

March 23, 2022

**ADDENDUM 1
to
RFP for MAT AND LINEN SERVICES**

This Addendum modifies the RFP documents only to the extent indicated below. All other areas not changed or otherwise modified by this Addendum shall remain in full force and effect. This Addendum is hereby made an integral part of the RFP. Proposers must be responsive to any requirements of this Addendum as if the requirements were set forth in the RFP. Failure to do so may result in Proposal rejection. Proposers must reference the RFP regarding requests for clarification, change, or protest of this Addendum, and applicable deadlines.

This Addendum must be acknowledged on the Proposer Information Sheet. Failure to acknowledge receipt of this Addendum may be cause to reject a Proposal.

A **non-mandatory** pre-proposal meeting and site visit will occur on **Thursday, March 31, 2022 at 10:00 AM** pacific time beginning at the **District Office, 799 SW Columbia Street, Bend, OR 97702**, followed by the other service locations.

CLARIFICATIONS:

- Q:** Page 24 lists mat sizes that are not industry standard (3x16 4x20 6x20) yet there are not quantities on following pages. Will these sizes be needed?

A: Mat sizes 3x16, 4x20, and 6x10 are listed on Attachment D – District Usage Amended (and the original Attachment D) at Juniper Swim and Fitness Center. If Proposer cannot provide these exact mat sizes, Proposer should specify and provide pricing for the most closely matched size.
- Q:** Page 25 lists various table cloths but quantities are not listed on following pages. Will these items be needed?

A: Historically, these tables cloths were only utilized for District sponsored special events. However, the events have not been held since before the COVID-19 pandemic. If the need for these items arises in the future, the District will work with the contractor on pricing and needs at that time. Please see “Changes” item 4 below.
- Q:** bi-weekly service. By this do you mean service 2 times in one week, or every other week?

A: Every other week.

4. **Q:** Coverall listed at 41 R... Is that a size? They come in 40's or 42's, Or what is 41R?
A: 41R is the coverall size. Appropriate sizing will need to be fit by contractor. Proposers should specify and provide pricing for the most closely matched size.
5. **Q:** Are mop tools required for pocket mops and dust mops? If so, Can you give us apx. Quantity for each location by size?
A: Dust mop frames are needed, please see "Changes" items 1 and 4 below for needs. Frames for microfiber pocket mops are provided by the District.
6. **Q:** Accuracy, 3.2.5 Is that invoicing accuracy? Or something else?
A: Section 3.2.5. of the RFP is intended to apply to invoicing *and* deliveries. The District expects that the selected contractor will have systems in place ensure deliveries are completed accurately, and that invoices are correct when submitted. If discrepancies are found, the selected contractor is expected to have systems in place to remedy the error(s) promptly and completely.
7. **Q:** Could I please have an image of the Microfiber Pocket Mop in addition to the description?
A: Pictures provided below. The Microfiber pocket mop is 18".



CHANGES:

1. Attachment C – Price Schedule is replaced in its entirety with the revised attached Attachment C – Price Schedule Amended (changes are *not* indicated in red font or struck through).

2. Attachment D – District Usage is replaced in its entirety with the revised attached Attachment D – District Usage Amended (changes in red font and struck through).
3. Attachment E – Sample Contract is replaced in its entirety with the revised attachment Attachment E – Sample Contract Amended (changes in red font and struck through).
4. Section 2.1.1. (Scope of Work) is amended as follows (changes in red font and struck through):

Products: Contractor must provide the following specified products. The following list contains examples of required products, indicated sizes and specifications are approximate. Proposer must state on the Price Schedule the actual sizes and specifications offered that most closely match the following specifications:

PRODUCT	SIZE(S)	DESCRIPTION
Apron		Spun 3 PKT
Bar Mopped Ribbed		
Coverall	41R	Blend-Twill
Dust Mop	18", 36", 48", 60"	
Dust Mop Frame	18", 36", 48", 60"	
Fender/Seat Cover	54"x60"	Automotive
Glass towel		
Mats	2'x3', 3'x16', 3'x20', 4'x20', 6'x10'	
Mat Anti-Fatigue	3'x5'	
Mat E Series	3'x4'	
Mat Nylon/Rubber	3'x4', 3'x5', 3'x10', 4'x6'	
Mat Scraper	3'x5'	
Mat Splash Steady Step	3'x5'	
Mat Steady Step	3'x10', 4'x6'	
Mat Water Hog	4'x6', 4'x8'	
Microfiber Pocket Mop		
Microfiber Wet Mops		
Microfiber Yellow Cloths		

Shop Towel (premium)	18"x18"	
Table Cloth	52"x52"	Must be available in white.
Table Cloth	52"x114"	Must be available in ivory and black.
Table Cloth	85"x85"	Must be available in white, ivory, and black.

Justin Sweet
 Business Analyst
 Bend Park and Recreation District

– END OF ADDENDUM –



ATTACHMENT C PRICE SCHEDULE AMENDED

Proposers must provide an itemized Price Proposal along with their Proposal detailing all non-recurring charges, recurring charges, and all other applicable costs, fees, and expenses. Proposers should use a format substantially similar to this Price Schedule, but may deviate to include any other applicable charges or make minor corrections to products listed.

PRODUCT	SIZE(S)	PRICE (each)
Apron		\$
Bar Mopped Ribbed		\$
Coverall	41R	\$
Dust Mop	18"	\$
	36"	\$
	48"	\$
	60"	\$
Dust Mop Frame	18"	\$
	36"	\$
	48"	\$
	60"	\$
Fender/Seat Cover	54"x60"	\$
Glass towel		\$
Mats	2'x3'	\$
	3'x16'	\$
	3'x20'	\$
	4'x20'	\$
	6'x10'	\$
Mat Anti-Fatigue	3'x5'	\$
Mat E Series	3'x4'	\$
Mat Nylon/Rubber	3'x4'	\$

	3'x5'	\$
	3'x10	\$
	4'x6'	\$
Mat Scraper	3'x5'	\$
Mat Splash Steady Step	3'x5'	\$
Mat Steady Step	3'x10'	\$
	4'x6'	\$
Mat Water Hog	4'x6'	\$
	4'x8'	\$
Microfiber Pocket Mop		\$
Microfiber Wet Mops		\$
Microfiber Yellow Cloths		\$
Shop Towel (premium)	18"x18"	\$
		\$
		\$
		\$



ATTACHMENT D DISTRICT USAGE AMENDED

The following information, containing the District’s current usage, and delivery location and frequency, is provided for Proposer’s reference only to demonstrate the general scope of the services to be performed. The District makes no guarantee of purchases under any contracts resulting from this Solicitation. Product types, specifications, and quantities, as well as delivery locations, hours, and frequency are subject to change.

SERVICE LOCATIONS	
<p><u>ASPEN HALL</u> 18920 NW Shevlin Park Road Bend, OR 97701 Hours: key access</p>	<p><u>JUNIPER SWIM AND FITNESS CENTER (JSFC)</u> 800 NE 6th Street Bend, OR 97701 Hours: Monday – Friday, 5:15AM – 9:00PM</p>
<p><u>DISTRICT OFFICE</u> 799 SW Columbia Street Bend, OR 97702 Hours: Monday – Friday, 8:00AM – 5:00PM</p>	<p><u>LARKSPUR COMMUNITY CENTER</u> 1600 SE Reed Market Road Bend, OR 97702 Hours: Monday – Friday, 7:30AM – 4:00PM</p>
<p><u>HOBBY HUT (HARMON PARK)</u> 1100 NW Harmon BLVD Bend, OR 97701 Hours: Monday – Thursday, 8:00 AM - Noon</p>	<p><u>PARK SERVICES (CAMPUS)</u> 1675 SW Simpson Avenue Bend, OR 97702 Hours: Monday – Friday, 7:30AM – 4:00PM</p>
<p><u>HOLLINSHEAD BARN</u> 1235 NE Jones Road Bend, OR 97701 Hours: key access</p>	<p><u>THE PAVILION</u> 1001 SW Bradbury Way Bend, OR 97702 Hours: Monday – Friday, 8:00AM – 8:00PM</p>

LOCATION INVENTORY			
ASPEN HALL			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mop	80	bi-weekly
Custodial	Microfiber Mops	10	bi-weekly
Custodial	Microfiber Yellow Cloths	100	bi-weekly
Custodial	Dust Mops (36")	2	bi-weekly
Custodial	Dust Mops (18")	2	bi-weekly

Custodial	Dust Mop Frame (36")	1	as needed
Custodial	Dust Mop Frame (18")	1	as needed
Custodial	Mat nylon/rubber 4x6	3	bi-weekly
Custodial	Mat nylon/rubber 3x4	5	bi-weekly
DISTRICT OFFICE			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mop	200	weekly
Custodial	Microfiber Yellow Cloths	200	weekly
Custodial	Dust Mops (36")	3	weekly
Custodial	Dust Mop Frame (36")	2	as needed
Facility	Mat E Series 3x4	4	bi-weekly
Facility	Mat Steady Step 3x10	8	bi-weekly
HOBBY HUT			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Pocket Mop	8	weekly
Custodial	Microfiber Mops	2	weekly
Custodial	Microfiber Yellow Cloths	20	weekly
Custodial	Dust Mops (36")	2	weekly
Custodial	Dust Mop Frame (36")	1	as needed
Facility	Scraper Mat 3x5	1	weekly
Facility	Nylon/Rubber 4x6	1	weekly
Facility	Scraper Mat 3x5	1	weekly
HOLLINSHEAD BARN			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mop	32	bi-weekly
Custodial	Microfiber Mops	4	bi-weekly
Custodial	Microfiber Yellow Cloths	100	bi-weekly
Custodial	Dust Mops (48")	2	bi-weekly
Custodial	Dust Mop Frame (48")	1	as needed

Facility	Mat nylon/Rubber 4x6	4	bi-weekly
Facility	Mat nylon/rubber 3x5	2	bi-weekly
JUNIPER SWIM AND FITNESS CENTER (JSFC)			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mops	210	bi-weekly
Custodial	Microfiber Mops	56	bi-weekly
Custodial	Microfiber Yellow Cloths	1,000	bi-weekly
Facility	Water Hog 4x8	9	weekly
Facility	Water Hog 4x6	1	weekly
Facility	Mat nylon/rubber 3x10	3	weekly
Facility	Mat nylon/rubber 4x6	1	bi-weekly
Facility	Mat 6x10	2	bi-weekly
Facility	Mat 2x3	1	bi-weekly
Facility	Mat nylon/rubber 3x4	1	bi-weekly
Facility	Mat 4x20	1	bi-weekly
Facility	Mat 3x20	1	bi-weekly
Facility	Mat 3x16	1	bi-weekly
LARKSPUR COMMUNITY CENTER			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mop	100	weekly
Custodial	Microfiber Mops	5	weekly
Custodial	Microfiber Yellow Cloths	750	weekly
Facility	Mat nylon/Rubber 3x4	9	monthly
Facility	Mat nylon/Rubber 3x10	4	monthly
Facility	Mat nylon/Rubber 4x6	1	monthly
Facility	Mat scraper 3x5	2	monthly
Facility	Apron	20	monthly

PARK SERVICES (CAMPUS)			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mop	525	weekly
Custodial	Microfiber Mops	5	weekly
Custodial	Microfiber Yellow Cloths	500	weekly
Custodial	Dust Mops (36")	3	weekly
Custodial	Dust Mop Frame (36")	1	as needed
Custodial	Mat Nylon/Rubber 3x4	3	bi-weekly
Custodial	Mat Nylon/Rubber 3x10	4	bi-weekly
Shop	Mat Nylon/Rubber 3x4	3	weekly
Shop	Mat Nylon/Rubber 3x10	1	weekly
Shop	Fender Seat Cover 54x60	4	weekly
Shop	Shop Towel Plain 18x18	400	weekly
Shop	Coverall All Blend-Twill 41R	2	weekly
THE PAVILION			
DEPARTMENT	PRODUCT	QUANTITY	SERVICE INTERVAL
Custodial	Microfiber Pocket Mop	210	weekly
Custodial	Microfiber Mops	5	weekly
Custodial	Microfiber Yellow Cloths	600	weekly
Custodial	Dust Mops (36")	2	weekly
Custodial	Dust Mop Frame (36")	1	as needed
Facility	Mat Anti-fatigue 3x5	3	weekly
Facility	Mat Scraper 3x5	2	weekly
Facility	Mat Steady Step 4x6	4	weekly
Facility	Bar Mopped Ribbed	200	weekly
Facility	Glass Towel	375	weekly
Facility	Dust Mops (60")	4	weekly
Facility	Dust Mop Frame (60")	2	as needed



This Price Agreement (this “**Agreement**”) is between:

Bend Park and Recreation District (the “**District**”), an Oregon special district
799 SW Columbia Street
Bend, OR 97702

and

<contractor’s name> (“**Contractor**”)
<contractor’s street address>
<contractor’s city, state zip code>

The District and Contractor (each a “**Party**” and, collectively, the “**Parties**”) agree as follows:

1 Purpose

- (a) The District issued <Request for Proposals (“**RFP**”)/Invitation to Bid (“**ITB**”)> dated <Month DD, YYYY> seeking <proposals/bids> for <project/solicitation name>. Contractor submitted a <proposal/bid> dated <Month DD, YYYY> in response to the District’s <RFP/ITB> offering to provide the District with the Services (“<**Proposal/Bid**>”). Contractor is <one of> the successful <proposer/bidder(s)>.
- (b) The District and Contractor now desire to memorialize the terms and conditions pursuant to which Contractor will provide the Services as may be requested by the District from time to time, and the District will pay for the provided Services.
- (c) This Agreement sets forth the general terms and conditions that shall apply to all Purchase Orders issued by the District against this Agreement pursuant to which Contractor agrees to provide the Services.
- (d) The District makes no representation or guarantee that any specific amount of purchases will be made under this Agreement.

2 Services

For purposes of this Agreement, “**Services**” means the goods and/or services Contractor has been approved to provide as a result of the District’s <RFP/ITB>, as more particularly described in this Agreement, including the attached Statement of Work (see section 6), and as Contractor agrees to provide under Purchase Order(s) as the District may issue from time to time.

3 Agreement Term

- (a) This Agreement shall be effective upon the Effective Date and the term shall continue through <Month DD, YYYY> (the “**Original Term**”). The District may elect to renew this Agreement for <number> additional terms of one-year each. The District may exercise its renewal right by written notice to Contractor not less than 60 days prior to the last day of the then-expiring term. Notwithstanding the foregoing, the District’s deadline to exercise its renewal right shall be extended one day for each day that Contractor fails to timely deliver renewal term pricing, as required by section 4(a)(2). Timely delivery of a renewal notice shall make this Agreement binding for one additional one-year term without further action of the Parties. The renewal term shall commence on the day immediately following the

expiration of the immediately preceding term. The terms and conditions for the renewal term shall be identical with the immediately preceding term except that the District shall no longer have any renewal right that has previously been exercised.

- (b) All Purchase Orders issued prior to the expiration or termination of this Agreement, if any, shall be fulfilled as if this Agreement is in full force and effect, or as otherwise directed by the District.
- (c) The District reserves the right, at its sole discretion, to extend the term of this Agreement for not more than 180 days beyond any term or beyond this Agreement's maximum term. To exercise this right, the District will notify Contractor in writing not less than 30 days prior to the term expiration. In the event the District exercises its right to extend the Agreement term under this section 3(c), Contractor shall not increase Contractor's pricing, unless waived by District, at its sole discretion.

4 Agreement Price

- (a) For Contractor's performance of the Services, District will pay Contractor pursuant to the following (the "Agreement Price"):
 - (1) **Original Term Pricing:** In accordance with the amount(s) detailed in Contractor's <Proposal/Bid>, a copy of which is attached (see section 6).
 - (2) **Renewal Term Pricing:** Not less than 120 days prior to the last day of the then-expiring term, Contractor shall provide the District with pricing for Services to be performed during the following term. In the event Contractor fails to provide the District with pricing for any renewal term, the pricing from the immediately preceding term shall apply.

5 Payment Terms

- (a) The District shall pay Contractor within 30 days of receipt of a properly itemized and accurate invoice following completion, and the District's acceptance, of the Services, or as the District may otherwise provide for in a Purchase Order, if any.
 - (1) Contractor shall not submit, and the District shall not be liable for: (1) any invoice(s) that exceed any maximum not-to-exceed amount set forth in any Purchase Order, and (2) any charge that exceeds the rates agreed upon in section 4 above.
 - (2) Regardless of any provisions in this Agreement to the contrary, District reserves the right to withhold up to 5% of the Agreement Price until the Services are fully performed, accepted, and/or received by District.

6 Agreement Documents

- (a) For purposes of this Agreement, the "Agreement Documents" consist of the following documents listed in order of precedence for the purpose of determining conflicting provisions in the Agreement Documents except that in the event of overlap or inconsistency between the terms of the Agreement Documents, the term that provides a better quality or quantity of service to the District shall control. To the extent that any terms of a Contractor's document conflicts with terms of this Agreement (including, without limitation, the attached Exhibit A <or the District's RFP/ITB>), such terms are void and are expressly and wholly subject to the terms of this Agreement.

- (1) This Agreement;
- (2) The Terms and Conditions attached as Exhibit A;
- (3) Statement of Work attached as Exhibit B;
- (4) <The District's <Request for Proposals/Invitation to Bid>, including all Addenda, issued <Month DD, YYYY>> incorporated by reference as Exhibit C;
- (5) <Contractor's <Proposal/Bid> dated <Month DD, YYYY> submitted in response to the District's <RFP/ITB> incorporated by reference as Exhibit D;
- (6) Form of Purchase Order attached as Exhibit E; <and>
- (7) <document name> attached as Exhibit F.

7 Purchase Orders

- (a) The District may, at its sole discretion, order Services from Contractor as needed. The District will order Services by issuance of written purchase order(s) ("**Purchase Order**"), a sample of which is attached (see section 6).
- (b) Purchase Orders issued under this Agreement will consist of at least the following: (1) the specific goods and services required, (2) the net price, inclusive of all applicable fees permitted by this Agreement, (3) the requested delivery schedule, (4) the delivery location(s), (5) the method and location for submission of invoices, and (6) the District's authorized representative contact information.
- (c) Purchase Orders issued under this Agreement consist of the following documents listed in order of precedence for the purpose of determining conflicting provisions. To the extent that any terms of a Contractor's document attached to a Purchase Order conflicts with terms of this Agreement including its attachments and amendments, or a Purchase Order, such terms are void and are expressly and wholly subject to the terms of this Agreement including its attachments and amendments, and the Purchase Order. In the event of overlap or inconsistency between the terms of this Agreement including its attachments and amendments, and a Purchase Order, the term that provides a better quality or quantity of service to the District shall control.
 - (1) This Agreement, including its attachments and amendments, if any;
 - (2) Purchase Order, including its terms and conditions and District provided attachments, if any; and
 - (3) Contractor's quote, proposal, offer, or any other Contractor provided attachment, if any.

8 Miscellaneous

- (a) **Entire Agreement; Signatures.** The Agreement Documents contain the entire understanding of the Parties regarding the subject matter of this Agreement and supersede all prior and contemporaneous negotiations and agreements between the Parties, whether written or oral, with respect to the subject matter of this Agreement. This Agreement may be signed in counterparts. An electronically transmitted signature page will be considered an original signature page. At the request of a Party, the other Party

will confirm an electronically transmitted signature page by delivering an original signature page to the requesting Party.

- (b) **Severability.** If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- (c) **Waiver.** Failure of either Party to enforce any provision of this Agreement shall not constitute waiver of the right to require such performance in the future nor of the right to enforce any other provision of this Agreement. Payment by the District shall not constitute the District's waiver of any rights under this Agreement.
- (d) **Time.** Time is of the essence in the performance of all obligations under this Agreement. Contractor shall at all times carry on the Services diligently, without delay and punctually fulfill all requirements of the Services.
- (e) **Amendments.** This Agreement may only be amended by written instrument, signed by both Parties.
- (f) **Assignment.** Except for portions of the Services performed by Contractor's employees or subcontractors approved by the District, this Agreement is not assignable or transferable by Contractor without the District's prior written consent, which may be withheld in the District's sole discretion, and any purported assignment or transfer without the District's consent shall be void.
- (g) **Further Assurances; Survival.** The Parties will sign such other documents and take such other actions as are reasonably necessary to further effect and evidence this Agreement. The termination of this Agreement, regardless of how it occurs, will not relieve a Party of obligations that have accrued before the termination. All Contractor representations, warranties, covenants, and obligations contained in this Agreement (including, without limitation, Contractor's indemnity obligations) will survive the termination of this Agreement.
- (h) **Governing Law; Venue.** This Agreement shall be interpreted and administered under the laws of the State of Oregon without regard to conflict of laws principles. Any claim or dispute that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Deschutes 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.
- (i) **Attorney's Fees.** If any arbitration or litigation is instituted to interpret, enforce, or rescind this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing Party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing Party's reasonable attorneys' fees and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP (Oregon Rules of Civil Procedure) 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.
- (j) **Interpretation.** As used in this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, governmental agency, political subdivision, or any other entity, as context may require. All

pronouns, and any variations, will be deemed to refer to the masculine, feminine, or neutral, as the identity of the person may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The word "days" means calendar days unless expressly provided otherwise. The titles, captions, or headings of the articles and sections in this Agreement are inserted for convenience of reference only and are not intended to be a part, or to affect the meaning or interpretation, of this Agreement.

- (k) **Effectiveness and Date.** This Agreement will become effective when all Parties have signed it. The date of this Agreement will be the date this Agreement is signed by the last Party to sign it (as indicated by the date associated with that Party's signature) (the "**Effective Date**"). If a Party signs this Agreement but fails to date their signature, the date the other Party receives the signing Party's signature will be deemed to be the date the signing Party signed this Agreement.

<(signatures on following page)/(signatures to immediately follow)>

The Parties are signing this Agreement on the date stated below that Party's signature. The signatures of the Parties authorized representatives below acknowledge that they have read and understood this Agreement and agree to be bound by its terms and conditions:

<CONTRACTOR>

BEND PARK AND RECREATION DISTRICT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



1 Definitions

For purposes of these terms and conditions, the following definitions apply:

“**Cooperative Contract**” shall mean a contract awarded as a result of a procurement conducted on behalf of more than one governmental agency.

“**OAR**” shall mean Oregon Administrative Rules.

“**ORS**” shall mean Oregon Revised Statutes.

“**Permissive Cooperative Contract**” shall mean a Cooperative Contract in which the Purchasing Contracting Agencies are not identified.

“**Purchasing Contracting Agency**” shall mean a governmental agency that procures goods or services from Contractor based on the original contract established by the District.

2 Compliance with Applicable Law

Throughout the term of this Agreement, Contractor shall comply with all laws, rules, codes, regulations, policies, and applicable requirements imposed by governmental authorities having jurisdiction over the Services.

3 Indemnification and Hold Harmless

- (a) Contractor agrees to hold harmless, indemnify, and defend the District, and its officers, directors, employees, agents, volunteers, and contractors, from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature (including, without limitation, reasonable attorneys’ fees and settlement costs) resulting from, arising out of, or related to:
- (1) Any misrepresentation, breach or alleged breach of any representation, warranty, agreement, or obligation under this Agreement by Contractor or its affiliates or subcontractors;
 - (2) Any actual or alleged performance or nonperformance of the Services;
 - (3) Any claim or liability arising from any contract between Contractor and any third party, whether or not made to effectuate the purposes of this Agreement, and regardless of whether Contractor enters into such contracts as the District’s agent or as principal;
 - (4) Any actual or alleged violation of any applicable law by Contractor;
 - (5) Taxes, together with interest and penalties, that are Contractor’s responsibility under this Agreement;
 - (6) Infringement or alleged infringement of any patent, copyright, trademark, trade secret, right of privacy, right of publicity, or other personal or proprietary right of a third party in connection with the Services; and

- (7) Any other claim related to the Services and due to any act, negligence, willful misconduct, or omission by Contractor or its affiliates or subcontractors or their respective officers, directors, employees, suppliers, subcontractors, agents, successors, or affiliates.

4 **Independent Contractor**

Contractor is an independent contractor, and not an employee, of the District. Contractor is free from direction and control over the means and manner of performing the Services, subject only to the right of the District to specify the desired results, and the District reserves the right to evaluate the quality of the Services. The District will not withhold any taxes from any payments made to Contractor, and Contractor will be responsible for paying all taxes arising out of or resulting from Contractor's performance of the Services, including, without limitation, income, social security, workers' compensation, and employment insurance taxes. Contractor is solely responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services. This Agreement does not create a joint venture, partnership, or agency relationship between the District and Contractor. Contractor does not have the authority to bind the District to any contract or other agreement or represent to any person that Contractor is an agent of the District. Contractor has the authority to hire other persons to assist Contractor in performing the Services (and has the authority to fire such persons). The District shall neither have nor exercise any control or direction over the means or manner by which Contractor or its employees under its control shall perform their work and other functions.

5 **Force Majeure**

Neither Party shall be responsible for any nonperformance or delay in the performance of any obligation under this Agreement caused by fire, riot, acts of God, terrorism, war, government-imposed restrictions, or any other cause which is beyond the Party's reasonable control (each a "Force Majeure Event"). Such Party shall, however, promptly notify the other Party of any Force Majeure Event and shall make all reasonable efforts to perform such obligation as soon as reasonably possible after the end of such cause for delay or nonperformance. No Force Majeure Event shall commence or be deemed to have occurred unless, within 10 days of the event constituting the Force Majeure Event, the Party claiming such delay has provided written notice to the other specifying the circumstances that the claiming Party contends constitutes a Force Majeure Event. Notwithstanding the foregoing, the District may terminate this Agreement upon written notice to Contractor after reasonably determining that the Force Majeure will likely prevent successful performance of this Agreement.

6 **Termination**

- (a) **Mutual Consent.** This Agreement may be terminated at any time by mutual written agreement of the Parties.
- (b) **Termination for Convenience.** The District may, at its sole discretion, terminate this Agreement, in whole or in part, upon 30 days' written notice to Contractor.
- (c) **Termination by District.** The District may, at its sole discretion, terminate this Agreement, immediately upon written notice to Contractor, or on such later date as the District may establish in its notice, upon the occurrence of any of the following events:

- (1) The District fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient to pay for the Services;
 - (2) Federal, state, or local laws, rules, regulations, ordinances, or guidelines are modified or interpreted in a way that either the purchase of the Services by the District under this Agreement, or the District's payment for the Services from the planned funding source, is prohibited;
 - (3) Contractor is in default of this Agreement beyond all applicable notice and cure periods; or
 - (4) As otherwise provided in this Agreement.
- (d) **Termination by Contractor.** Contractor may terminate this Agreement if the District fails to make any payment to Contractor within 30 days of written notice from Contractor that such payment is past due.
- (e) **Effect of Termination.** Upon receipt of written notice of termination: (1) Contractor shall stop all performance under this Agreement as directed by the District, (2) the District shall pay Contractor the fees and expenses for the Services reasonably incurred prior to such termination (but shall not be responsible for any lost profit or other consequential damages), and (3) Contractor shall deliver to the District all documents, information, works-in-progress, and other property that are or would be the property of the District had the Agreement been completed.

7 Events of Default

- (a) The occurrence of any of the following events shall constitute a default by Contractor under this Agreement:
- (1) Contractor institutes, or has instituted against it, insolvency, receivership, or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - (2) Contractor no longer holds any license or certificate that is required for Contractor to perform its obligations under this Agreement and Contractor has not obtained a replacement license or certificate within 14 days after receipt of notice of the default from the District; or
 - (3) Contractor fails to perform any covenant, warranty, or other obligation under this Agreement, including failure to perform any obligation within the time specified or any extension of that time, and Contractor fails to cure such nonperformance within 14 days after receipt of written notice from the District; provided, however, if the default is of such a nature that it cannot be completely remedied within the 14-day cure period, Contractor shall not be in default if Contractor begins correction of the default within such 14-day period and diligently proceeds in good faith to effect the remedy as soon as practicable.

8 Notices

All notices or other communications required or permitted by this Agreement must be in writing, delivered to the Parties at the addresses set forth above, or such other address as a Party may designate by written notice to the other Party. Notices are considered delivered upon actual receipt if delivered personally, by fax (with electronic confirmation of delivery), by email (with hard copy delivered within

two business days), or by a nationally recognized overnight delivery service; or at the end of the third business day after the date deposited in the United States mail, postage pre-paid, certified, return receipt requested.

9 Insurance

- (a) **Insurance Coverages.** Contractor shall obtain and maintain throughout the term of this Agreement, the following insurance coverages:
- (1) **General Liability.** Commercial general liability insurance (occurrence form), including coverage for bodily injury, property damage, independent contractors, contractual liability (covering Contractor's indemnification obligations under this Agreement), personal injury, products and completed operations, with limits of not less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate. Contractor's liability insurance shall be primary and will not seek contribution from any insurance or self-insurance maintained by the District.
 - (2) **Auto Liability.** Applicable to any automobile assigned to or used in the performance of the Services, whether owned, hired or non-owned, with a limit of liability of not less than \$1,000,000 combined single limit per accident.
 - (3) **Workers' Compensation.** Statutory Limits. Contractor shall comply with ORS 656.017, unless exempt under ORS 656.126, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers including employers' liability coverage with limits not less than \$500,000. No workers' compensation insurance has been or will be obtained by the District for Contractor or Contractor's employees and subcontractors.
- (b) **Additional Insured.** Contractor shall name the District, its officers, employees, and agents as additional insureds on all liability policies other than errors and omissions and workers' compensation policies.
- (c) **Notice.** There shall be no cancellation, material change, potential exhaustion of aggregate limits, or non-renewal of insurance coverage(s) without 30-days written notice from Contractor, or Contractor's insurer(s), to District. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of this Agreement and shall be grounds for immediate termination of this Agreement by District.
- (d) Contractor shall, within 5 days after execution of this Agreement and prior to commencement of any Services, furnish the District with original certificates of insurance, including the additional insured and all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause), and a copy of the declarations and endorsement page of the commercial general liability policy, listing all policy endorsements. Contractor shall deliver new certificates, endorsements, and declarations and endorsement pages to the District within 5 days after replacement or renewal of any required insurance policy. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section 9, at any time. Failure to obtain the required documents prior to the Services beginning shall not waive the Contractor's obligation to provide them. Any failure of Contractor to provide evidence of required insurance shall constitute a material breach of this Agreement and shall be grounds for immediate termination of this Agreement by District.

- (e) Contractor understands that the stated limits of liability are the minimum acceptable by the District, Contractor further understands it is the responsibility of Contractor to determine the appropriate limits of liability in excess of the District's minimum acceptable limits to meet Contractor's risk.
- (f) If Contractor maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

10 **Non-Discrimination**

Contractor shall comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes and shall not discriminate based on race; color; gender; age; religion; ancestry, national origin; U.S. military veteran status; marital status; sexual orientation; disability; medical condition; source of income; or political affiliation in programs, activities, services, benefits, or employment in connection with this Agreement.

11 **Warranty**

- (a) Contractor will perform the Services to the best of Contractor's ability, diligently, and without delay, in good faith, in a professional manner in accordance with the highest professional standards of the industry, free from any material errors, omissions, or defects, and in strict compliance with the terms and conditions of this Agreement.
- (b) For goods and materials, Contractor agrees to the following: Contractor (1) warrants that Contractor has title to the goods and materials, free and clear of all liens, mortgages, pledges, security interests, reservations, restrictions, conditions, claims, and/or any other encumbrances (collectively, "Encumbrances"); (2) will sell, transfer, convey, and assign the goods and materials to the District free and clear of all Encumbrances; (3) the goods and materials are new, unblemished, fit for the District's intended use, in good repair and operating condition, and free from all defects; (4) will assign any manufacturer's warranties to District; and (5) if there is no manufacturer's warranty, Contractor will warrant the goods and materials against all defects for a period of one-year from date of delivery to the District.

12 **Continuing Obligation**

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

13 **Identification of Employees**

While on District property, Contractor shall ensure that its employees wear identifying uniforms or other designation of identity (e.g. identification badge, hat, and/or coat with Contractor's logo and/or name).

14 **Cooperative Contract**

- (a) This Agreement is <not> a Permissive Cooperative Contract.

<Remove (b) and (c) if this Agreement is not a Cooperative Contract.>

- (b) Pursuant to ORS 279A.215, Purchasing Contracting Agencies may establish a contract with Contractor to purchase the goods and services provided under this Agreement.
- (c) As required by ORS 279A.215(1)(d), no material change may be made in the terms, conditions, or prices in a contract or price agreement between Contractor and Purchasing Contracting Agencies from the terms, conditions, or prices set forth in this Agreement.

15 Public Contracting Requirements

- (a) As required by ORS 279B.045, Contractor represents and warranties that Contractor has, and will throughout the duration of this Agreement, comply with the tax laws of Oregon or a political subdivision of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Contractor's failure to comply with the tax laws of Oregon or a political subdivision of Oregon before Contractor executed this Agreement or during the term of this Agreement is a default for which the District may terminate this Agreement and seek damages and other relief available under the terms of this Agreement or under applicable law.
- (b) As required by ORS 279B.220, Contractor shall: (1) make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the Services provided for in this Agreement, (2) pay all contributions or amounts due the Industrial Accident Fund from Contractor or Contractor's subcontractor(s), if any, incurred in the performance of this Agreement, (3) not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished, and (4) pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
- (c) As required by ORS 279B.230, Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
- (d) As required by ORS 279B.235(1)(a), Contractor shall not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires otherwise, and in such cases, Contractor shall pay the employee at least time and a half pay for: (1) all overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and (2) all work the employee performs on Saturday and on any legal holiday specified in ORS 279B.020.
- (e) As required by ORS 279B.235(1)(b), Contractor shall comply with the prohibition set forth in ORS 652.220. Contractor's compliance with ORS 652.220 is a material element of this Agreement, Contractor's failure to comply is a breach that entitles the District to terminate this Agreement for cause.
- (f) As required by ORS 279B.235(1)(c), Contractor shall not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee

or another person and Contractor shall not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.

- (g) As required by ORS 279B.235(2), Contractor shall give notice in writing to employees who perform any work in relation to this Agreement, either at the time of hire or before work begins on this Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that Contractor may require the employees to work.

– END OF EXHIBIT A - TERMS AND CONDITIONS –

SAMPLE



1 **Statement of Work**

(a) <Contractor shall provide ...>

– END OF STATEMENT OF WORK –

SAMPLE



FORM OF PURCHASE ORDER

Purchase Order Date: <Month DD, YYYY>	
Contractor (the “Contractor”): <contractor name> <contractor street address> <contractor city, state zip code>	Ship To: Bend Park and Recreation District <street address> <city, state zip>
District Representative: <first and last name> <email address and phone number>	Invoice To: Bend Park and Recreation District, ATTN: AP 799 SW Columbia Street, Bend, OR 97702 ap@bendparksandrec.org
Delivery Date/Schedule: <enter delivery date/schedule>	Project: <enter project name>

Item Product #	Item Description	Quantity	Unit of Measure	Unit Price	Net Price
SUB-TOTAL					
SHIPPING					
District Authorized Signature					
TOTAL					

District and Contractor (each a “Party” and, collectively, the “Parties”) agree as follows: This Purchase Order, attached Terms and Conditions, and all other attachments and exhibits, if any, is placed against the Price Agreement dated <Month DD, YYYY> between Bend Park and Recreation District (the “District”) and Contractor (the “Price Agreement”). The order of precedence for the purpose of determining conflicting provisions of this Purchase Order, the Price Agreement, and any attachments or exhibits attached to this Purchase Order, shall be determined as provided in the Price Agreement.



1 Amendments; Changes

This Purchase Order may only be amended by written instrument, signed by both Parties.

2 Payment Terms

- (a) The District shall pay Contractor within 30 days of receipt of a properly itemized and accurate invoice following completion, and the District's acceptance, of the Services, or as the District may otherwise direct.
- (b) Contractor shall not submit, and the District shall not be liable for, any invoice(s) that exceed any maximum not-to-exceed amount set forth in this Purchase Order. Contractor shall not submit, and the District shall not be liable for, any charge that exceeds the rates agreed upon in the Price Agreement.

3 Termination

- (a) Mutual Consent. This Purchase Order may be terminated at any time by mutual written agreement of the Parties.
- (b) Termination for Convenience. The District may, at its sole discretion, terminate this Purchase Order, in whole or in part, upon 30 days' written notice to Contractor.
- (c) Termination by District. The District may, at its sole discretion, terminate this Purchase Order, immediately upon written notice to Contractor, or on such later date as the District may establish in its notice, as otherwise provided in the Price Agreement.
- (d) Effect of Termination. Upon receipt of written notice of termination: (1) Contractor shall stop all performance under this Purchase Order as directed by the District, (2) the District shall pay Contractor the fees and expenses for the Services reasonably incurred prior to such termination (but shall not be responsible for any lost profit or other consequential damages), and (3) Contractor shall deliver to the District all documents, information, works-in-progress, and other property that are or would be the property of the District had the Purchase Order been completed.

4 Identification of Employees

While on District property, Contractor shall ensure that its employees wear identifying uniforms or other designation of identity (e.g. identification badge, hat, and/or coat with Contractor's logo and/or name).

5 Delivery

If completed deliveries are not made at the date and time, or location agreed, the District reserves the right to cancel this Purchase Order in whole or in part and return to Contractor all unused goods at no cost to the District.

6 Inspection

Goods shall be properly packaged. Damaged goods shall not be accepted, or if the damage is not readily apparent at the time of delivery, Contractor shall accept a return for all damaged goods at no cost to the District. The District reserves the right to inspect the goods at a reasonable time subsequent to delivery when the conditions prevent effective inspection at the time of delivery.

7 Warranty

- (a) Contractor will perform the Services to the best of Contractor's ability, diligently, and without delay, in good faith, in a professional manner in accordance with the highest professional standards of the industry, free from any material errors, omissions, or defects, and in strict compliance with the terms and conditions of this Agreement.
- (b) For goods and materials, Contractor agrees to the following: Contractor (1) warrants that Contractor has title to the goods and materials, free and clear of all liens, mortgages, pledges, security interests, reservations, restrictions, conditions, claims, and/or any other encumbrances (collectively, "**Encumbrances**"); (2) will sell, transfer, convey, and assign the goods and materials to the District free and clear of all Encumbrances; (3) the goods and materials are new, unblemished, fit for the District's intended use, in good repair and operating condition, and free from all defects; (4) will assign any manufacturer's warranties to District; and (5) if there is no manufacturer's warranty, Contractor will warrant the goods and materials against all defects for a period of one-year from date of delivery to the District.

- END OF TERMS AND CONDITIONS -