks on, and screening for public safety all employees, and, to the extent allowed by law, shall provide such screening

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methodologies and information to District upon request.

34. CROWD CONTROL/SAFETY. It is the responsibility of the Contractor to ensure that neither District employees, students, nor the public are exposed to possible hazardous conditions during Work. The Contractor shall ensure that all containment equipment and exposure safeguards are installed and functioning properly at all times. Contractor shall provide, erect, and maintain all planking, shoring, barricades, and warning signs (bi-lingual). The Contractor shall adhere to all OSHA safety rules while the work is in progress.

35. SEVERABILITY. If any 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 be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

36. SUPERINTENDENCE. During the progress of the Work, a competent superintendent shall be present on site at all times and represent the Contractor.

37. TAXES. The District is tax exempt from Federal, State and Local taxes. The District is a governmental entity and thus specifically excluded from being a subject taxpayer per the rules. Please do not include the CAT on any invoice, change order, or proposal for work. For solicitations or bids which have the CAT included, we will ignore the line of the submission. For any contracts, we will be processing deductive contract modifications.

38. TERMINATION.

- a. Terminate For Convenience. This Contract may be terminated at any time by mutual written consent of the parties. The District may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days' notice to the Contractor.
- b. The District's Right to Terminate For Cause. The District may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as the District may establish in such notice, upon the occurrence of any of the following events:
 - i. Pricing increases pursuant to Price Escalation/De-Escalation clause above.
 - ii. The District fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor's Work;
 - iii. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or the District is prohibited from paying for such Work from the planned funding source;
 - iv. Contractor no longer holds any license or certificate that is required to perform the Work; or
 - v. Contractor commits any material breach or default of any covenant, warranty, obligation or Contract under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 10

business days after delivery of the District's notice, or such longer period as the District may specify in such notice.

- c. Contractor's Right to Terminate for Cause. Contractor may terminate this Contract upon 30 days' notice to the District if the District fails to pay Contractor pursuant to the terms of this Contract and the District fails to cure within 30 business days after receipt of Contractor's notice.
- d. Enforcement. Termination under any provision of this Contract shall not extinguish or prejudice the District's right to enforce this Contract with respect to any breach of a Contractor warranty or any defect in or default of Contractor's performance that has not been cured, including any right of the District to indemnification by Contractor. If this Contract is so terminated, Contractor shall be paid in accordance with the terms of the contract for services rendered and accepted.
- e. Remedies. In the event of termination pursuant to above, Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the District, less previous amounts paid. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor shall pay any excess to the District upon demand.
- f. Contractor's Tender upon Termination. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless the District expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to the District all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon the District's request, Contractor shall surrender to anyone the District designates, all documents, research or objects or other tangible things needed to complete the Work.
- g. Limitation of Liabilities. Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the contract or (ii) any damages of any sort arising solely from the termination of this contract in accordance with its terms.

39. TIME IS OF THE ESSENCE. The Contractor shall achieve Completion of the Work within the time provided on the first page of the Contract. Completion shall mean the Work shall be fully complete, including all punch lists items, and all documentation, drawings and warranties required under the Contract Documents shall have been delivered to District, and all required inspections, permits and approvals for use and occupancy of the Work shall have been procured and delivered. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements of the Work.

40. TRANSPORTATION. The Contractor is responsible for transportation of its employees, tools, equipment, construction materials, etc., to and from the Work site.

41. USE OF DISTRICT FACILITIES. Contractor shall have the right to use only those District facilities and utilities that are necessary to perform the Work.

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- a. The Contractor shall provide, at his its own expense and by licensed personnel, all tie-ins and extensions to electrical, water, and waste connections, etc. All connections must be approved in advance by the District and all work relative to the utilities must be in accordance with the applicable building codes.
- b. All water connections shall include reduced pressure backflow protection or double check and double gate valves. All water must be shut off at the end of each shift.
- c. Contractor must ensure that all applicable electrical usage is in compliance with all UL and NFPA guidelines.

42. USE OF PREMISES.

- a. Contractor shall not interfere with any daily on-going building operations in areas that are scheduled for Work.
- b. All deliveries, storage of equipment or materials shall be coordinated with the Contract Manager.
- c. Contractor shall confine its apparatus, the storage of materials and operation of his staff to limits established by law, ordinances, permits or directions of the District.
- d. The work site shall be kept in an orderly and safe fashion so as not to interfere with the progress of the work or the work of any other Contractor or District staff.

43. WAIVER. The failure of either party to enforce any provision of this contract shall not constitute a waiver by that party of that or any other provision of this contract.

44. WARRANTY.

- a. The Contractor warrants to the District that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be performed in a skillful and workmanlike manner, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear or normal usage.
- b. If, within one year after the date of Final Completion of all the Work or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it according to the requirements of this subparagraph with no additional cost promptly after receipt of written notice from the District to do so. If the Contractor does not promptly initiate work to correct the Work designated in the notice, the District may proceed to correct the Work, the District may dispose of materials and equipment as it sees fit, and the Contractor will be liable for all costs. This obligation shall survive acceptance of the Work under the Contract and termination of the Contract, is in addition to other warranties provided by contract or law, and does not

- establish a time limit for damages.
- c. All implied warranties recognized by the Uniform Commercial Code apply to this Contract and the Contractor shall not issue any disclaimer to the UCC.

45. WORKSITE CONDUCT. All laborers and workers, while working in and around the Work/Project, shall act in a professional manner. The Contractor shall enforce proper discipline and decorum among all laborers and workers on the Site and shall control, among other things: 1) noise, including music; 2) the use of offensive language; 3) smoking or drinking of alcoholic beverages, or use of illegal substances on the Site; 4) physical violence; 5) riding in the passenger elevators; 6) theft; and 7) the transportation of articles or materials deemed hazardous.

46. BUSINESS EQUITY. The Contractor understands that the District maintains a goal of engaging minority, women, emerging, service-disabled veteran and socially or economically disadvantaged businesses (DMWESBSDLVBE) as service providers in delivering services necessary to implement our bond program. The District aspires to a goal of ten (10) percent DMWESBSDLVBE content, by contract value, in completing our capital bond work, and the Contractor shall expend reasonable efforts to reach this content in the total value of their contracts with the District.

47. [COOPERATIVE PARTICIPATION. Pursuant to ORS 279A.215 other Governmental Agencies may utilize this Contract. Notwithstanding any limitations or exclusions, it shall be assumed that the Provider will extend this Contract to any other public agencies during the life of this Contract.]

*District Public Contracting Rules can be found on the following website:
<https://www.beaverton.k12.or.us/departments/purchasing>

SAMPLE