

REQUEST FOR PROPOSALS #3310

for

Upgrades to Water Pumping Station

at

Snake River Correctional Institution

Issue Date:	July 29, 2005
Mandatory Pre-Proposal Meeting	August 10, 2005, 11:00 am PMT, SRCI, Ontario
Solicitation protest (Q & A) deadline:	August 11, 2005
Proposal due date:	Wednesday, August 24, 2005, 3:00 pm
Interviews (if held):	TBA
Tentative selection notification date:	September 8, 2005
Selection protest deadline:	7 days following selection notification

Oregon Department of Corrections
Facility Services
July 29, 2005

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1 GENERAL INFORMATION

This Request for Proposals ("RFP") is open to all firms/individuals qualified to provide the services requested (hereinafter the "Proposer(s)"). This selection process shall be carried out pursuant to applicable Oregon Revised Statutes and Oregon Administrative Rule 125, Division 248. Proposals shall be open to public inspection in accordance with ORS 279B.060(5).

2 CONTRACT VALUE

The Department of Corrections ("DOC") does not expect the total value of any contracts resulting from this solicitation, including extension periods, if any, to exceed \$50,000.

3 MANDATORY PRE-PROPOSAL MEETING

Proposers shall be required to attend a pre-proposal meeting, which will be held:

Date: Wednesday, August 10, 2005
Time: 11:00 a.m. Mountain Daylight Time
Location: Snake River Correctional Institution
777 Stanton Blvd
Ontario, OR 97914

The pre-proposal meeting shall consist of a question and answer session followed by a site visit. All Proposers wishing to submit a proposal must be represented at this meeting and must sign the Official Meeting Attendance Roster. Proposers should review and be familiar with the RFP prior to the meeting.

DOC conducts a thorough background investigation on individuals requesting entry into any of its secured facilities, therefore, all Consultants attending the site visit **MUST SUBMIT A BACKGROUND CHECK INFORMATION FORM by Friday, August 5, 2005** to allow adequate time for background investigations. The form is included in this RFP packet as Attachment C. Consultants attending the Pre-Proposal Meeting must bring photo ID, which will be surrendered at the facility Visiting Desk while the site visit is underway. Do not wear any item of clothing made of blue denim, or otherwise resembling inmate attire. Inmate attire consists of blue denim jeans and light blue chambray shirts or dark blue tee shirts. Phones, pagers, cameras, etc. will not be allowed into the institution.

4 QUESTIONS/ANSWERS/SOLICITATION PROTEST

Proposers should submit questions, requests for changes or clarifications, or protests regarding any or all parts of this RFP, including any objections to the terms and conditions contained in the attached "sample" contract, in writing, to the Contracts Coordinator named in this solicitation no later than close of business on August 11, 2005. The response to any questions of a substantive nature will be issued as an addendum to this RFP and published on the DOC Website and the DAS ORPIN system.

5 PROTEST PROCEDURES

Pursuant to OAR 125-248-0240, all protests of solicitation or selection processes are limited to the following issues and filing times:

- 5.1 RFP Protest and Request for Change: Consultants may submit a written protest of anything contained in this RFP and may request a change to any provision, Specification or Contract term contained in this RFP, no later than August 11, 2005. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, Specifications or Contract terms. DOC will not consider any protest or request for change that is submitted after the submission deadline.
- 5.2 Protest of Consultant Selection: DOC will provide to all Proposers a copy of the selection notice sent to the highest ranked Proposer. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to DOC no later than seven (7) days following selection notification. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP or because the higher ranked Proposers otherwise are not qualified to perform the services described in the RFP. DOC will not consider any protest that is submitted after the submission deadline.
- 5.3 Decision: DOC will render a written decision on the protest to the Proposer who submitted the protest. If the protest results in a change to the RFP, DOC must revise the RFP accordingly and must re-advertise the RFP in accordance with applicable Rule.
- 5.4 Review: Proposers may be able to obtain judicial review of DOC's protest disposition pursuant to ORS 183.484.

6 ADDENDA

Oral instructions or information concerning the RFP or its requirements given by DOC in response to questions or protests shall not be binding until documented by written addenda. DOC shall make every attempt to issue all addenda not later than two (2) business days prior to the proposal due date; provided however, DOC may extend the proposal due date, if DOC finds an extension is necessary. It is the sole responsibility of the Proposer(s) to monitor the issuance of any/all addenda. Addenda will be published on the DOC website and also on the DAS ORPIN system.

7 ADDRESS FOR PROPOSALS/QUESTIONS

To ensure priority handling within our mail system, Proposals **MUST** be addressed as follows:

SUBMIT PROPOSALS TO: RFP #3310
KAY DUFFEY, CONTRACTS COORDINATOR
OREGON DEPARTMENT OF CORRECTIONS
3601 STATE STREET SUITE 280
SALEM, OR 97301-5780

Proposers are solely responsible for the means and manner of proposal delivery, and are encouraged to confirm delivery prior to the deadline. If proposals are delivered in person, note that access to DOC at 3601 State Street is at the intersection of 37th and Amber. From Interstate 5, take the OR-22/N Santiam Hwy Exit 253, go west to Hawthorne, north (right) on Hawthorne, east (right) on State Street to 37th (just east of I-5 overpass), turn north (left) on 37th. If traveling from Lancaster Drive, turn west on Amber. Access is through gate at the junction of 37th and Amber. Enter large building on left, (Building #1) go to 2nd floor, call extension 22486 from lobby phone. **DO NOT PUT PROPOSALS IN "BID BOX" IN LOBBY.**

Any questions regarding this Request for Proposals and/or the proposed work are to be directed only to the following person. Contact with other DOC staff regarding this project without clearance from the primary contact person may lead to disqualification.

KAY DUFFEY, CONTRACTS COORDINATOR
phone: 503/378-3798 X 22486
fax: 503/371-3161
e-mail KAY.DUFFEY@DOC.STATE.OR.US

8 RESERVATION OF RIGHTS

DOC reserves the right, at any time during this RFP process, at its sole discretion, to:

- 8.1 Amend this RFP.
- 8.2 Reject, based on written findings, any and all proposals received, if it is in the public interest to do so.
- 8.3 Cancel the RFP, based on written findings, if it is in the public interest to do so.
- 8.4 Seek clarifications of any proposal(s).
- 8.5 Require interview(s) with proposers.
- 8.6 Supplement and/or re-designate members of its evaluation committee/interview panel, or to establish additional committees, as it deems appropriate to negotiate a final contract within the scope of work described herein.
- 8.7 Negotiate with subsequently lower-ranked proposers if negotiations with the top-ranked proposer are unsuccessful.
- 8.8 Formally terminate negotiations if they fail to result in a contract within a reasonable amount of time (15 days).
- 8.9 Postpone award or execution of resulting contract to complete reference check(s).
- 8.10 Reject a proposal based on negative reference check(s) prior to contract execution.
- 8.11 Amend the scope of work, including consideration or term for work related to this solicitation. Changes to any subsequent contract(s) shall be through written amendment, signed by both parties.

DOC is not responsible for any costs incurred by Proposers in preparing and/or submitting proposals, attending mandatory meetings or finalist interviews. All Proposers who respond to this solicitation do so solely at their own expense.

Background Check Information. Upon request by DOC, Proposer/Consultant shall provide (at its own expense) DOC with sufficient personal information about its agents or employees, and the agents and employees of its subconsultants (if any), who will enter upon premises controlled, held, leased, or occupied by DOC during the course of

performing this Contract to facilitate DOC's criminal record check of such personnel, at state expense.

9 PROPOSAL FORMAT

- 9.1 Six (6) copies of the Proposal are due no later than 3:00 p.m. Wednesday, August 24, 2005. Neither late nor faxed submittals shall be accepted.
- 9.2 Proposals should be prepared in a simple, economical manner, without stiff binders or covers, fastened in the top left-hand corner.
- 9.3 Proposals shall not exceed twelve (12) single-sided pages.
- 9.4 Attachment A (Cover Sheet), Attachment B (Request and Authorization to Release Information, Release of Liability/Claims, and Agreement Not to Sue), and Project Loading Chart must be stapled on top of the packet and are counted in the maximum page count of 12 pages.
- 9.5 Proposers shall make every effort to use no less than a 12-point font for the text portion of their Proposals. DOC reserves the right to reject Proposals that are deemed illegible or too difficult to read.
- 9.6 No other distribution of Proposals shall be made by Proposer.
- 9.7 Proposals must be signed by an official authorized to bind the Proposer to its provisions.
- 9.8 Any Proposals not complying with these requirements will be considered nonresponsive and removed from consideration.

10 PROPOSAL CONTENTS

- 10.1 To be considered, Proposers must submit a complete response to this Request for Proposals in accordance with the requirements of Section 8, Proposal Format (the "Proposal"). Proposers shall submit a definite Proposal for the Services described herein, providing a straightforward, concise description of their ability to meet the requirements of this solicitation.
- 10.2 Proposals shall describe intended performance; description of laboratory capability; techniques employed and proposed response timelines for the prescribed services and resources required to perform them. Proposers shall define their approach to each element of the Statement of Work.
- 10.3 Proposers shall develop and submit as part of the Proposal a "Project Loading Chart" in Gantt Chart format for the project detailing estimated number of hours in each discipline.
- 10.4 Proposals shall include resumes of key personnel.

11 PROPOSAL EVALUATION AND CONSULTANT SELECTION PROCESS

The consultant selection process shall be carried out under Oregon Administrative Rule Chapter 125, Division 248. Proposals shall be evaluated on completeness and quality of content, and on the likelihood of achieving the Owner's objectives.

An evaluation committee shall review and score the Proposals, and the final selection shall be made based upon the Proposals' scores, unless interviews are conducted.

Interviews may be conducted at the option of DOC, therefore, Proposals should be complete. Do not rely on the interview process to present your Proposal.

If interviews are conducted, they shall be conducted with the top-ranked proposers at DOC's discretion. The Authorized Representative shall decide on the number of highest scored proposers to be invited for an interview. The method of evaluation, format of the interview, and other specifics shall be announced at the time proposers are invited for interview.

Upon identification of an apparent winner and notification of selection to all Proposers, DOC shall endeavor to contract with the highest ranking Proposer resultant from the interview or proposal evaluation process, whichever applies, by negotiating the Statement of Work ("SOW") and the Project Loading Chart. If DOC and the highest ranking Proposer are not able to agree on the SOW and/or compensation within a measurable timeframe (15 days), DOC reserves the right to formally terminate negotiations and pursue negotiation of a contract with the second highest ranking Proposer, and so forth, as necessary. Upon agreement with the selected Proposer, DOC and the Proposer shall execute the Contract, which shall be the completed, resulting agreement between the parties based on the sample contract attached hereto as Attachment D.

11.1 Technical Mandatories

Proposals not meeting all pass/fail and evaluation criteria cited below will be considered nonresponsive and will be rejected. Each Proposal must contain the desired information in the format specified and shall be evaluated in accordance with the following:

Timely Delivery	PASS/FAIL
Six (6) Copies, No More Than 12 Pages	PASS/FAIL
Cover Sheet (Attachment A)	PASS/FAIL
Request and Authorization to Release Information (Attachment B)	PASS/FAIL
Project Loading Chart	PASS/FAIL
Resumes of Key Staff	PASS/FAIL

11.2 Evaluation Criteria

Each Proposal shall be judged as a demonstration of the consultant's capabilities, experience and understanding of the services requested. Evaluation factors and maximum points will be as follows:

Understanding of the Requested Services (Proposers shall define their approach to each element of the Statement of Work)	20 points
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Project Approach with Loading Chart and Schedule	25 points
Capabilities and Experience (Describe capabilities and experience in providing services of similar projects.)	30 points
Firm's and Individual's Professional Qualifications (Project Team) (Describe proposed staffing of the project. Describe each individual's relevant experience and qualifications. Explain to what extent these individuals will be committed to the project.)	25 points
TOTAL	100 POINTS

12 INSURANCE REQUIREMENTS

During the term of any contract resulting from this RFP, Consultant shall maintain in force, at its own expense, each insurance noted below. A Contract will not be executed, and DOC will not issue a notice to proceed, until acceptable proof of all required coverage is received.

- 12.1 WORKERS' COMPENSATION insurance. All employers, including the Consultant, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Oregon workers' compensation coverage, unless such employers are exempt under ORS 656.126. The Consultant shall ensure that each of its Sub-consultants and subcontractors complies with these requirements.
- 12.2 PROFESSIONAL LIABILITY/ERRORS & OMISSIONS insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each claim, incident or occurrence. This insurance must cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. Any deductible shall not exceed \$50,000 each claim, incident, or occurrence
- 12.3 GENERAL LIABILITY insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under the resulting contract. The policy, or an endorsement or amendment to the policy, must provide that the State of Oregon, Department of Corrections and its divisions, officers and employees are "additional insureds", but only with respect to the Consultant's Services to be provided under this Contract.
- 12.4 AUTOMOBILE LIABILITY insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, for Bodily Injury and Property Damage, including coverage for all owned, hired or non-owned vehicles, as applicable. The policy, or an endorsement or amendment to the policy, must provide that the State of Oregon, Department of Corrections and its divisions, officers and employees are "additional insureds", but only with respect to the Consultant's Services to be provided under this Contract.

- 12.5 "TAIL" COVERAGE - If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months, or the maximum time period available to the Consultant in the marketplace if less than 24 months. Consultant will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract expiration. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the resulting contract. Evidence of suitable coverage will be a condition of final acceptance and payment under the Contract.
- 12.6 NOTICE OF CANCELLATION OR CHANGE - There shall be no cancellation, material change, reduction of limits, reduction in any aggregate limits, or intent not to renew the insurance coverage(s) without 30 days prior written notice from the Consultant or its insurer(s) to the Department of Corrections.
- 12.7 CERTIFICATES OF INSURANCE - As evidence of the insurance coverage required by the resultant contract, the Consultant shall furnish acceptable insurance certificates to the Department of Corrections, Contracts Unit, 3601 State Street, Suite 280, Salem, OR 97301-5780, prior to commencing performance of the Services. The certificate(s) will specify all of the parties who are "additional insureds" and must contain terms indicating that the relevant policies (except for Workers' Compensation coverage or Professional Liability/Errors & Omissions coverage) has been endorsed or amended to name the State of Oregon, Department of Corrections and its divisions, officers and employees as "additional insureds" under the Consultant's policies. Insuring companies or entities are subject to State acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the State. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

13 FOREIGN CONSULTANT

If the successful Proposer is not domiciled in or registered to do business in the State of Oregon, Proposer shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the resulting Contract. Proposer shall demonstrate its legal capacity to perform the services set forth under the Statement of Work under this RFP in the State of Oregon prior to entering into any resulting Contract. The Oregon Secretary of State website can be accessed at <http://www.sos.state.or.us/>

14 PUBLIC RECORDS

This RFP and one copy of the subsequent selected Proposal(s), together with copies of all documents pertaining to the award of a contract, shall be kept by DOC and made a part of a file or record which shall be open to public inspection. If a Proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:

"This data constitutes a trade secret under ORS 192.501(2) and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 92."

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only "unless the public interest requires disclosure in the particular instance", ORS 192.501(2). Therefore, nondisclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.

The above restriction may not include Project Loading Chart information, which must be open to public inspection.

Identifying the Proposal in total as a trade secret is not acceptable. Failure to identify a portion of the Proposal as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret.

15 RECYCLABLE PRODUCTS

Vendors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

16 AUTHORIZED REPRESENTATIVE

DOC has identified Scott Young, Facilities Services Administrator, as DOC's Authorized Representative for this solicitation process and the Contract, to have general oversight of the Project.

17 THE OREGON DEPARTMENT OF CORRECTIONS IS AN EQUAL OPPORTUNITY EMPLOYER and is committed to achieve a workforce that represents the diversity of Oregon and being a leader in providing fair and equal employment opportunity for all interested applicants and employees. (DOC Policy 20.4.1) The State of Oregon does not tolerate discrimination or harassment on the basis of race, color, sex, marital status, religion, national origin, age, natural or physical disability, or any reason prohibited by state or federal statute, nor shall any vendor or provider for the State of Oregon discriminate or harass in the above-described manner.

18 PROJECT BACKGROUND AND PURPOSE OF RFP

The domestic water pumping station at Snake River Correctional Institution consists of four centrifugal pumps (one booster and three main), equipped with soft start controls, pressure reducing valves, reverse flow preventers, and remote telemetry unit ("RTU") communication capability to the City of Ontario. This RFP will result in a contract for services to design a pumping station upgrade that incorporates variable frequency drive motors and controllers for reliable and efficient operation of the pumping station providing domestic water to the institution.

19 SCOPE OF WORK

DOC invites firms to submit Proposals defining their qualifications and approach to the following defined scope of work. The facility will remain in operation throughout the project. Detailed work plans shall be specified to minimize disruption to the facility while

performing the work required. The specific design services requested are upgrades to the domestic water pumping station that include:

- a. Variable Frequency Drive (“VFD”) motors and controllers;
 - b. Piping modifications necessary to efficiently use VFD pumps;
 - c. Maintaining communication capability to the City of Ontario;
 - d. Computer monitoring of pump operation and water tank level;
 - e. Piping modifications necessary to support parallel water flow paths for institution supply.
- 19.1 Consultant shall complete a site visit and review of existing information on the pumping station.
- 19.2 Consultant shall develop construction documents to include drawings and specifications to the 100% complete level for installing the required system modifications and enhancements.
- 19.3 Material Specifications: Consultant shall prepare complete material and installation specifications to include all Division 2 through Division 17 section in Construction Specifications Institute (“CSI”) format. Division 1, General Requirements, shall be prepared as a joint effort between Owner and Consultant. The Consultant shall assemble all Divisions of work into the final bid set documents.
- 19.4 Construction Cost Estimates: Consultant shall prepare four (4) sets each construction cost estimates for the 30%, 70% and 100% submittal drawings and specifications.
- 19.5 Construction Document Submittal:
- 19.5.1 Consultant shall submit to Owner original reproducible specifications and one full size and three half - size drawings of all construction documents for the 30% Construction Document Submittal. Consultant shall resolve and respond to all comments submitted by Owner on the submittals.
 - 19.5.2 Consultant shall submit to Owner original reproducible specifications and drawings of construction documents and one set of the calculation package for the 100% Construction Document Submittal. Consultant shall resolve and respond to all comments submitted by the Owner on the submittals.
 - 19.5.3 Consultant shall identify all permit application requirements and interact with the local jurisdiction to insure plans and specifications meet their approval. Consultant shall prepare, sign and stamp with the seal of an engineer registered to practice in the State of Oregon, the contract plans and specifications.
 - 19.5.4 Consultant shall submit to Owner original reproducible specifications, one full size and three half - size drawings for use as bid sets.
- 19.6 During the Bid Phase the Consultant shall:

- 19.6.1 Prepare any addenda necessary to provide clarity to discrepancies in the drawings and specifications. Owner shall distribute addenda to potential bidders and plan centers during the bid phase.
- 19.6.2 Respond to all bidder questions.
- 19.6.3 Approve or disapprove all substitution requests.
- 19.6.4 Attend the mandatory Pre-Bid Conference/Walkthrough.
- 19.7 During the Construction Phase the Consultant shall:
 - 19.7.1 Attend pre-construction meeting with the contractor and owner. During active construction period, weekly construction meetings will be held. Consultant shall attend meetings by teleconference.
 - 19.7.2 Assist the Owner with the technical preparation of change orders and review all change order price proposals.
 - 19.7.3 Provide the Owner with field observation reports (a minimum of once per month) during the active construction period.
 - 19.7.4 Review contractor's schedules and monitor schedule progress.
 - 19.7.5 Review and recommend approval of Schedule of Values and contractor pay requests.
 - 19.7.6 Review, comment and approve material submittals.
 - 19.7.7 Review, comment and approve Operations and Maintenance manuals.
- 19.8 During the Project Close-Out Phase the Consultant shall:
 - 19.8.1 Do a walkthrough with the Owner to provide final inspection and punchlist.
 - 19.8.2 Provide one final inspection to confirm all punchlist items have been completed.
 - 19.8.3 Incorporate all contractor as-builts into the project drawings and issue to Owner.
 - 19.8.4 Provide original hard copy of drawings and a copy of drawings on 3½ " diskette or CD, in a format compatible with AutoCad.
 - 19.8.5 Review all equipment warranties for conformance with plans and specifications.
 - 19.8.6 Review and recommend approval for contractor's final pay request.

19.9 Project Schedule:

19.9.1 Consultant shall complete 100% Construction Document Submittal within 120 days following issuance of Notice to Proceed.

19.9.2 Completion of work identified in Sections 11.6 (Bid Phase) and 11.7 (Construction Phase) is to be determined.

Attachment A
 STATEMENT OF PROPOSAL COVER SHEET
 Oregon Department of Corrections RFP #3310

Name of Firm: <small>(tax filing name)</small> Contact Person:	Address:
Fed Tax ID# or Soc Sec #: OMWESB Certified Business? <input type="checkbox"/> Yes, # _____ <input type="checkbox"/> No	Contact Person e-mail: Telephone #: Fax #:
Business Designation (check one): <input type="checkbox"/> Corporation (what state? _____) <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Professional Corporation <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Other _____ <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Limited Liability Partnership	
For corporations not domiciled in Oregon: Oregon Secretary of State Business Registry # _____ (required)	
The individual signing on behalf of Proposer hereby accepts all terms and conditions contained in Request for Proposals # 3310, and the attached sample contract: Signature of Authorized Representative: _____ Date: _____	
Print Name of Authorized Representative: _____ Title: _____	
Provide at least three references with telephone numbers. Do not use DOC as a reference: Reference # 1: _____ Telephone Number: _____ Project Title: _____ Consultant Contact Person: _____	
Reference # 2: _____ Telephone Number: _____ Project Title: _____ Consultant Contact Person: _____	
Reference # 3: _____ Telephone Number: _____ Project Title: _____ Consultant Contact Person: _____	

**ATTACHMENT B
REQUEST AND AUTHORIZATION TO RELEASE
INFORMATION, RELEASE OF LIABILITY/CLAIMS,
AND AGREEMENT NOT TO SUE
(This Form Will Be Provided To References)**

To Whom It May Concern:

I the undersigned, have submitted a response to a Request for Proposals (“RFP”) to contract with the State of Oregon, Department of Corrections (“DOC”). I request and authorize you to furnish to DOC any and all information you may have regarding my/my firm’s employment, including but not limited to, evaluations or assessments of my/my firm’s work performance and qualifications.

I request and authorize you to provide the information requested or to participate in a phone or in-person interview with a representative of DOC.

In consideration of your cooperation with this request, I hereby release you, and any and all other persons employed by or connected with your firm, agency and/or organization from any and all liability and/or claims now or in the future arising from the furnishing of any information, including good faith expressions of opinion, to DOC as requested. I further agree not to sue DOC, you, or any and all other persons employed by or connected with your agency/organization as a result of the furnishing of any information, including good faith expressions of opinion, to DOC.

I am aware and understand that the information and good faith opinions furnished to DOC pursuant to this request will remain confidential with DOC if requested by you, and will not be disclosed to me or to any other person, except as required by law.

The individual signing on behalf of Proposer hereby accepts all terms and conditions contained in the foregoing Request and Authorization to Release Information:

Signature of Authorized Representative *Date*

Name of Firm

Note: Photocopy or Fax reproduction of this request shall be for all intents and purposes as valid as the original. You may retain this form for your files.



Oregon

Theodore R. Kulongoski, M.D.

ATTACHMENT C

Department of Corrections

General Services Division
2575 Center Street NE
Salem, OR 97310
(503) 373-1572
FAX: (503) 378-6536
www.doc.state.or.us



Security Check Form - Request for LEDS

Date Requested: _____

Requested By: _____

Institution: _____

Project: _____

PURPOSE: RFP #3310 Pre-Proposal Site Visit

DISPOSITION OF REQUEST:

(Institutions Staff Use Only – Approval Stamp Here)

- _____ Contractor
- _____ Consultant
- _____ Other

BACKGROUND CHECK INFORMATION:

The Department of Corrections conducts a thorough background investigation on individuals requesting entry into any of its secured Facilities. This includes criminal history, Department of Motor Vehicles records check, and employment verification. In order to complete the background investigation in a timely manner, the Department of Corrections requires the following information by Friday, August 5, 2005 for this pre-proposal visit. This information will not be used as part of any interview process related to a construction project. The findings may, however, preclude entrance of an individual into a secure facility.

PLEASE PRINT/TYPE THE FOLLOWING INFORMATION IN ALL CAPITAL LETTERS:

Full Name: _____ Phone No.: _____

Aka: _____ (Home) _____

Social Security No.: _____ (Work) _____

Date of Birth: _____ (Fax) _____

Home Address: _____

Driver's License No.: _____ State of Issue: _____

Hair Color: _____ Eye Color: _____ Height: _____ Weight: _____

Employer/Company Name: _____ Address: _____

I authorize the Department of Corrections to complete a background check to include driving record and criminal history;

Signature _____

Date _____

PLEASE FAX completed form to (503) 378-6536 for processing.

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT
 (for Architectural, Engineering, Land Surveying and Related Services)

THIS PROFESSIONAL SERVICES CONTRACT (the "Contract") is between the State of Oregon, by and through its Department of Corrections (the "Owner"), and:

Company _____	Contract # _____
Address _____	Federal ID # _____
City, State Zip _____	Fax # _____
Phone _____	_____

(the "Consultant") (collectively the Owner and the Consultant are referred to as the "Parties"). This Contract is for certain Services related to completion of the project more particularly described as follows (the "Project"):

Snake River Correctional Institution Pumping Station Upgrades.

This Contract shall become effective on the date that the Contract is fully executed by the Parties and all required State of Oregon approvals have been obtained. This date is known as the Contract "Effective Date." No Services shall be performed prior to the Contract Effective Date. The Contract shall expire, unless otherwise terminated or extended, on _____. Generally, the services to be performed by the Consultant on the Project consist of the following (the "Services"):

Upgrades to Water Pumping Station Design.

The Services are more specifically described in the **EXHIBIT A, Statement of Work**, attached to this Contract. The Owner agrees to pay Consultant a sum not to exceed (\$_____) for performance of the Services, which shall include all allowable expenses. Consultant progress payments shall be made in accordance with **EXHIBIT B, Consultant Compensation**.

This Contract consists of the introductory provisions and signature page(s) of this Contract, Section 1 - Relationship Of The Parties, Section 2 - Consultant's Professional Responsibility, Section 3 - Responsibilities Of The Owner, Section 4 - General Contract Provisions, and the following exhibits attached hereto and incorporated herein by this reference:

- | | |
|---|--|
| EXHIBIT A: Statement of Work | EXHIBIT C: Insurance Provisions |
| EXHIBIT B: Consultant Compensation | EXHIBIT D: Code of Ethics |

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

Consultant

 Name/Title Date

Department of Corrections

Name/Title Date

Approved for Legal Sufficiency
Department of Justice
(If original contract amount is over \$75,000)

Name/Title Date

Approved by Administrative Services
Purchasing Division
(If original contract amount is over \$150,000)

Delegated Authority DAS Policy #107-009-010 IV.A.

Name/Title Date

1. RELATIONSHIP OF THE PARTIES

1.1. The Consultant shall provide the Services for the Project in accordance with the terms and conditions of this Contract. The Consultant's performance of Services shall be as a professional consultant to the Owner to carry out the activities of the Project and to provide the technical documents and supervision to achieve the Owner's Project objectives.

1.2. In administering this Contract, the Owner may retain the services of an independent project manager, and potentially, other consultants as needed to fulfill the Owner's objectives.

1.3. The Consultant shall provide a list of all sub-consultants which the Consultant intends to utilize on the Project (the "Sub-consultants"). This list shall include such information on the qualifications of the Sub-consultants as may be requested by the Owner. The Owner reserves the right to review the Sub-consultants proposed, and the Consultant shall not retain a Sub-consultant to which the Owner has a reasonable objection.

1.4. The Consultant shall provide to the Owner a list of the proposed key Project personnel of the Consultant and the Sub-consultants to be assigned to the Project. This list shall include such information on the professional background of each of the assigned personnel as may be requested by the Owner. The Consultant acknowledges that this Contract was awarded on the basis of the unique background and abilities of the key personnel and Sub-consultants identified by Consultant. Therefore, Consultant shall make available key personnel and Sub-consultants as identified in its proposal. Any attempted substitution without written consent of Owner shall constitute a material breach of the Contract. In the event that key personnel or Sub-consultants become unavailable to Consultant, the Parties shall mutually agree upon appropriate replacements. Likewise, the Consultant shall remove any individual or Sub-consultant from the Project if so directed by Owner in writing following discussion with the Consultant, provided that Consultant shall have a reasonable time period within which to find a suitable replacement.

2. CONSULTANT'S PROFESSIONAL RESPONSIBILITY

2.1. By execution of this Contract, the Consultant agrees that:

2.1.1. The Consultant is an experienced firm having the skill, legal capacity, and professional ability necessary to perform all the Services required under this Contract to design and administer a project having this scope and complexity; and will perform such Services pursuant to the standard of care defined in Section 4.4.1 of this Contract.

2.1.2. The Consultant has the capabilities and resources necessary to perform Consultant's obligations under this Contract.

2.1.3. The Consultant either is, or will in a manner consistent with the standard of care defined in Section 4.4.1 of this Contract, become familiar with all current laws, rules, and regulations which are applicable to the design and construction of the Project. All drawings, specifications, deliverables and other documents prepared by the Consultant shall be prepared in accordance with this standard of care in an effort to accurately reflect, fully comply with and incorporate all such laws, rules, and regulations.

2.2. The Consultant hereby agrees that it will prepare, in a manner consistent with the standard of care defined in Section 4.4.1 of this Contract, all drawings, specifications, deliverables and other documents pursuant to this Contract so that they are complete and functional for the purposes intended (except as to any deficiencies which are due to causes beyond the control of the Consultant) and that the Project, if constructed in accordance with the intent established by such drawings, specifications, deliverables and other documents, shall be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended.

2.3. The Consultant shall be responsible for correcting any inconsistencies, errors or omissions in the drawings, specifications, deliverables and other documents prepared by the Consultant, at no additional cost to the Owner. Except as provided in Supplemental Services within **Exhibits A and B**, the Consultant further agrees, at no additional cost to the Owner, to render assistance to the Owner in resolving problems relating to the Project design or to specified materials.

3. RESPONSIBILITIES OF THE OWNER; SPECIAL CONTRACT PROVISIONS

The Owner's responsibilities under this Contract, and certain additional responsibilities of the Consultant, are set forth in **Exhibit A – Statement of Work**.

4. GENERAL CONTRACT PROVISIONS

4.1. Contract Performance. The Consultant shall at all times perform the Services diligently, without delay and punctually fulfill all requirements herein, consistent with the schedule for the performance of Consultant's Services set forth in **Exhibits A and E**. The passage of the Contract expiration date shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance. Time is of the essence in the performance of this Contract.

4.2. Access to Records. For not less than three (3) years after the Contract's expiration, the Owner, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Consultant shall provide the Owner and the other entities referenced above with full access to these records in preparation for and during litigation.

4.3. Funds Available and Authorized. Owner reasonably believes at the time of entering into this Contract that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within the Owner's appropriation or limitation. Consultant understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Owner's payment of amounts under

this Contract attributable to Services performed after the last day of the current biennium is contingent on Owner receiving from the Oregon Legislative Assembly appropriations, limitations or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

4.4. Representations and Warranties.

4.4.1. **Consultant's Representations and Warranties; Standard of Care.** Consultant represents and warrants to Owner that: (i) Consultant has the power and authority to enter into and perform this Contract; (ii) When executed and delivered, this Contract shall be a valid and binding obligation of Consultant enforceable in accordance with its terms; (iii) Consultant shall, at all times during the term of this Contract be duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, be duly qualified and competent; (iv) The Services under this Contract shall be performed in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions; (v) the persons executing this Contract on behalf of the Consultant have the actual authority to bind the Consultant to the terms of this Contract; and (vi) the provisions of this Contract do not conflict with or result in a default under any agreement or other instrument binding upon the Consultant and do not result in a violation of any law, regulation, court decree or order applicable to the Consultant.

4.4.2. **Automated Systems; Representations and Warranties.** Consultant represents and warrants to Owner that the "Automated Systems" specified, designated and planned pursuant to this Contract shall operate in conformance with the agreed-upon specifications for those Automated Systems. For the purposes of this subsection, "Automated Systems" shall mean any computers, software, firmware, HVAC systems, elevators, electrical systems, fire/life safety systems, security systems and any other electrical, mechanized or computerized devices serving the Project.

4.4.3. Representations and Warranties

Cumulative. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations and warranties provided herein.

4.5. Insurance and Indemnity. Consultant shall maintain in effect for the duration of this Contract, or any other time periods required herein, the insurance required by this Contract, as set forth in **Exhibit C-Insurance Provisions**. The Consultant shall indemnify, defend, save, and hold harmless the State of Oregon from Professional Liability claims as described in 4.5.2, and all other liability claims as described in 4.5.1.

4.5.1. Claims Other than Professional Liability. Consultant shall indemnify, defend, save, and hold harmless the State of Oregon and the Owner, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the acts or omissions of the Consultant or its Sub-consultants, subcontractors, agents, or employees under this Contract.

4.5.2. Claims for Professional Liability. Consultant shall indemnify, defend, save, and hold harmless the State of Oregon and the Owner, its officers, agents, and employees, from all claims, suits, or actions arising out of the professionally negligent acts or omissions of the Consultant or its Sub-consultants, subcontractors, agents, or employees in performance of professional services under this Contract.

4.5.3 Owner Defense Requirements. Notwithstanding the foregoing defense obligations under Sections 4.5.1 and 4.5.2, neither the Consultant nor any attorney engaged by the Consultant shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement of any claims, in the event that it determines that the Consultant is prohibited from defending the State of Oregon, that the Consultant is not adequately defending the State of Oregon's interests, that an important governmental principle is at issue,

or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against the Consultant if the State of Oregon elects to assume its own defense.

4.5.4 Owner's Actions. This Section 4.5 does not include indemnification by the Consultant of the Owner for the Owner's acts or omissions, whether related to the Contract or otherwise.

4.6. Employment Status.

4.6.1. Consultant, Consultant's employees and the Sub-consultants are not "officers, employees, or agents" of the State of Oregon or the Owner, as those terms are used in ORS 30.265. Consultant shall perform all Services as an independent contractor. Although Owner reserves the right (i) to set the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, Owner cannot and will not control the means and manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services.

4.6.2. Consultant is not a contributing member of the Public Employee's Retirement System and will be responsible for any federal or state taxes applicable to any compensation or payments paid to Consultant under this Contract. Consultant will not be eligible for any benefits from any payments made under this Contract for federal Social Security, unemployment insurance, or worker's compensation, except as a self-employed individual. If any payment under this Contract is to be charged against federal funds, the Consultant certifies that it is not currently employed by the federal government.

4.7. Successors & Assignments. The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties, and their respective successors and assigns. After the original Contract is executed, the Consultant shall not enter into any new Sub-consultant agreements for any of the Services scheduled under this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of the Owner.

4.8. Compliance with Applicable Law.

Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services under this Contract. Owner's performance under this Contract is conditioned upon Consultant's compliance with the provisions of ORS 279C.505, 279C.515, 279C.520, and 279C.530, which are hereby incorporated by reference. Consultant, the Sub-consultants, if any, and all employers providing Services, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017.

4.9. Governing Law; Jurisdiction; Venue.

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Owner and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Subsection be construed as a waiver by the State of Oregon of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. CONSULTANT, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

4.10. Tax Compliance Certification.

4.10.1. By signature on this Contract, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of the Consultant and that the Consultant is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws.

4.10.2. For the purposes of this certification, "Oregon Tax Laws" means those taxes and programs listed in ORS 305.380(4), namely a state tax: imposed by ORS 401.792 to 401.816 and ORS chapters 118, 314, 316, 317, 318, 320,

321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Department of Revenue under ORS 305.620.

4.11. Severability. The Parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

4.12. Force Majeure. Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.

4.13. Waiver. The failure of the Owner to enforce any provision of this Contract shall not constitute a waiver by the Owner of that or any other provision.

4.14. Third Party Beneficiaries. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against the Owner or Consultant. Consultant's Services under this Contract shall be performed solely for the Owner's benefit, and no other entity or person shall have any claim against Consultant because of this Contract for the performance or nonperformance of Services hereunder.

4.15. Ownership of Work Product; Confidentiality.

4.15.1 Definitions. As used in this Section 4.15, and elsewhere in this Contract, the following terms have the meanings set forth below:

a. "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from this Contract.

b. "Third Party Intellectual Property" means any intellectual property owned by parties other

than The Owner or Consultant.

c. "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein, and all copies of plans, specifications, reports and other materials, that Consultant is required to deliver to the Owner under this Contract, whether completed, partially completed or in draft form.

4.15.2 Work Product. All Work Product created by Consultant pursuant to this Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire" or an employment to invent, shall be the exclusive property of the Owner. The Owner and Consultant agree that such original works of authorship are "work made for hire" of which the Owner is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to this Contract is not "work made for hire", Consultant hereby irrevocably assigns to the Owner any and all of its rights, title, and interest in all original Work Product created pursuant to this Contract, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon the Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in the Owner. Consultant forever waives any and all rights relating to original Work Product created pursuant to this Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

4.15.3 Consultant Intellectual Property. In the event that Work Product is Consultant Intellectual Property, Consultant hereby grants to the Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Consultant Intellectual Property, including the right of the Owner to authorize contractors, consultants and others to use the Consultant Intellectual Property, for the purposes described in this Contract.

4.15.4 Third Party Works. In the event that Work Product is Third Party Intellectual Property, Consultant shall secure on the

Owner's behalf and in the name of the Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Third Party Intellectual Property, including the right of the Owner to authorize contractors, consultants and others to use the Third Party Intellectual Property, for the purposes described in this Contract.

4.15.5 Consultant Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Consultant Intellectual Property, or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to the Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Consultant Intellectual Property employed in a Contract Work Product, including the right of the Owner to authorize contractors, consultants and others to use the pre-existing elements of the Consultant Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.

4.15.6 Third Party Works - Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on the Owner's behalf and in the name of the Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, including the right to authorize contractors, consultants and others to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.

4.15.7 Limited Owner Indemnity. To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.397, the Consultant shall be indemnified and held harmless by the Owner from liability arising out of re-use or alteration by the Owner, which was not specifically contemplated and agreed to by the Parties in this Contract or under separate contract.

4.15.8 Consultant Use of Work Product.

Consultant, despite other conditions of this provision, shall have the right to utilize the Work Product on its brochures or other literature that it may utilize for its sales and, in addition, unless specifically otherwise exempted, the Consultant may use standard line drawings, specifications and calculations on other, unrelated projects.

4.15.9 Confidential Information. Consultant acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to the Owner or the Owner's clients. Any and all information marked confidential, or identified as confidential in a separate writing, that the Owner provides to Consultant or its employees or agents in the performance of this Contract shall be deemed to be confidential information of the Owner ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Consultant shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Consultant) publicly known; (b) is furnished by the Owner to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Consultant'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 Owner without the obligation of confidentiality, (e) is disclosed with the written consent of the Owner, or; (f) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.

4.15.10 Non-Disclosure. Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and 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 Owner under this Contract, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist the Owner in identifying and preventing

any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Consultant shall advise the Owner immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Consultant will at its expense cooperate with the Owner in seeking injunctive or other equitable relief in the name of the Owner or Consultant against any such person. Consultant agrees that, except as directed by the Owner, Consultant 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 Owner's request, Consultant will turn over to the Owner all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

4.15.11 Injunctive Relief. Consultant acknowledges that breach of this Section 4.15, including disclosure of any Confidential Information, will give rise to irreparable injury to the Owner that is inadequately compensable in damages. Accordingly, the Owner may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the Owner and are reasonable in scope and content.

4.15.12 Publicity. Consultant agrees that news releases and other publicity relating to the subject of this Contract will be made only with the prior written consent of the Owner.

4.15.13 Security. Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of the Owner when using, having access to, or creating systems for any of the Owner's computers, data, systems, personnel, or other information resources.

4.16. Termination.

4.16.1 Parties Right to Terminate for

Convenience. This Contract may be terminated by written mutual consent of the Parties.

4.16.2. Owner's Right to Terminate for Convenience. Owner may, at its sole discretion, terminate this Contract by written notice to the Consultant specifying the termination date of the Contract.

4.16.3. Owner's Right to Terminate for Cause. Owner may terminate this Contract, in whole or in part, immediately upon notice to Consultant, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:

4.16.3.1. Owner lacks lawful funding, appropriations, limitations or other expenditure authority at levels sufficient to allow Owner, in the exercise of its reasonable discretion, to pay for Consultant's Services;

4.16.3.2. Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Contract are prohibited, or Owner is prohibited from paying for such Services from the planned funding source;

4.16.3.3. Consultant no longer holds any license or certificate that is required to perform the Services;

4.16.3.4. Consultant fails to provide the Services called for in **Exhibit A** within the times specified or allowed under this Contract, fails to perform any of the provisions of this Contract, or so fails to perform the Services as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from Owner, does not correct such failures in such time as Owner specifies (which shall not be less than 10 calendar days, except in the case of emergency).

4.16.4. Cessation of Services. Upon receiving a notice of termination, and except as otherwise directed in writing by the Owner, Consultant shall immediately cease all activities related to the Services or the Project.

4.16.5. Consultant's Right to Terminate for Cause.

4.16.5.1. Consultant may terminate this

Contract if Owner fails to pay Consultant pursuant to this Contract, provided that Owner has failed to make such payment to Consultant within 15 calendar days after receiving written notice from Consultant of such failure to make payment.

4.16.5.2. Consultant may terminate this Contract, for reasons other than non-payment, if Owner commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the time specified, or so fails to perform as to endanger Consultant's performance under this Contract, and such breach, default or failure is not cured within 10 calendar days after delivery of Consultant's notice, or such longer period as Consultant may specify in such notice.

4.16.6. Delivery of Work Product/Retained Remedies of Owner. As directed by the Owner, Consultant shall upon termination, deliver to the Owner all then existing Work Product and other property that, if the Contract had been completed, would be required to be furnished to the Owner. By Consultant's signature on this Contract, Consultant allows Owner to use said Work Product and other property for Owner's intended use. The rights and remedies of the Owner provided in this Section 4.16-Termination related to defaults by the Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

4.16.7. Payment upon Termination

4.16.7.1. In the event of termination pursuant to Sections 4.16.1, 4.16.2, 4.16.3.1, 4.16.3.2 or 4.16.5, Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by Owner plus Consultant's reasonable Contract close-out costs, less previous amounts paid and any claim(s) which Owner has against Consultant, except in the event of a termination under 4.16.3.1 where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium, consistent with Section 4.3. Within 30 days after termination, Consultant shall submit an itemized invoice for all un-reimbursed Contract Services completed before termination and all Contract close-out costs actually incurred

by Consultant. Owner shall not be obligated to pay for any such costs invoiced to and received by the Owner later than 30 days after termination. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay any excess to Owner upon demand.

4.16.7.2. In the event of termination pursuant to section 4.16.3.3 or 4.16.3.4, Owner shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively and/or in any order whatsoever. If it is determined for any reason that Consultant was not in default under section 4.16.3.3 or 4.16.3.4, the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 4.16.2.

4.17. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State's Corporation Division all information required by those agencies relative to this Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to entering into this Contract.

4.18. Notice. Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or Owner at the address or number set forth on **Exhibit A** to this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section 4.18. Any notice so addressed and

mailed shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a receipt of the transmission. To be effective against Owner, any facsimile communication or notice must be confirmed by telephone notice to Owner's Representative for the Project as indicated in **Exhibit A** to this Contract, and shall not be deemed to be given until such confirmation is completed. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

4.19. Media Contacts; Confidentiality. Consultant shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without the Owner's prior written authorization.

4.20. Conflict of Interest. Except with Owner's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

Exhibits A through D are attached:

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT A
STATEMENT OF WORK

The Owner and the Consultant agree that the following Services shall be provided by the Consultant for the Project:

(Please refer to Section 19, Scope of Work, of the Oregon Department of Corrections, Facilities Services RFP #3310 for a detailed description of the Services to be provided under this Contract; said Section 19, Scope of Work, is incorporated herein by this reference. The Services described in the above-referenced Section 19, Scope of Work, of RFP #3310 are subject to modification during the negotiation phase of this solicitation.)

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT B
CONSULTANT COMPENSATION

(NOTE TO PROPOSERS: THIS EXHIBIT B IS SUBJECT TO MODIFICATION DURING THE NEGOTIATION PROCESS WITH THE SUCCESSFUL PROPOSER.)

B.1 BASIS OF COMPENSATION

B.1.1 The Owner shall compensate the Consultant for the performance of Services set forth in the Statement of Work, as defined in **Exhibit A**, as follows:

A sum not to exceed \$_____ for Work completed and accepted by Owner, which includes an Owner-Controlled Contingency in the amount of \$ (optional at discretion of Owner). This Owner-Controlled Contingency can only be expended upon written authorization of the Owner.

B.1.2 Payments for Services and Reimbursable Expenses shall be made monthly, following review and acceptance of Work by the Owner, and shall accurately reflect either the number of hours and the appropriate billing rate(s) for the type(s) of inspection services performed or the type(s), number and unit cost(s) for the test(s) performed. The Owner reserves the right to shift the funds between classifications for any category of Services, but the consultant shall be required to complete the Work within the total not-to-exceed amount identified under this Contract.

All invoices for payment shall be submitted on a monthly basis, based on the Consultant's approved billing rates, as detailed below. Copies of the Consultant's time sheets/cards and Sub-consultant invoices shall be required and must be included with all pay requests.

(Detailed rate chart by discipline and service resulting from negotiation process to be inserted here)

B.1.3 Reimbursable expenses, described in paragraphs B.2.1 and B.2.2, shall be defined as the direct cost expended by the Consultant, the Consultant's employees and Sub-consultants for performance of Services rendered to complete the Project.

B.1.4 The Owner and Consultant agree in accordance with the terms and conditions of this Contract that, if the scope of the Project or if the Consultant's Services is changed materially, the Consultant shall request in writing, before services are provided, that compensation be adjusted and that the Contract be amended to describe the additional Services to be performed and the compensation for those additional Services. If the Owner agrees to allow additional Services to be performed, the Parties must prepare and fully execute a written amendment to the Contract fully memorializing the Parties' agreement, and all required State of Oregon approvals must be obtained, before the Contract will be deemed amended and before Consultant begins performance of any additional Services pursuant to the amended Contract.

B.2 REIMBURSABLE EXPENSES

B.2.1 Reimbursable Expenses are in addition to the Compensation for Basic Services and Supplemental Services and include actual expenditures made by the Consultant, the Consultant's employees and the Sub-consultants in the interest of the Project for the

expenses listed in the following Subparagraphs:

- a. Long distance communications and other communication technology related to Project team collaboration.
- b. Expense of reproductions, postage and handling of drawings, specifications deliverables and other documents, excluding reproductions for the office use of the Consultant and the Sub-consultants.
- c. Mileage and travel expenses based upon State of Oregon rates set by Department of Administrative Services travel policy, as amended (the "Travel Policy"). The full text of the Travel Policy binding upon the Parties can be reviewed at the following internet address: <http://scd.das.state.or.us/oam/policy/travelmgmt.htm>, or will be provided by the Owner to the Consultant upon request. Reimbursement of mileage expenses shall not exceed 40.5 cents per mile, absent an official and completed amendment to the Travel Policy by the State of Oregon Department of Administrative Services.
- d. Expense of data processing and photographic production techniques when used in connection with Supplemental Services.
- e. Expense of renderings, models and mock-ups requested by the Owner.

STATE OF OREGON
STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT C
INSURANCE PROVISIONS

During the term of this Contract, or such other time period provided herein, the Consultant shall maintain in force at its own expense, each insurance coverage or policy noted below:

C.1.1 Required by the Owner of Consultants under the following circumstances:

Workers' Compensation - All employers, including the Consultant, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Oregon workers' compensation coverage, unless such employers are exempt under ORS 656.126. The Consultant shall ensure that each of its Sub-consultants and subcontractors complies with these requirements.

C.1.2 Required by the Owner Not required by the Owner

Professional Liability/Errors & Omissions insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each claim, incident or occurrence. This insurance must cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. Any deductible shall not exceed \$50,000 each claim, incident, or occurrence.

C.1.3 Required by the Owner Not required by the Owner

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. The policy, or an endorsement or amendment to the policy, must provide that the State of Oregon, Department of Corrections and its divisions, officers and employees are "additional insureds", but only with respect to the Consultant's Services to be provided under this Contract.

C.1.4 Required by the Owner Not required by the Owner

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, for Bodily Injury and Property Damage, including coverage for all owned, hired or non-owned vehicles, as applicable. The policy, or an endorsement or amendment to the policy, must provide that the State of Oregon, Department of Corrections and its divisions, officers and employees are "additional insureds", but only with respect to the Consultant's Services to be provided under this Contract.

C.1.5 **"Tail" Coverage**

If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months, or the maximum time period available to the Consultant in the marketplace if less than 24 months. Consultant will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract expiration. 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. Evidence of suitable coverage will be a condition of final acceptance and payment under the Contract.

C.1.6 **Notice of Cancellation or Change**

There shall be no cancellation, material change, reduction of limits, reduction in any aggregate limits, or intent not to renew the insurance coverage(s) without 30 days prior written notice from the Consultant or its insurer(s) to the Department of Corrections.

EXHIBIT D

**Department of Corrections
Code of Ethics**

[Consultant must read and sign pursuant to Department of Corrections Policy 20.1.2(c)]

As an employee, volunteer or contract service provider of the Oregon Department of Corrections, I will value and maintain the highest ideals of professional and compassionate public service by respecting the dignity, cultural diversity and human rights of all persons, and protecting the safety and welfare of the public.

I accept that my fundamental duty is to serve the public; to safeguard lives and property, to protect Department of Corrections incarcerated persons against deception, oppression or intimidation, violence or disorder.

I will be constantly mindful of the welfare of others. To the best of my ability, I will remain calm in the face of danger and maintain self-restraint in the face of scorn or ridicule.

I will be honest and truthful. I will be exemplary in obeying the law, following the regulations of the department, and reporting dishonest or unethical conduct.

I acknowledge that I have been selected for a position of public trust and I will constantly strive to be worthy of that trust and to be true to the mission and values of the Department of Corrections.

Consultant's Signature Date