



Sample OWNER CONTRACT DIVISION 0 * SECTION 00520

Hillsboro School District • 4901 SE Witch Hazel Rd • Hillsboro, Oregon 97123 • (503) 844 1340

Hillsboro School District CONSTRUCTION PROJECTS CONTRACT

This Contract is between Hillsboro School District, Hillsboro, OREGON ("District") and **NAME HERE**("Contractor").

Contract No: **NUMBER HERE**

Project: **NAME HERE**

The parties agree as follows:

Date of Commencement and Substantial Completion. This Contract shall be effective upon signing by both parties. The date of commencement of the Work shall be **DATE HERE** unless otherwise agreed to by the parties. Contractor shall achieve Substantial Completion of the entire Work no later than **DATE HERE**, with final completion no later than **DATE HERE**.

Statement of Work. Contractor shall perform the Work described in **Exhibit 2**.

Payment for Work. District agrees to pay Contractor in accordance with **Exhibit 2** and this Contract.

Contract Documents. The Contract Documents consist of the following documents, which are listed in descending order of precedence: This Contract; exhibits to this Contract, including Exhibit 1 (District's Solicitation Document and attachments); Exhibit 2 (Statement of Work, Compensation, Payment and Renewal Terms, Addenda); Exhibit 3 (Certification Statement for Corporation or Independent Contractor); Exhibit 4 Owner Controlled Insurance Policy (OCIP); Insurance Requirements; Exhibit 5 OCIP Manual; Additional Exhibits: [List any other documents that should be part of the contract].

A conflict in the Contract Documents shall be resolved in the priority listed above with this Contract taking precedence over all other documents. The Contract Documents are the entire Contract between the parties and shall supersede any prior representation, written or oral.

STANDARD TERMS AND CONDITIONS

- 1. Time is of the Essence.** Time is of the essence in the performance of this Contract.
- 2. Subcontracts.** District reserves the right to reject in writing any proposed subcontractor, without cause, in which case Contractor shall promptly propose a substitute subcontractor. Any difference in price arising out of such substitution shall be reflected in a Change Order. In addition to any other provisions District may require, Contractor shall require of any permitted subcontractor under this Contract that subcontractor be bound by all the same terms and conditions of this Contract. Such subcontracts are solely between Contractor and subcontractor and shall not have any binding effect on District.
- 3. Assignment.** This Contract is not assignable by Contractor, either whole or in part, unless Contractor has obtained the prior written consent of District.

4. **Other Contractors.** District may undertake or award other contracts for additional or related work, and Contractor shall fully cooperate with such other contractors and with any District employees concerned with such additional or related work, and shall coordinate its performance under this Contract with such additional or related work. Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by District employees.
5. **Independent Contractor Status.** Contractor shall certify status in accordance with **Exhibit 3.**
6. **No Third-Party Beneficiaries.** District and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.
7. **Successors in Interest.** The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.
8. **Nonperformance.** In the event of nonperformance under this Contract, District, after seven (7) days' written notice, shall have the right to obtain from other sources such services as may be required to accomplish the Work not performed, and it is agreed that the difference in cost, if any, for said Work or goods shall be borne by Contractor. For purposes of this Section, nonperformance shall be defined as failure to appear and perform Work as specified and scheduled.
9. **Early Termination.** This Contract may be terminated as follows:
 - a. **By Mutual Agreement:** District and Contractor, by mutual written agreement, may terminate this Contract at any time.
 - b. **For Convenience:** The District, in its sole discretion, may at any time terminate the Contract for the convenience of the District and without cause. Upon receipt of notice from the District of such termination for convenience, the Contractor shall:
 - (1) Cease operations as directed by the District in the notice.
 - (2) Take all actions necessary or that the District may direct, for the protection and preservation of the Work, and
 - (3) Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
 - c. **For Breach:** Either District or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.
 - d. **For Failure to Maintain Qualifications:** Notwithstanding Section 9(c), District may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation, or non-renewal of any license, permit, or certificate that Contractor must hold to provide services under this Contract.
 - e. **Payment on Early Termination:** Upon termination pursuant to this Section 9, payment shall be made as follows:
 - i. If terminated under 9(a) or 9(b) for the convenience of District, District shall pay Contractor for Work performed prior to the termination date if such Work was performed in accordance with the Contract. District

shall not be liable for direct, indirect, or consequential damages. Termination shall not result in a waiver of any other claim that District may have against Contractor.

- ii. If terminated under 9(c) by Contractor due to a breach by District, then District shall pay Contractor for Work performed prior to the termination date if such Work was performed in accordance with the Contract.
 - iii. If terminated under 9(c) or 9(d) by District due to a breach by Contractor, then District shall pay Contractor for Work performed prior to the termination date, provided such Work was performed in accordance with the Contract, less any setoff to which District is entitled.
 - f. **No Liability for Damages.** In the event of termination under this Section, District shall not be liable for direct, indirect, or consequential damages. Termination shall not result in a waiver of any other claim that District may have against Contractor.
10. **Payment of Invoices.** Invoice must be submitted via the AIA G702 and G703 Forms or an approved facsimile thereof. Unless otherwise provided in **Exhibit 2**, the payment period shall be one calendar month. Payments are due and payable thirty (30) days from receipt of Contractor's complete invoice or fifteen (15) days after payment is approved by District, whichever is earlier. District may withhold 5% of each payment as retainage pursuant to ORS 279C.570. Retainage will be paid within 30 days of final completion per Architect's or Owner's representative approval and acceptance by District.
11. **Changes in the Work.** District reserves the right to adjust the scope of the Work by written Change Order. No Change Order will be effective unless approved in writing by District and signed by Contractor. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including but not limited to all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.
12. **Inspection and Acceptance of Work.** District shall inspect Contractor's Work and advise Contractor of any deficiencies, or if there are none, that the Work has been accepted. Contractor shall perform all additional Work necessary to correct any deficiencies without undue delay and without additional cost to District.
13. **Right to Withhold Payments.** District shall have the right to withhold from payments due Contractor such sums as necessary, in District's sole discretion, to protect District against any loss, damage, or claim that may result from Contractor's performance or failure to perform under this Contract or the failure of Contractor to make proper payment to any suppliers or subcontractors. If a liquidated damages provision is contained in the Scope of Work and if Contractor has violated that provision, District shall have the right to withhold from payments due Contractor such sums as are required to satisfy District's claims under that provision.
14. **Knowledge of Site Conditions.** Contractor shall, as a condition precedent to commencement of the Work (a) become familiar with the Project site and review all analyses, studies, and test data available to Contractor concerning the conditions of the Project site, (b) inspect the location of the Work and satisfy itself as to the condition thereof, including all structural, surface, and observed subsurface conditions, and (c) determine (i) that the Contract Sum is just and reasonable compensation for all the Work, including all foreseen and foreseeable construction risks, hazards, and difficulties in connection therewith, (ii) that the Contract Time is adequate for the performance of the Work, and (iii) that the Work shall not result in any lateral or vertical movement of any adjacent structure. Contractor will notify District in writing in advance of commencement of the Work if it determines that it cannot satisfy these conditions.
15. **Subsurface Work.** Contractor shall exercise special care in executing subsurface work in proximity of known subsurface utilities, improvements, and easements.

16. District's Right to Stop the Work.

- a. If Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents or fails to carry out Work in accordance with the Contract Documents, District may issue a written order to Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
- b. If suspension of the Work is warranted by reason of unforeseen conditions that may adversely affect the quality of the Work if such Work were continued, District may suspend the Work by giving written notice to Contractor. In such event, the Contract Time shall be adjusted accordingly, and the Contract Sum shall be adjusted to the extent, if any, that additional costs are incurred by reason of such suspension.
- c. Notwithstanding any other provision, District's authorized representative may, in his or her complete discretion, stop all of the Work, or any portion of the Work, if the Work creates a safety hazard or if a life/safety threat exists to the facility or its occupants. Any cost to correct deficiencies in Contractor's Work will be borne solely by Contractor.

17. Remedies. In the event of breach of this Contract, the parties shall have the following remedies;

- a. If terminated under 9(c) by District due to a breach by Contractor, District may complete the Work either itself, by agreement with another Contractor, or by a combination thereof. If the cost of completing the Work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Contractor shall pay to District the amount of the reasonable excess.
- b. In addition to the remedies in sections 9 and 13 for a breach by Contractor, District also shall be entitled to any other equitable and legal remedies that are available.
- c. If District breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments for which Contractor has completed the Work.

18. Claims.

- a. Time Limits on Claims: Claims by either party must be made within 10 days after occurrence of the event giving rise to such Claim or within 10 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made in writing to the party's designated representative, and must identify the known bases for each Claim and the nature and amount of the relief sought. Failure to timely file a written claim constitutes a waiver of the claim.
- b. Continuing Contract Performance: Pending final resolution of a Claim except as otherwise agreed in writing, Contractor shall proceed diligently with performance of the Contract and District shall continue to make payments in accordance with the Contract Documents.
- c. Claims for Additional Costs: If Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property. In an emergency affecting the safety of persons or property, Contractor shall act to prevent threatened damage, injury, or loss and shall immediately notify District.
- d. Claims for Additional Time: If Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

19. Compliance With Applicable Law. Contractor shall comply with all federal, state, and local laws applicable to the Work under this Contract, and all regulations and administrative rules established pursuant to those laws, including without limitation the following:

- a. ORS 279A.110: Contractor certifies that Contractor has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women, or emerging small business enterprise certified under ORS 200.055.

- b. ORS 279C.380: Unless exempted by District in writing pursuant to District's Public Contracting Rules, prior to starting Work under this Contract, Contractor shall execute and deliver to District a good and sufficient performance bond, in a form acceptable to District, in a sum equal to 100% of the Contract Price for the faithful performance of the Contract, and shall execute and deliver to District a good and sufficient payment bond, in a form acceptable to District, in a sum equal to 100% of the Contract Price solely for the protection of claimants under ORS 279C.600.
- c. ORS 279C.505: Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the prosecution of the Work provided for in such Contract; pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against the state, county, school, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall further demonstrate that an employee drug-testing program is in place.
- d. ORS 279C.510: If this Contract includes demolition work, Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this Contract includes lawn or landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
- e. ORS 279C.515: If Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, District may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of this Contract. The payment of a claim in the manner authorized in this Section shall not relieve Contractor or Contractor's surety from any obligation with respect to any unpaid claims.

Unless the payment is subject to a good-faith dispute as defined in ORS 279C.580, if Contractor or any first-tier subcontractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by District, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the 10-day period that payment is due under ORS 279C.580(4). A person with any such unpaid claim may file a complaint with the Construction Contractor's Board unless the complaint is subject to a good-faith dispute as defined in ORS 279C.580.

- f. ORS 279C.520: Contractor shall not employ any person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the laborer shall be paid at least time and a half pay:
 - i. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
 - ii. For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 - iii. For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540.

The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime.

Contractor shall and shall require its subcontractors to give notice to their employees who work under this Contract in writing, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- g. ORS 279C.525: State law requires that solicitation documents for a public improvement contract make specific reference to federal, state, and local agencies that have enacted ordinances, rules, or regulations dealing with the prevention of environmental pollution or the preservation of natural resources that may affect the performance of this Contract. These agencies include, but are not limited to:

- i. Federal Agencies: Department of Agriculture, Forest Service, Soil and Water Conservation Service, Coast Guard, Department of Defense, Army Corps of Engineers, Department of Emergency, Federal Energy Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank, Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, Bureau of Mines, Bureau of Reclamation, Geological Survey, Minerals Management Service, U.S. Fish and Wildlife Service, Department of Labor, Mine Safety and Health Administration, Occupation Safety and Health Administration, Department of Transportation, Federal Highway Administration, Water Resources Council.
 - ii. State Agencies: Department of Administrative Services, Department of Agriculture, Soil and Water Conservation Commission, Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Forestry, Department of Geology and Mineral Industries, Department of Human Resources, Department of Consumer and Business Services, Land Conservation and Development Commission, Department of Parks and Recreation, Division of State Lands, Department of Water Resources.
 - iii. Local Agencies: City councils, county courts, county boards of commissioners, metropolitan service district councils, design commissions, historic preservation commissions, planning commissions, development review commissions, special district boards of directors, and other special districts and special governmental agencies such as Tri-Met, urban renewal agencies, and port districts.
 - iv. Tribal Governments.
- h. ORS 279C.530: Contractor shall promptly, as due, make payments 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 such Contractor, of all sums that Contractor agrees to pay for such services and all moneys and sums that Contractor collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service.
To the extent any of Contractor's employees are covered by the Oregon employment laws, Contractor, its subcontractors, if any, and all employers working under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. See Contractor Exemption Certification – Exhibit 4 if you believe you may be exempt from this requirement.
- i. ORS 279C.545: Workers employed by Contractor shall be foreclosed from the right to collect for any overtime under this Contract unless a claim for payment is filed with Contractor within 90 days from the completion of the Contract, providing Contractor has:
- i. Caused a circular clearly printed in blackface pica 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 any or all workers employed on the work, and
 - ii. Maintained such circular continuously posted from the inception to the completion of the Contract on which workers are or have been employed.
- j. ORS 279C.580(3): Contractor shall include in each subcontract for property or services with a first-tier subcontractor a clause that obligates Contractor to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to Contractor by District. Contractor shall also include in each subcontract a clause that states that if Contractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by District, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the 10-day period that payment is due under ORS 279C.580(3). Contractor shall require each first-tier subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to require each of its subcontractors to include a similar clause in each contract with a lower-tiered subcontractor or supplier.
- k. ORS 279C.800 to 279C.870:
- i. This Contract is /is not subject to payment of prevailing wages under ORS 279C.800 to 279C.870. If this Contract is subject to payment of prevailing wages, Contractor and any subcontractors shall pay not less than prevailing wages to each worker in each trade or occupation employed in the performance of the Contract, as determined by the Director of the State of Oregon Bureau of Labor and Industries ("BOLI"). The

latest prevailing wage rates for public works contracts in Oregon are contained in the following publications: The 1/1/18 Prevailing Wage Rates for Public Works Projects in Oregon, the 1/1/18 PWR Apprenticeship Rates, and any Amendments dated 1/1/18. Such publications can be reviewed electronically at http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_state.shtml and are hereby incorporated as part of the Contract Documents.

- ii. This Contract is _____/is not subject to payment of prevailing wages under the federal Davis-Bacon Act (40 U.S.C. 3141 et seq.). Notwithstanding subsection k(i) of this Section, if this Contract is subject to payment of prevailing wages under the Davis-Bacon Act, Contractor and any subcontractors must pay the higher of the federal prevailing wage rate or the state prevailing wage, as determined by the Director of BOLI. The "applicable prevailing wage rates" are those rates as set forth in the [date of most current publication] Bureau of Labor and Industries Publications "Prevailing Wage Rates for Public Works Contracts subject to BOTH the State PWR and Federal Davis Bacon Act," and the [date of most current publication] any published "Amendments/Corrections to the Prevailing Wage Rates for Public Works Contracts Subject to BOTH the State PWR and Federal Davis Bacon Act" as of the date of this Contract. Such publications can be reviewed electronically at http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_db2.shtml and are hereby incorporated as part of the Contract Documents.
- iii. District shall pay a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee shall be paid to the Commissioner under the administrative rule of the Commissioner.
- iv. Contractor and any subcontractors shall post the prevailing wage rates in a conspicuous and accessible place in or about the Project.
- l. ORS 279C.836: If this Contract is subject to payment of prevailing wages under ORS 279C.800 to 279C.870, Contractor shall:
 - i. File a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting Work on the Project, unless exempt under ORS 279C.836(2), (7), or (8).
 - ii. Include in every subcontract a provision requiring the subcontractor to file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the project, unless exempt under ORS 279C.836(2), (7), or (8).
- m. ORS 279C.845: If this Contract is subject to payment of prevailing wages under ORS 279C.800 to 279C.870:
 - i. Contractor or Contractor's surety and every subcontractor or subcontractor's surety shall file with District a certified statement on a form provided by BOLI certifying the hourly rate of wage paid each worker employed by Contractor or subcontractor on the Work and that no such worker has been paid less than the prevailing rate of wage or wage specified under the Contract.
 - ii. Notwithstanding ORS 279C.555 or 279C.570(7), District shall retain 25% of all amounts earned by Contractor until Contractor has filed the certified statements as required by ORS 279C.845. In addition, Contractor shall retain 25% of any amount earned by a first-tier subcontractor until such subcontractor has filed the certified statements with District. District and/or Contractor shall pay any such retained amounts within 14 days after such certified statements are filed.
- n. ORS 671.560, 701.055: If Contractor is performing work as a landscape contractor as defined in ORS 671.520(2), Contractor must have a current, valid landscape contractor's license issued under ORS 671.560. If Contractor is performing work as a construction contractor as defined in ORS 701.005(2), Contractor must have a current, valid construction contractor's license issued under ORS 701.701.055. Contractor shall maintain in effect all licenses, permits, and certifications required for the performance of the Work. Contractor shall notify District immediately if any license, permit, or certification required for performance of this Contract shall cease to be in effect for any reason.
- o. ORS 468A.710: If this Contract requires asbestos abatement, Contractor or subcontractor must possess an asbestos abatement license as required by ORS 468A.700 et seq.
- p. Tax Laws. By signing this Contract, the Contractor certifies that he or she has complied with all tax laws of the State of Oregon.

20. Performance of the Work:

- a) Contractor shall supervise, coordinate, and perform the Work in accordance with the Contract Documents in a professional, safe, and workmanlike manner and in accordance with all laws, codes, and professional standards applicable to the industries and trades involved, including without limitation compliance with all applicable federal, state, and local building codes, District's Health & Safety Requirements, certification requirements applicable to the Work, and other policies or standards incorporated or referenced in the Contract Documents. Unless otherwise noted or directed, Contractor will perform all Work in accordance with product manufacturers' recommendations or directions for best results. No preparatory step or installation procedure may be omitted unless specifically authorized by the Contract Documents or at the direction of Architect or District's Representative. Conflicts between manufacturers' directions shall be resolved by Architect or District Representative.

General Requirements:

- a) No person shall be required or instructed to work in surroundings or under conditions that are unsafe or dangerous to his or her health.
- b) Contractor shall be responsible for initiating and maintaining a safety and health program that complies with the State of Oregon Occupational Safety and Health Administration (OR-OSHA)
- c) Each contractor employee is responsible for complying with applicable safety and occupational health requirements, wearing prescribed safety and health equipment, reporting unsafe conditions/activities, preventing avoidable accidents and working in a safe manner.
- d) Safety and health programs, documents, signs and tags shall be communicated to contractors employees in a language that they understand.
- e) Worksites with non-English speaking contractor employees shall have a person(s), fluent in the language(s) spoken and English, on site when work is being performed, to translate as needed.
- f) The Contractor shall erect and maintain a safety and health bulletin board in an area commonly accessed by workers. The bulletin board shall be maintained current, in clear view of on-site workers; and protected against the elements and unauthorized removal. It shall contain at least the following safety and health information:
 - 1. Map denoting the route to the nearest emergency care facility;
 - 2. Emergency phone numbers;
 - 3. Other public information postings as may be required by any agency having jurisdiction specifically including, but not limited to, OR-OSHA;
 - 4. Project Safety Plan (PSP).
- g) Before initiation of work at the job site, Contractor shall develop a PSP with appropriate appendices (e.g. hazardous waste site cleanup operations, Lead Compliance Plan when working with lead, Asbestos Hazard Abatement Plan when working with asbestos, etc.), written in English for the specific work and hazards of the contract and implementing in detail the pertinent requirements to the satisfaction of the District.
- h) The PSP will be developed by qualified personnel and will be signed by that person. The Contractor will be responsible for documenting the qualified person's credentials.
- i) Contractor's PSP will be job-specific and will include work to be performed by subcontractors and measure to be taken by the Contractor to control hazards associated with materials, service or equipment provided by suppliers.
- j) To assure compliance with this section, the Contractor may be required to prepare for review specific safety and occupational health submittal items. No additional compensation or time extensions shall be provided to the Contractor for additional submittals required under this section.
- k) The District or its designated representatives may immediately stop work when an employee is deemed to be in imminent danger of serious injury or loss of life. No additional compensation or time extensions shall be provided to Contractor for delays incurred under this section. Work shall not resume until the danger to any and all employees has been mitigated to the satisfaction of the District or its Representative.
- l) The Contractor shall employ a competent person at each project to function as the Site Safety and Health Officer (SSHO). The SSHO will manage the Contractor's PSP (this may be a collateral duty responsibility unless specified differently in the contract). The SSHO must have completed the 10-hour OSHA Construction safety class or an

equivalent course applicable to the work to be performed and given by qualified instructors. Such training shall have been within the last three (3) years. An SSHO shall be on-duty at all times when work is being performed and shall be responsible for enforcing and implementing the Contractor's Safety and Health Program in accordance with the accepted PSP.

- m) Contractor is responsible for assuring subcontractor compliance with the safety and occupational health requirements contained in this section.
- n) A hazard communication program will be implemented by the Contractor.
- o) The written hazard communication program shall address, as a minimum, the following: training (to include potential safety and health effects from exposure), labeling, current inventory of hazardous chemicals on site and the location and use of Material Safety Data Sheets (MSDS's).

Inspections:

- a) The PSP shall provide for frequent safety inspections, conducted by competent persons, of the work sites, material and equipment to ensure compliance with the PSP.
- b) Contractor quality control (QC) personnel, as part of their QC responsibilities, shall conduct and document daily safety and occupational health inspections in their daily QC logs.
- c) Identified safety and health issues and deficiencies, and the actions, timetables and responsibility for correcting the deficiencies, shall be recorded in inspection reports. Follow-up inspections to ensure correction of any identified deficiencies shall be conducted and documented in a like manner.
- d) The Contractor shall establish a safety and occupational health deficiency tracking system that lists and monitors the status of safety and health deficiencies.
- e) The Contractor will immediately notify the District's Representative of any OR-OSHA or other regulatory agency inspection and provide him/her an opportunity to accompany the Contractor on the inspection. The Contractor shall provide the District's Representative with a copy of any citations or reports issued by the inspector and any corrective action responses to the citation or report.

Indoctrination and Training

- a) A qualified person shall conduct all training required in this section.
- b) Contractor employees shall be provided safety and health indoctrination prior to the start of work and continuing safety and health training will be provided to enable them to perform their work in a safe manner. Contractor employee training will be documented in writing by date, name and content.
- c) Training shall be based on the safety and health program of the safety and health program of the Contractor and shall include, but not be limited to:
 - 1. Requirements and responsibilities for accident prevention and maintaining a safe and healthful work environment;
 - 2. General safety and health policies and procedures and pertinent provisions of this manual;
 - 3. Contractor employee and supervisor responsibilities for reporting all accidents;
 - 4. Provisions for obtaining medical treatment or emergency assistance;
 - 5. Procedures for reporting and correcting unsafe conditions or practices;
 - 6. Job hazards and the means to control/eliminate those hazards, including applicable position and/or activity analyses; and
 - 7. Specific training as required by this section.
- d) All visitors to the Site will be briefed by a qualified person on the hazards to be expected on the site and safety and health controls required (i.e. hard hat, foot protection, etc.). The SSHO will assure that all visitors entering the sites are properly protected and are wearing or provided with the appropriate personal protective equipment (PPE). The SSHO may require an escort for all visitors while on site. **Contractor shall have the right to refuse Site access to ANYONE not having attended the Contractor's safety briefing or not wearing appropriate PPE.**
- e) Contractor employees performing work on District Property or for District shall carry photo identification and will present such, to anyone on request. Contractors that do not have specific uniforms for employees, shall

provide identification tags as described above, and or any other mechanism, the District in its sole discretion determines is required to easily identify Contractors.

- f) As required by schools and other District locations, each day of work Contractor's employees shall sign into the Main Office to receive an in-school identification/visitors tag to be displayed on the person at all times they are in the school or other location.
- g) Safety meetings shall be conducted at least once per month for all supervisors on the project location and at least once per week by supervisors or foremen for all workers to provide pertinent safety and health training and address safety concerns;
- h) Safety meetings will be documented, including date, attendance, subjects discussed and names of individuals conducting the meeting.
- i) The District's representative will be informed of all scheduled safety meetings in advance and be invited to attend.
- j) A copy of the MSDS for each hazardous substance at the project site will be maintained in an inventory, will be provided to the District's representative upon request, and will be made available to all potentially exposed contractor employees.
- k) Contractor will maintain on-site at all time, a minimum of one (1) person who is trained as a medical first responder to assist during emergency events. Contractor shall maintain necessary supplies for use by the first responder.
- l) Smoking or other use of tobacco is prohibited on the District property.
- m) Except as provided by Oregon Statutes and District policy, weapons and firearms are prohibited on District property.

When Work Is Performed in or on School Sites, Contractor Shall Comply With the Following:

- a) As required by ORS 326.603, Contractor shall ensure that Contractor, any subcontractors, and their officers, employees, and agents will have no direct, unsupervised contact with students while on District property. Contractor shall work with the District to ensure compliance with this requirement. To ensure the safety of District staff and students, the Contractor must take reasonable precautions to ensure that individuals convicted of crimes listed in ORS 342.143 do not provide contracted services to the District. Furthermore, the Contractor shall provide timely notification to District once they become aware that an employee providing services within the District has been arrested or charged with a crime listed in ORS 342.143, and remove said individual from District premises until the issue is resolved.
- b) Prior to entry of a Contractor's employees onto a student occupied site, the Contractor authorizes the District to obtain information about contractor personnel to conduct the appropriate criminal history verification for background clearance as follows:
 - 1. Level 1: Supervisors, Superintendents, consultants and their employees must have a Fingerprint-Based Criminal History Verification in addition to a Nationwide Criminal History Verification if they are to be given unsupervised entry access to any school site and obtain a key for the site. There will be a \$500 charge for each badge and key not returned.
 - 2. Level 2: All other employees of the contractor or consultant who will be working on site must have successfully completed a Nationwide Criminal History Verification. This Level is to be supervised by a Level 1 badged person.
 - 3. The District will process the background checks and provide contractor personnel with photo id badges for both Levels at the District's expense.

Other:

- a) The Contractor agrees to defend, indemnify, and hold harmless the District, its officers, employees and agents, from all liabilities, claims, suits, actions or expenses of any nature resulting from or arising out of the acts, errors, omissions or negligence of Contractor with regards to Contractor's duties and responsibilities under Paragraph 22 of this contract and ORS 326.603.
- b) Confidentiality. The Parties recognize that the Federal Education Privacy Rights Act (FERPA) imposes strict penalties for improper disclosure or re-disclosure of confidential student information including but not limited

to denial of access to personally identifiable information from education records for at least five years (34 CFR 99.33(e)). Therefore, consistent with the requirements of FERPA, personally identifiable information obtained by the Contractor in the performance of this contract: may not be re-disclosed to third parties without written consent of the students' parents/guardians; and must be used only for the purposes identified in this contract.

21. **Quality of Goods and Services.** Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trade.
22. **Errors.** Contractor shall perform such additional work as may be necessary to correct errors in the Work required under this Contract without undue delays and without additional cost.
23. **Access to Records.** Contractor agrees that District and its authorized representatives shall have access to the books, documents, papers, and records of Contractor that are directly pertinent to the specific Contract for the purpose of making audit, examination, excerpts, and transcripts.
24. **Maintenance of Records.** Contractor shall maintain all fiscal records directly relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that District's duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.
25. **Ownership of Work.** All work products created by Contractor as part of Contractor's performance of this Contract, including background data, documentation, and staff work that are preliminary to final reports, shall be the exclusive property of District. If any such work products contain intellectual property of Contractor that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants District a perpetual, royalty-free, fully paid-up, non-exclusive, and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all such work products. District shall have no rights in any pre-existing work product of Contractor provided to District by Contractor in the performance of this Contract except to copy, use, and re-use any such work product for District use only. If this Contract is terminated by either party or by default, District, in addition to any other rights provided by this Contract, may require Contractor to transfer and deliver such partially completed work products, reports, or other documentation that Contractor has specifically developed or specifically acquired for the performance of this Contract.
26. **Warranty.**
 - a. Contractor warrants to District and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by Architect or District, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
 - b. Contractor guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment from District, whichever is later.

- c. If, after 10 days' notice, Contractor fails to proceed to cure any breach of this warranty, District may have the defects corrected and Contractor and its surety shall be liable for all expenses incurred. In case of an emergency where, in the opinion of District or Architect, delay would cause serious loss or damage, corrective work may be undertaken without advance notice to Contractor, but Contractor and its surety shall remain liable for all expenses incurred. The remedies stated in this subsection are not exclusive, but are cumulative of any other remedies District may have.
 - d. Contractor shall assign all manufacturers' warranties to District and all guarantees and warranties of goods supplied under this Contract shall be deemed to run to the benefit of District. Contractor shall provide District with all manufacturers' warranty documentation and operations and maintenance manuals not later than the date of final acceptance of the Work by District.
27. **Employees of Contractor.** At the direction of District, Contractor will immediately remove any employee of Contractor from all District premises where District determines, in its sole discretion, that removal of such employee would be in the best interests of District.
28. **Security.** Any disclosure or removal of any matter and/or property, not in conjunction with the specifications, on the part of Contractor or Contractor's employees shall be cause for immediate cancellation of the Contract. Any liability, including but not limited to attorney fees, resulting from any action or suit brought against District as a result of Contractor's or Contractor's employees' willful or negligent release of information, documents, or property contained in or on District property shall be borne by Contractor. All information, documents, and property contained within these facilities shall be considered privileged and confidential.
29. **Indemnification.**
- a. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless District, Architect, Architect's consultants, owners representative and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.
 - b. In claims against any person or entity indemnified under this Section by an employee of Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under subsection a of this Section shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Contractor or a subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.
30. **Insurance.** Unless otherwise provided below, Contractor shall at all times maintain in force at Contractor's expense, the following insurance coverage:
- a. **Workers' Compensation:** As required by ORS 656.017, subject employers shall provide workers' compensation coverage in accordance with ORS Chapter 656 for all subject workers. Contractor and all subcontractors of Contractor with one or more employees shall have this insurance unless exempt under ORS 656.027.
 - b. **Commercial General Liability:** Contractor shall purchase and maintain CGL insurance during the term of this contract. The CGL insurance shall include all major coverage categories including bodily injury, property damage, and completed operations coverage maintained for at least six years following final payment. Contractor shall maintain CGL insurance coverage of not less than amounts listed in **Exhibit 4.**

- c. **Motor Vehicle Liability:** Contractor shall purchase and maintain motor vehicle liability insurance with coverage for owned, hired, and non-owned vehicles. The automobile liability insurance shall include pollution liability coverage with vehicle overturn and collision. Contractor shall maintain motor vehicle liability insurance of not less than the amounts listed in **Exhibit 4**.
 - d. **Builders All-Risk:** Not required – District provides coverage.
 - e. **Additional Requirements:** All insurance coverage shall be provided by an insurance company admitted to doing business in Oregon or rated A- or better by Best's Insurance Rating. Contractor alone is responsible for paying all deductibles and retentions. A cross-liability clause or separation of insureds condition shall be included in all general liability policies required by this Contract. Contractor's coverage shall be primary in the event of loss.
 - f. **Certificate of Insurance:** Contractor shall furnish to District a current certificate of insurance for each of the above required coverages prior to conducting Work under this Contract. **SEE EXHIBIT 4**. Each certificate must provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without 30 days' prior written notice from Contractor or its insurer to District. Each certificate shall also state the relevant deductible or retention level. For general and automobile liability coverage, the certificate shall also provide that District, its agents, officers, and employees are additional insureds with respect to Contractor's services provided under this Contract. If requested by District, Contractor shall also provide complete copies of insurance policies to District.
- 31. Notice of Injury or Damage to Person or Property.** If any person suffers physical injury or property damage arising from the Work regardless of the cause, Contractor shall give notice of such injury or damage, whether or not insured, immediately to District's authorized representative and Contractor's authorized representative. The notice shall provide sufficient detail to enable District and any other party affected to investigate the matter.
- 32. Waiver.** Waiver of any default under this Contract by District shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.
- 33. Arbitration.**
- a. Any Claim arising out of or related to the Contract, except those waived as provided for in Section 19, shall, after decision by Architect or other designated representative or 30 days after submission of the Claim, be subject to arbitration. At any time, party(ies) may endeavor to resolve disputes by mediation.
 - b. Claims shall be decided by arbitration that, unless the parties mutually agree otherwise, shall be in accordance with the rules of the Arbitration Services of Portland (ASP). The demand for arbitration shall be filed in writing with the other party to the Contract and with the ASP, and a copy shall be filed with Architect. Exclusive venue for arbitration shall be in Hillsboro, Oregon.
 - c. A demand for arbitration shall be made within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.
- 34. Governing Law.** The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon and the Public Contracting Rules of District as they exist at the time of execution of this Contract, or any subsequent amendment. Any legal action involving this Contract not subject to arbitration must be brought in Washington County Circuit Court. If the Claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the State of Oregon.
- 35. Severability.** 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 invalid.
- 36. Merger Clause.** This Contract and the attached exhibits constitute the entire agreement between the parties. All understandings and agreements between the parties and representations by either party concerning this Contract

are contained in this Contract. No waiver, consent, modification, or change in the terms of this Contract shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

37. **Anti-discrimination.** Contractor must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes and shall not discriminate based on race, religion, color, sex, sexual orientation, marital status, familial status, national origin, age, mental or physical disability, or political affiliation in programs, activities, services, benefits, or employment.
38. **Attorney Fees.** If a suit or action is filed to enforce any of the terms of this Contract, including a request for arbitration under Section 33 of this Contract, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements provided by statute, any sum that a court, including any appellate court, or arbitrator may adjudge reasonable as attorney fees. In the event the prevailing party is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based on the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in the Hillsboro, Oregon, area for the type of legal services performed.
39. **Rule of Construction.** The rule of construction that a contract is construed against the drafter shall not apply to any dispute over the interpretation of application of the Contract.
40. **Removal of Debris.** Contractor shall remove all trash and debris from the site for disposal. Any type of District waste bins is not to be used. Contractor shall clean the work area and remove all trash, debris, and tools at least daily prior to leaving the job site and as needed to maintain a safe work area.

CONTRACTOR DATA AND SIGNATURE

Business Name: _____

Business Address: _____

Contractor Phone: _____

Federal Tax ID# or Social Security #: _____

CCB# _____

Is Contractor a nonresident alien? Yes No

Business Designation (check one): Sole Proprietorship Partnership
 Corporation-for profit Corporation-nonprofit
 Other [describe here: _____]

Federal tax ID numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal, and local laws. Payment information will be reported to the Internal Revenue Service under the name and federal tax ID number or, if none, the Social Security number provided above.

I have read this Contract including the attached Exhibits. I certify that I have the authority to sign and enter into this Contract. I understand the Contract and agree to be bound by its terms.

Signature Title

Name (please print) Date

NOTE: Contractor must also sign Exhibit 3.

**Hillsboro SCHOOL DISTRICT
SIGNATURE**

(This Contract is not binding on District until signed by the appropriate signing authority)

Signature Capital Projects Officer Title _____ Date _____

Adam Stewart
Name (please print)

**EXHIBIT 1
INVITATION FOR BID**

EXHIBIT 2
SMALL CONSTRUCTION PROJECTS CONTRACT
STATEMENT OF WORK, COMPENSATION,
PAYMENT, and RENEWAL TERMS

1. Contractor shall perform the following Work:

Plans HERE

Specifications HERE

Addenda: HERE

Bid Form 00300 submitted by Name HERE

Bid Bond submitted by NAME HERE

Site Address: Site Address

The total Contract Price shall be:

a. Base Bid	\$0.00
TOTAL	\$0.00

2. District shall pay Contractor as described in Section 10 of the Contract.

Payments shall be made to the address below:

Name: _____

Title: _____

Address: _____

3. Contractor will invoice District for the Work as follows:

Invoices shall be submitted to the address below:

Name: Sharon McCarty

Construction Management Department

Address: Hillsboro School District _____

4901 SE Witch Hazel Rd _____

Hillsboro, OR 97123 _____

EXHIBIT 3
SMALL CONSTRUCTION PROJECTS CONTRACT
CERTIFICATION STATEMENT FOR CORPORATION INDEPENDENT CONTRACTOR
NOTE: Contractor Must Complete A or B below

A. CONTRACTOR IS A CORPORATION, LIMITED LIABILITY COMPANY, OR A PARTNERSHIP.

I certify under penalty of perjury that Contractor is a [check one]:

Corporation Limited Liability Company Partnership authorized to do business in the State of Oregon.

Signature

Title

Date

OR

B. CONTRACTOR IS A SOLE PROPRIETOR WORKING AS AN INDEPENDENT CONTRACTOR.

Contractor certifies under penalty of perjury that the following statements are true:

1. If Contractor is providing labor or services under this Contract for which registration is required under ORS Chapter 701, Contractor has registered as required by law, **and**
2. If Contractor performed labor or services as an independent contractor last year, Contractor filed federal and state income tax returns last year in the name of the business (or filed a Schedule C in the name of the business as part of a personal income tax return), **and**
3. Contractor represents to the public that the labor or services Contractor provides are provided by an independently established business, **and**
4. All of the statements checked below are true.

NOTE: Check all that apply. You must check at least four (4) to establish that you are an Independent Contractor.

- A. The labor or services I perform is primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence that is set aside as the location of the business.
- B. I purchase commercial advertising or I have business cards for my business, or I am a member of a trade association.
- C. My business telephone listing is separate from my personal residence telephone listing.
- D. I perform labor or services only under written contracts.
- E. Each year I perform labor or services for at least two different persons or entities.
- F. I assume financial responsibility for defective workmanship or for service not provided by purchasing performance bonds, errors and omission insurance, or liability insurance, or providing warranties relating to the labor or services I provide.

Signature

Date

**EXHIBIT 4
INSURANCE REQUIREMENTS**

OCIP ADDENDUM

This Addendum to the Construction Contract (the "Addendum") is made a material part of the construction contract or subcontract (the "Contract"), whether written or oral, entered into on [REDACTED], 20 [REDACTED] by and between Contractor/Subcontractor (Contractor), and Sponsor (Hillsboro School District 1J) for work included in the **OCIP** program ("Program"). This Addendum supersedes all prior or contemporaneous agreements between the parties in connection with the matters set forth herein.

Whereas, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, Sponsor desires to implement an Owner Controlled Insurance Policy (OCIP), or a "Wrap Up" Policy, for certain insurable risks as set forth in the OCIP policy. The primary OCIP policy is placed with **First Mercury** and mandates, among other requirements, a third party wrap up administrator, and that shall be Builders Protection Group LLC ("OCIP Administrator"). The following provisions shall be added to the Contract as though fully set forth therein. These provisions may amend, supersede or add to existing language in the Contract as set forth herein. Contractors agree that compliance with the terms and conditions of the OCIP is a material part of the Contract, and the following amendments and/or modifications are effective as of the date of the Contract. The amendments and/or modifications are fully incorporated therein. In the event of any conflict between this Addendum and the Contract or other Contract Documents, the terms of this Addendum shall control.

Now therefore, the parties agree to the following terms and conditions of this Addendum:

- 1. OCIP Insurance and Indemnity Provision:** the following provisions are hereby incorporated into the contract:
 - 1.1.** The Sponsor of this project has elected to purchase an Owner Controlled Insurance policy (OCIP) naming it, as well as other designated Contractors, and for certain risks associated with the project as set forth by the Sponsor. The Enrollment process is defined by the policy and detailed through documents, which will be made available by the OCIP Administrator. The provisions of the Contract regarding Contractor's obligation to provide Commercial General Liability insurance for this project are hereby superseded, except as specifically set forth in this Addendum. Contractors are enrolled in the OCIP upon the issuance of a Certificate of Enrollment. Enrollment must take place prior to commencement of work performed on the project. All Contractors and other Contractors shall be enrolled in the OCIP through the OCIP Administrator.
 - 1.2.** Risks covered and not covered by the OCIP are listed in the Program insurance policies. It is the Contractors responsibility to review and, obtain any desired legal review and analysis it deems appropriate and, in its judgment, necessary regarding the Program. There are no representations regarding the nature, quality or limits of the Program policies and Contractors expressly acknowledges the lack of reliance upon any representations made by Sponsor, Contractors, the OCIP Administrator or their representatives regarding the nature, quality or limits of the insurance provided by the Program. Contractors shall hold Sponsor, the OCIP Administrator and their representatives, including, but not limited to, insurance brokers and/or agents, free and harmless from any and all claims asserting or alleging that the type and/or amount of coverage provided under the Program is inadequate, deficient, insufficient, or in any way not providing the nature and amount of coverage that might at a later date be deemed or claimed to be appropriate. The Program is intended to be the primary source of coverage for the risks covered and shall be primary to Contractors insurance, if any, in the Program covered areas of risk.

Following is an outline of the OCIP terms and coverage.

The effective date of the OCIP program is 4/19/2018 and expires 4/19/2023 or as otherwise extended. The coverage also provides an extended reporting period equal to 10 years to cover the Oregon Statutory Period of Repose.

Commercial General Liability – First Mercury

Each Occurrence Limit	\$2,000,000
General Aggregate Limit	\$2,000,000
Products-Completed Operation Aggregate Limit	\$2,000,000
Personal & Advertising Injury	\$2,000,000

Excess Liability Limits

Each Occurrence Limit	\$100,000,000
General Aggregate Limit	\$100,000,000
Products-Completed Operation Limit	\$100,000,000

Excess Insurers are as follows;

- First Mercury
- Navigators Specialty
- Axis
- Endurance
- Starr

The Commercial General Liability and Excess coverage shall include all major coverage categories including bodily injury, property damage, and products/completed operations coverage maintained for 10 years following substantial completion. The OCIP program is Primary and Noncontributory, covers warranty and call back work, offers per project aggregates capped at 5x the general aggregate and product and completed operations aggregate.

Whereas the Contactors are responsible for a claim covered by the OCIP the Contractor will pay up to \$10,000 per occurrence.

Contractors Pollution Liability

Per Occurrence Limit	\$25,000,000
Aggregate Limit for all Pollution Conditions	\$25,000,000

Insures is as follows;

- Ironshore Specialty Insurance Company

The Contractors Pollution Policy covers Bodily Injury and Property Damage arising from a Pollution Conditions. Pollution Condition means the discharge, dispersal, release, escape, migration, or seepage of any solid, liquid, gaseous or thermal irritant, contaminant or pollutant, including soil, sedimentation, silt, smoke, soot, vapors, fumes, acids, alkalis, chemicals, hazardous substances, hazardous materials, including lead and asbestos, or waste materials, on, in, into, or upon land structures thereupon, the atmosphere, surface water or groundwater

Whereas the Contractors are responsible for a claim covered by the OCIP the Contractor will pay up to \$10,000 per occurrence

- 1.3. Participant agrees to furnish appropriate information, as detailed by the OCIP Administrator, of all sub-tier subcontractors that will perform work on the project on behalf of the Contractor. Contractor shall incorporate the terms of this Addendum into all construction sub-tier subcontracts and assure each sub-tier subcontractor's compliance with the requirements of the OCIP, this Addendum, and/or in the Contract Documents for the term of each subcontract. All eligible sub-tier subcontractors will be enrolled in the OCIP Wrap Program.
- 1.4. Subcontractor agrees to follow and complete all enrollment procedures and insurance cost reporting procedures. Subcontractor shall exclude from bids the full cost of Subcontractor's own CGL insurance. The OCIP Administrator shall review all insurance bid deduct information and identify Subcontractor's minimum reduction in insurance costs ("Insurance Credit") due to eligibility for the OCIP Coverages. Subsequent change order proposals shall be submitted exclusive of all CGL insurance costs, and Contractor shall identify an additional Insurance Credit following the same procedure identified above. At the end of the work and if Subcontractor's Insurance Credit was calculated based on Subcontractor's initially reported payroll, Sponsor reserves the right to audit Subcontractor's actual payroll and a final adjusted Insurance Credit may be calculated by Contractor.
- 1.5. Subcontractor acknowledges receipt of OCIP Contractor Guidebook/Manual, contained herein, and agrees to perform provisions set forth.
- 1.6. Contractors and Sponsor agree to waive their rights to subrogation on behalf of their insurers. This includes, but not limited to builders' risk, inland marine, commercial auto and workers' compensation insurance. Contractors shall waive all rights against each other for damages that are otherwise covered under the applicable insurance.
- 1.7. Subcontractor's indemnity obligations shall apply in the event that the OCIP does not in fact fully protect, defend and indemnify Sponsor, Contractor and other Indemnities. Subcontractor's indemnity obligations are excess to the OCIP coverage and shall not take effect until and unless the insurance provided under the OCIP is exhausted, inapplicable to the claims or otherwise unavailable. If the OCIP is exhausted, inapplicable or unavailable, Subcontractor's obligations shall immediately be triggered. Subcontractor's obligations to defend and indemnify Sponsor, Contractor and other Indemnities shall exist whether there is available insurance coverage.
- 1.8. **Notice.** All notices, requests, demands, and other communications required or permitted to be given under this Addendum shall be in writing and shall be conclusively deemed to have been duly given when hand delivered to the other party.
- 1.9. **Negotiated Agreement.** The terms of this Addendum have been negotiated by the parties hereto and the language used in this Addendum shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Addendum shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a benefit under the agreement. No rule of strict construction will be applied against any person. Any finding of invalidity of any portion or provision of this Addendum will not impair the legal validity of the rest of the provisions of this Addendum.
- 1.10. **Entire Agreement; Signatures.** The terms set forth in this Addendum are intended by the parties as a final expression of their agreement with respect to terms included herein. This writing is intended as a complete and exclusive statement of the terms of the agreement between the parties. This Addendum may be modified only by an agreement in writing supported by new consideration.

2. Contractors Insurance Requirements outside of the OCIP program: Contractors agree to have all required coverage that contractors must have by law. In addition, the following coverages will be in place for protection if you are not enrolled in the OCIP program or whether working off the project site.

2.1 CONTRACTOR'S INSURANCE.

2.1.a Required Coverage. Without waiver of any other requirement of the Contract Documents, the Contractor will provide, pay for, and maintain in full force and effect at all times during the performance of the Work until final

acceptance of the Work or for such further duration as required, the following policies of insurance issued by a responsible carrier. All of the Contractor's insurance carriers shall be rated A VII or better by A.M. Best's rating service, unless otherwise approved by the Sponsor.

- i. **Workers' Compensation.** Workers' compensation coverage sufficient to meet statutory liability limits.
- ii. **Employer's Liability.** The Contractor shall purchase and maintain employer's liability insurance in addition to its workers' compensation coverage with at least the minimum limits in section **b.** below.
- iii. **Commercial General Liability.** The Contractors shall purchase and maintain commercial general liability ("CGL") insurance for off-site exposure on an occurrence basis, written on ISO Form CG 00 01 (12/04 or later) or an equivalent form approved in advance by the Sponsor... CGL coverage shall include all major coverage categories including bodily injury, property damage and products/completed operations coverage. The CGL insurance will also include the following: (1) separation of insured; (2) incidental medical malpractice; and (3) per-project aggregate for premises operations.
- iv. **Professional Liability/Errors and Omissions.** To the extent that the Contractor accepts design or design/build responsibilities, the Contractor shall purchase and maintain professional liability/errors and omissions insurance or cause those Subcontractors providing design services do so.
- v. **Automobile Liability.** The Contractor shall purchase and maintain automobile liability insurance with coverage for owned, hired, and non-owned vehicles on ISO form CA 00 01 or an equivalent form approved in advance by the Sponsor. The automobile liability insurance shall include pollution liability coverage resulting from vehicle overturn and collision.
- vi. **Commercial Umbrella/Excess Coverage.** The Contractor shall purchase or maintain a commercial umbrella or excess liability policy to meet the minimum limits as described in Section **b.** below. Commercial umbrella/excess liability coverage will be following form over all appropriate primary coverage including commercial general liability, employer's liability and commercial automobile.

2.1.b Limits. The insurance required by this exhibit shall be written for at least the limits of liability specified in this Section or required by law, whichever is greatest.

Workers' Compensation.	Statutory Limits
Employer's Liability.	
Each Accident:	\$1,000,000
Each Bodily Injury Disease:	\$1,000,000
Aggregate Bodily Injury Disease:	\$1,000,000
Commercial General Liability.	
Each Occurrence:	\$1,000,000
General Aggregate:	\$2,000,000
Product/Completed Operations:	\$2,000,000
Personal & Advertising Injury:	\$1,000,000
Fire Damage Limit:	\$ 100,000
Medical Expense Limit:	\$ 5,000
Automobile Liability.	
Combined Single Limit:	\$1,000,000
Professional Liability/Errors & Omissions.	
Single Limit:	\$1,000,000
Aggregate:	\$1,000,000
Commercial Umbrella/Excess Coverage.	
Each Occurrence:	\$1,000,000

2.1.c. Additional Insured's. The Contractor's third-party liability insurance policies shall include the Sponsor and its officers, employees, agents, volunteers, partners, successors, and assigns as additional insureds. The policy endorsement must extend premise operations and products/completed operations to the additional insureds. The additional insured endorsement for the CGL insurance must be written on ISO Form CG 20 10 (11/85), a CG 20 37

(07/04) together with CG 20 33 (07/04), or the equivalent; but shall not use the following forms: CG 20 10 (10/93) or CG 20 10 (03/94).

2.1.d. Joint Venture. If the Contractor is a joint venture, the joint venture shall be a named insured for the liability insurance policies.

2.1.e. Primary Coverage. The Contractor's insurance shall be primary insurance coverage and may not seek contribution from any insurance or self-insurance carried by the Sponsor or the Architect including any property damage coverage carried by the Sponsor. Contractor's insurance shall apply separately to each insured against whom a claim is made, and or suit is brought. The Contractor's insurance shall not include any cross-suit exclusion or preclude an additional insured party from asserting a claim as a third party.

2.1.f. Contractor's Failure to Maintain Insurance. If the Contractor for any reason fails to maintain required insurance coverage, such failure shall be deemed a material breach of the Contract and the Sponsor, at its sole discretion, may suspend or terminate the Contract pursuant to Section 108.11 of the General Conditions. The Sponsor may, but has no obligation to, purchase such required insurance, and without further notice to the Contractor, the Sponsor may deduct from the Contract Sum any premium costs advanced by the Sponsor for such insurance. Failure to maintain the insurance coverage required by this exhibit shall not waive the Contractor's obligations to the Sponsor.

2.1.g. Certificates of Insurance. The Contractor shall supply to the Administrator or and Sponsor Certificates of Insurance (COI) for the insurance policies described in this exhibit prior to the commencement of the Work and before bringing any equipment or construction personnel onto the Project site.

1. Additional Certificates. To the extent that the Contractor's insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage on account of revised limits or claims paid under the general aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.
2. Prohibition Until Certificates Received. The Sponsor shall have the right, but not the obligation, to prohibit the Contractor and its Subcontractors from entering the Project site until the required certificates (or other competent evidence that insurance has been obtained in complete compliance with this exhibit) are received and approved by the Administrator and or Sponsor.
3. Deductibles/Self-Insured Retentions. Payment of deductibles or self-insured retention is a Cost of the Work within the Guaranteed Maximum Price and does not justify a Change Order. Satisfaction of all self-insured retentions or deductibles will be the sole responsibility of the Contractor.

2.2. Subcontractor Insurance. The Contractor shall cause each Subcontractor to purchase and maintain in full force and effect policies of insurance as specified in this exhibit, except for coverage limits, which will be agreed upon between the Sponsor and the Contractor. The Contractor will be responsible for the Subcontractors' coverage if the Subcontractors fail to purchase and maintain the required insurance. When requested by the Sponsor, the Contractor will furnish copies of certificates of insurance establishing coverage for each Subcontractor.

2.2.a. Limitations on Coverage.

- i. No insurance provided by the Contractor under this exhibit will be required to indemnify the Sponsor, the Architect, or their employees or agents to the extent of liability for death or bodily injury to persons or damage to property caused in whole or in part by their own negligence but will require indemnity to the extent of the fault of the Contractor or its agents, representatives, or Subcontractors.
- ii. The obligations of the Contractor under this exhibit shall not extend to the liability of the Architect or its consultants for (1) the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs, or specifications, or (2) the giving or failure to give directions or instructions, to the extent that the directions, or failure to provide directions, are the cause of the injury or damage.
- iii. By requiring insurance, the Sponsor does not represent that coverage and limits will necessarily be adequate to protect the Contractor. Insurance in effect or procured by the Contractor will not reduce or limit the Contractor's contractual obligations to indemnify and defend the Sponsor for claims or suits that result from or are connected with the performance of the Contract.

2.2.b. PROPERTY INSURANCE:

- i. **Builder's Risk.** As applicable to the project, Sponsor shall provide builder's risk insurance for the Project covering physical loss or damage to the Work in the amount of the total Project sum. Such insurance shall cover the work, false work, temporary structures, all supplies and materials furnished in connection therewith and destined to become a part of the Work and shall include some limited amount of off-site storage and transit coverage.

If such builder's risk insurance has a deductible, the Contractor shall be responsible for the first \$10,000 under the deductible. The remainder of such deductible, if any, shall be the responsibility of the Sponsor.

Should Sponsor decide not to provide builder's risk insurance Sponsor shall immediately notify Contractor of such decision and allow Contractor to procure builder's risk insurance. The Sponsor shall also allow Contractor to submit a Change Order to Sponsor for the reimbursement of the cost of builder's risk insurance as procured by the Contractor.

- ii. **Contractor's Responsibility.** Contractor must provide insurance for its own machinery, tools, equipment, or supplies that are not to become a part of the Project.

Contractor/Subcontractor:

By: _____

Printed: _____

Title: _____

Date: _____

By: _____

Printed: _____

Title: _____

Date: _____

Exhibit 5
Owner Controlled Insurance Policy (OCIP)/Wrap-Up Insurance Policy Manual

Follow the enrollment process and provide the requested documents to the Program Administrator, Builders Protection Group, LLC. The Program Administrator will send the contractor the Policy Manual.

Program Administrator

Company: Builders Protection Group LLC
Address: 4860 W 147th Street
City, State, ZIP: Hawthorne, CA 90250
Fax: 310 220 2374
Phone: 310 356 4840
E-mail: renata@buildersprotect.com

Insurance Broker

Contact Name: Craig Payne
Address: 2701 NW Vaughn Street
Suite: 340
City, State ZIP: Portland, OR 97210
Phone: 503-219-3267
E-mail: cpayne@bbnw.com