DIVISION 00

TABLE OF CONTENTS

SECTION 00 21 13 – INSTRUCTIONS TO BIDDERS
SECTION 00 52 13 – SAMPLE PUBLIC IMPROVEMENT AGREEMENT
Oregon Administrative Rules (“OAR”) Chapter 580, Divisions 61 and 63 govern this PSU procurement process.

PART 1 – GENERAL

1.01 DEFINITIONS

Capitalized words used herein but not defined shall have the meaning set forth in the PSU General Conditions and OAR 580-061-0010. The following terms used herein shall have the meaning set forth below:

A. “Bid Form” - refers to PSU Bid Form provided by Owner to be completed by Bidder.

B. “Project Manual” - The Project Manual includes, but is not necessarily limited to the following: the Advertisement for Bids or Notice of Contracting Opportunity, these Instructions to Bidders, Supplemental Instructions to Bidders (if any), Bid Form, Bid Bond (if required), PSU General Conditions, Supplemental General Conditions (if any), Sample Public Improvement Agreement, Performance Bond (if required), Payment Bond (if required), and the Plans and Specifications.

1.02 SCOPE OF WORK

A. The Work contemplated in this document shall be for the Owner in connection with the Project described in the Project Manual.

1.03 EXAMINATION OF SITE AND CONDITIONS

A. Before making a Bid, the Bidder shall examine the Work site to ascertain its physical condition. The Bidder shall be responsible for being fully informed as to the quality, quantity and sources of supply of the materials listed on the Project Manual. Failure to comply with this Section will not release Contractor from entering into the Contract nor excuse Contractor from performing the Work in strict accordance with the terms of the Contract Documents.

B. The Owner will not be responsible for any loss or unanticipated costs which may arise as a result of Contractor’s failure to be fully informed in advance with regard to all conditions pertaining to the Work and the character of the Work required.

C. No statement made by any officer, agent, or employee of the Owner in relation to the physical conditions pertaining to the Work site or quality, quantity, and supply of materials will be binding on the Owner, unless included in writing in the Project Manual or an Addendum.

1.04 SUBSTITUTE MATERIALS APPROVAL PROCESS

A. Prior to submitting a Bid including a Substitution, the Bidder must first seek approval of the Substitution from the Owner by submitting a written request for approval by the Substitution deadline. The Bidder submitting the request shall be responsible for its timely delivery.

B. Substitution approval requests shall be accompanied by samples, records of performance, certified copies of tests by impartial and recognized laboratories, and such other information as the Owner may request.

C. Within a reasonable time after receiving such a request the Owner will consider whether the Substitution sought by Bidder is of equal value or utility as the designated product in the Project Manual. If the requested Substitution is approved an Addendum to the Project Manual shall be issued. A copy of each Addendum will be posted on the PSU Construction Contracting Bid Opportunities website (http://www.pdx.edu/purchasing-contracting/construction-bidding-and-proposal-opportunities) and shall become a part of the Project Manual.

D. When the Owner approves a Substitution by Addendum, it is with the understanding that the Contractor guarantees the substituted article or material to be equal or better than the one specified.

1.05 INTERPRETATION OF PROJECT MANUAL

A. A Bidder in doubt as to the meaning of any part of the Project Manual may submit a written request for an interpretation to the Owner at any time prior to the Questions deadline.

B. Any interpretation of the Project Manual will be made only by Addendum. The Owner will not be responsible for any other explanation or interpretation of the Project Manual nor for any other approval of a particular manufacturer’s process or item.

C. To establish a basis of quality, certain processes, types of machinery and equipment or kinds of materials may be specified in the Project Manual either by description of process or by designating a manufacturer by name and referring to a brand or product designation or by specifying a kind of material. Whenever a process is designated or a
manufacturer named, brand or item designation given, or whenever a process or material covered by patent is designated or described, it shall be understood that the words "or approved equal" follow such name, designation or description, whether they do so or not.

1.06 EXECUTION OF THE BID FORM

A. The Bid Form relates to Bids on a specific Project Manual. Only the amounts and information asked for on the Bid Form furnished by the Owner will be considered as the Bid. Each Bidder shall Bid upon the Work exactly as set forth in the Bid Form. The Bidder shall include in the Bid a sum to cover the cost of all items contemplated by the Project Manual. Bids that fail to address alternates set forth on the Bid Form may be considered non-responsive.

B. Each Bid Form must: 1) Be completed in accordance with these instructions; 2) Include the appropriate signatures as noted on the Bid Form; 3) Include numbers pertaining to base Bids stated both in writing and in figures; and 4) Include the Bidder's typed or clearly printed address.

C. When Bidding on an alternate for which there is no charge, the Bidder shall write the words "No Charge" in the space provided on the Bid Form.

1.07 ACCEPTANCE OR REJECTION OF BIDS BY OWNER

A. Unless all Bids are rejected, the Owner will award the Contract based on the lowest responsive Bid from a responsible Bidder. If that Bidder does not execute the Contract, the Contract may be awarded to the next lowest responsible Bidder or Bidders in succession.

B. The procedures for Contract awards shall be in compliance with the provisions of OARs adopted by the Owner.

C. The Owner reserves the right to reject all Bids and to waive minor informalities.

D. If an Agreement is to be awarded, it shall be made within 60 calendar days after the bid submission deadline.

E. Owner reserves the right to hold the bid guaranties of all Bidders until the successful Bidder has entered into an Agreement with the Owner, or for a period of 60 calendar days, whichever is the shorter amount of time.

F. In determining the lowest Bidder, the Owner reserves the right to take into consideration any or all authorized base Bids as well as alternates or combinations indicated in the Bid Form.

1.08 WITHDRAWAL OF BID

A. At any time prior to the deadline, a Bidder may withdraw its Bid. This will not preclude the submission of another Bid by such Bidder prior to the deadline.

B. Any request to withdraw a Bid which is received after the Bid submission deadline will not be considered.

1.09 EXECUTION OF CONTRACT, AGREEMENT, PERFORMANCE BOND AND PAYMENT BOND

A. The Owner will provide the successful Bidder with Contract Documents within 10 calendar days after the award of the Contract. The Bidder shall be required to execute the Contract as provided, including a Performance Bond and a Payment Bond from a surety company licensed to do surety business in the State of Oregon (if required), within 20 calendar days after the award of the Contract.

1.10 SECURITY TO BE FURNISHED BY EACH BIDDER

A. Each Bid requiring bid security must be accompanied by either:
   1. A Bid Bond described hereinafter, executed in favor of Owner, for an amount equal to 10 percent of the total Bid amount as a guarantee that if awarded the contract the Bidder will execute the contract and give a Performance Bond and Payment Bond as required, or
   2. A cashier's check or a certified check drawn on a bank authorized to do business in the State of Oregon.

B. The Contractor's check or Bid Bond will be retained until the Contractor has entered into a Contract and furnished a 100 percent Performance Bond and 100 percent Payment Bond.

C. The Owner reserves the right to hold the Bid security as described in Section 1.07. Should the successful Bidder fail to execute and deliver the Contract as provided for in Section 1.07, including a satisfactory Performance Bond and Payment Bond within 20 calendar days after the Bid has been accepted by the Owner, then the Contract award may be canceled and the Bid security may be forfeited as liquidated damages, at the option of the Owner. The date of the acceptance of the Bid and the award of the contract as contemplated by the Project Manual shall mean the date of acceptance specified in the Notice of Award.

1.11 EXECUTION OF BID BOND
A. If the Bid requires bid security and the Bidder elects to utilize a Bid Bond as described in Section 1.10 in order to satisfy the Bid security requirements, such form must be completed in the following manner:

1. Bid Bonds must be executed on the PSU Bid Form, which will be provided to all prospective Bidders by the Owner.
2. The Bid Bond shall be executed on behalf of a bonding company licensed to do business in the State of Oregon.
3. In the case of a sole individual, the Bid Bond need only be executed as principal by the sole individual. In the case of a partnership, the Bid Bond must be executed by at least one of the partners. In the case of a corporation, the Bid Bond must be executed by stating the official name of the corporation under which is placed the signature of an officer authorized to sign on behalf of the corporation followed by such person’s official capacity, such as president, etc. This signature shall be attested by the secretary or assistant secretary of the corporation. The corporation seal should then be affixed to the Bid Bond. In the case of a limited liability company/corporation (“LLC”), the Bid Bond must be executed by stating the official name of the LLC under which is placed the signature of a member authorized to sign on behalf of the LLC.
4. The name of the surety must be stated in the execution over the signature of its duly authorized attorney-in-fact and accompanied by the seal of the surety corporation.

PART 2 – PRODUCTS, N/A

PART 3 – EXECUTION, N/A

END OF SECTION
SECTION 00 52 13 – SAMPLE PUBLIC IMPROVEMENT AGREEMENT

PSU PUBLIC IMPROVEMENT AGREEMENT #
PROJECT NAME:

Contractor: Name:____________________________________ Representative: ______________________
Address:___________________________________ Email: __________________________
Federal ID #: ______________________ Phone: __________________________
CCB#: _____________________________________

Owner: Portland State University Contracts Representative: Stacey Balenger
PO Box 751, FAST-CAPS Email: contracting@pdx.edu
Portland, OR 97201 Phone: (503) 725-4326

Owner’s authorized representative who shall be responsible for supervising the project and accepting the completed work: ____________________________________________________________

This Agreement for ______ (the “Agreement”), entered into between Portland State University (hereinafter called “Owner”), and _______ (hereinafter called “Contractor”), individually the “Party” and collectively the “Parties”, shall become effective on the date this Agreement has been signed by all the Parties (the “Effective Date”).

1. SCOPE OF WORK
Location: Building, Address, Portland, Oregon

ROOM# AND/OR LOCATION DESCRIPTION: ________________

SCOPE: ____________________________________________________________________ (the “Work”).
The intent is that Contractor will furnish all materials, services, supervision, labor, supplies, tools, equipment and incidentals required to complete all activities necessary for a completed Project, consistent with all local, municipal and applicable Codes, according to the terms and conditions of this Agreement and the PSU General Conditions for Public Improvement.

2. COMPENSATION
The Owner shall compensate Contractor for Work in accordance with the requirements of the July 1, 2014 PSU General Conditions for Public Improvement, in the firm, fixed-price maximum compensation amount of $ __________ (the “Agreement Price”).

Retainage in the amount of 5% shall be withheld. Contractor shall show current and total retainage amounts on invoices.

Invoices must include the above Agreement number and may be emailed to basap@pdx.edu or mailed to Portland State University, PO Box 751 Mailstop FAST-BAS, Portland, OR 97207.

The Contractor, in consideration of the sum of the Agreement Value, to be paid to the Contractor by Owner in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Agreement Documents (as defined in the PSU General Conditions For Public Improvement referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Agreement Documents. The Agreement Value is the amount contemplated by the Base Bid [adjusted for Alternates, as indicated in the accepted Bid. The following documents are incorporated by reference in this Agreement and made a part hereof if checked for inclusion [X]:

PSU DIVISION 00 – JULY 1, 2014
00 52 13 SAMPLE PUBLIC IMPROVEMENT AGREEMENT (0714)
Page 1 of 4
3. REPRESENTATIVES (Not Applicable)

4. KEY PERSONS (Not Applicable)

5. AGREEMENT TERM
No billable work can proceed prior to the Agreement Effective Date (as defined above). The Final Completion of Work shall occur before or on __________. No work shall take place after this date.

6. LIQUIDATED DAMAGES (Not Applicable)
The Contractor acknowledges that the Owner will sustain damages as a result of the Contractor’s failure to substantially complete the Project in accordance with the Contract Documents. These damages may include, but are not limited to delays in completion, use of the Project, and costs associated with Contract administration and use of temporary facilities.

6.1. Liquidated Damages shall be as follows if the actual Substantial Completion exceeds the required date of Substantial Completion:

6.1.1. $5,000 per Calendar day from Day 1 through Day 28 past the Substantial Completion date.
6.1.2. $1,000 per Calendar Day from Day 29 through Day 118 past the Substantial Completion date (7 days before Fall Quarter).
6.1.3. $7,500 per Calendar Day from Day 119 and beyond.

7. TAX COMPLIANCE
By signature on this Agreement, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

8. INSURANCE REQUIREMENTS
Contractor shall comply with and obtain the insurance coverage amounts stated in the PSU General Conditions for Public Improvement.

9. BOLI
Prevailing Wage Rates requirements apply to this Project because the maximum compensation for all Owner-contracted Work is more than $50,000. Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates and the required public works bond, as outlined in Sections C.1, C.2 and G.2.3 of the PSU General Conditions for Public Improvement. The Bureau of Labor and Industries (BOLI) wage rates and requirements set forth in the following BOLI booklet (and any listed amendments to that booklet), which are incorporated herein by reference, apply to the Work authorized under this Agreement:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, July 1, 2014, as amended on October 1, 2014 which can be downloaded at the following web address: [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx]
The Work will take place in Multnomah County, Oregon.

10. CERTIFICATION
Contractor certifies that it is licensed by the Construction Contractors Board or the State Landscape Contractors Board and shall be, throughout the period of the Agreement, licensed by the State of Oregon to do the type of Work required under terms of the Agreement. Each Proposer further certifies that it is skilled, experienced and regularly engaged in
the general class and type of Work required in this Agreement and that it is competent, knowledgeable and has special skills on the nature, extent, hazards, and inherent conditions of the Work to be performed. Contractor further certifies that it has the skill, experience, workforce, and resources to satisfactorily perform such Work.

11. COUNTERPARTS
This Agreement may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

12. EQUAL EMPLOYMENT COMPLIANCE REQUIREMENT; COMPLIANCE WITH PSU POLICIES
By signing this Agreement, the Contractor certifies conformance to the applicable federal, state and local laws, acts, executive orders, statutes, administrative rules, regulations, ordinance and related court rulings concerning Affirmative Action toward Equal Employment Opportunities. All information and reports required by the Federal or Oregon State or local Governments, having responsibility for the enforcement of the foregoing, shall be supplied to PSU upon request for purposes of investigation to ascertain compliance with the foregoing.

Pursuant to OAR 580-061-0030, by signing this Agreement, the Contractor certifies that it has not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts.

The Contractor and its personnel performing Work under this Agreement are required to fully comply with all applicable policies, rules, and regulations of PSU including the policies below. It is the Contractor’s responsibility to ensure its personnel fully observe these policies and other applicable policies. Any violation of PSU regulations by the Contractor or Contractor’s personnel shall result in appropriate disciplinary actions, up to and including termination of the Contract for cause.

a) Prohibited Discrimination and Harassment
PSU is committed to providing all students, faculty and staff an equal opportunity in education and employment and an environment free from discrimination, harassment and retaliation.


b) Equal Opportunity
PSU supports equal opportunity in admissions, education, employment, housing, and use of facilities by prohibiting discrimination in those areas based on age, color, disability, marital status, national origin, race, religion or creed, sex or gender, gender identity or gender expression, sexual orientation, veteran status, or any other basis in law.

http://www.pdx.edu/Portland-State-University-Mission

c) Professional Standards of Conduct
It is the goal of PSU to maintain a safe, respectful, and productive environment for faculty, staff and students. This policy establishes guidelines for professional conduct on our campus.

http://www.pdx.edu/hr/professional-standards-conduct

13. EQUITY AND DIVERSITY
Contractor shall, when applicable, have made good faith efforts to subcontract or establish joint ventures with or obtain materials to be used in performing the agreement from Minority, Women, and Emerging Small Business enterprises, as those terms are defined in ORS200.005.

14. CONFIDENTIAL INFORMATION
Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to Owner or the State of Oregon. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Agreement shall be deemed confidential information of Owner and of State (“Confidential Information”). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for
any purposes whatsoever other than in the performance of the Agreement, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor agrees that Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement, or at Owner’s request, Contractor will turn over to Owner all documents, papers and other material in Contractor’s possession which contain Confidential Information.

15. RECYCLED PRODUCTS
Contractor shall use recyclable products to the maximum extent economically feasible in the performance of this Agreement work set forth in this document.

16. SAFETY AND HEALTH REQUIREMENTS
Equipment and services supplied shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers’ Compensation Department.

17. MERGER
The Agreement Documents constitute the entire agreement between the Parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.

Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

In witness whereof, Portland State University executes this Agreement and the Contractor does execute the same as of the Effective Date.

Contractor Name

_______________________________________________________
Signature Date

Printed Name

_______________________________________________________
Title

Portland State University

______________________________________
Stacey Balenger Date
Interim Construction Contracts Supervisor

END OF SECTION