

CLACKAMAS COMMUNITY COLLEGE PERSONAL SERVICES AGREEMENT

A Personal Services Agreement (“Contract”) between CLACKAMAS COMMUNITY COLLEGE (herein referred to as the “College” or the “Owner”), and WENAHA GROUP INC., (herein referred to as the “Provider” or the “Owner Representative” or the “OR”) individually referred to as “party” or collectively as “parties.”

BACKGROUND

- A. In November 2024 Clackamas Community College District voters approved a bond for the purpose of constructing two new buildings, providing remodeling and renovation to existing buildings and common areas, constructing a new athletic track, grandstands and turf field as well as addressing deferred maintenance items and energy efficiency upgrades.
- B. In January 2025 Clackamas Community College issued a request for proposals (RFPs) from qualified firms for the purpose of assisting the College on the selection of project management firms for the projects, act as the College’s representative during design and construction, as well as programming and design for the modernization of existing buildings including by not limited to safety and security upgrades, HVAC and other deferred maintenance the “Project” as more fully described in Exhibit A).
- C. The College desires to retain the Owner’s Representative to provide comprehensive services in the organization, coordination, management and administration required for all aspects of the development of the Project, including, without limitation, budgeting, planning, programming, site investigation, design, construction oversight and administration, and project closeout.

AGREEMENT

1. Term

The term of this Contract shall be from April 30, 2025 until not later than April 30, 2030, unless sooner terminated under the provisions of this Contract. All Services under this Contract shall be completed prior to the expiration of this Contract. It is agreed that time is of the essence in the performance of the Services and any project schedule identified in Exhibit A shall be binding on the parties.

Provider's Service

The scope of Provider's services and time of performance under this Contract are set forth in Exhibit A (the "Services"). All provisions and covenants contained in said exhibit are hereby incorporated by reference and shall become a part of this Contract as if fully set forth. Any conflict between this Contract and Exhibit A (if any) shall be resolved first in favor of this written Contract. Provider shall perform Services using the degree of skill and knowledge customarily employed by professionals performing similar services in the same region of Oregon. The Provider shall be responsible for providing, at the Provider’s cost and expense, all management, supervision, materials, administrative support, supplies, and equipment necessary to perform the Services as described herein, all in accordance with this Contract. All Provider personnel shall be properly trained and fully licensed to undertake any activities pursuant to this Contract, and Provider shall have all requisite permits, licenses and other authorizations necessary to provide the Services. Provider acknowledges and agrees that College may cause or direct other persons or contractors to provide services for and on behalf of the college that are the same or similar to the Services provided by Provider under this Contract. The provider shall perform the work in compliance with all applicable federal, state and local laws, regulations. The provider shall maintain and shall require that its subcontractors, if any, maintain any and all required governmental licenses, certificates, approvals, and permits that are required of Provider for PERSONAL SERVICE AGREEMENT CLACKAMAS COMMUNITY COLLEGE AND WENAHA GROUP, INC. FOR OWNER REPRESENTATION SERVICES.

the performance of the work. The Provider agrees to maintain in full force and effect such required licenses, certificates, approvals, and permits throughout the Term.

- 2.1 The Owner Representative has or will perform the Work set forth in Exhibit A in cooperation with the College and the “Project Team”. The Project Team includes internal and external collaborators, staff members and representatives of the Facilities, IT, Authorities Having Jurisdiction (AHJ’s) and the “Architect”, which means (as appropriate to the context) the design architect, the architect or engineer who prepares the plans and specifications, the inspecting architect, or such other design and design- related consultants as may be appropriate; the “Contractor”, which means the general contractor with whom the College has contracted to construct the entire or a portion of the Project and the general contractor’s subcontractors, suppliers, and materialmen; and “Consultants”, which means such other consultants and professionals that perform consulting services for the Project, including without limitation, testing laboratories and surveyors. Nothing contained in this Agreement shall create any obligation or contractual relationship between the Owner’s Representative and any third party, including without limitation any other member of the Project Team.
- 2.2 In consultation with the Project Team, Provider will have the authority to provide direction to Architect, Architect’s consultants, College’s consultants, and contractors, consistent with the evolution of the Project; provided that the same shall not involve any adjustment in the total project budget, construction cost, extension of the project schedule, or the authorization of additional services or change orders. All such direction, instruction and minor changes shall be affected by written communication and shall be binding on the College, Architect and the relevant consultants or contractors.
- 2.3 College may modify the Work without invalidating this Agreement. To avoid delay in the Project, upon receipt of a College-requested change in the Work, the Owner’s Representative shall promptly proceed with the change in Work. If the Owner’s Representative believes it is entitled to additional compensation for the change in Work, the Owner’s Representative shall promptly notify the College in writing. Any change in Owner’s Representative’s compensation shall be made by a written agreement signed by both parties.
- 2.4 **College Responsibilities**
 - A. The College shall provide information regarding its design and construction requirements for the Project to the Owner’s Representative, in a timely fashion.
 - B. The Owner shall designate an individual who shall have the authority to render decisions on Owner’s behalf (“Owner’s Contact”). The Owner may change Owner’s Contact from time to time by written notice to the Owner’s Representative.

2.5 Contract Documents

- A. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A-Services, Exhibit B-College RFP, Exhibit C- Providers Proposal, Exhibit D-Compensation & Fee Schedule, and Exhibit E- Insurance Requirements.
- B. Further Assurances. Provider agrees to take all necessary steps to execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary to complete services.

2. Provider Identification

Provider shall furnish to College Provider's employer identification number, as designated by the Internal Revenue Service or, if the Internal Revenue Service has designated no employer identification number, Provider's Social Security number.

3. Compensation

The College agrees to pay the Provider at the times and in the amount(s) set out in and in accordance with Exhibit A. The maximum, not-to-exceed compensation payable to the Provider under initial term of this Contract, which includes any reimbursable expenses, is \$ 4,500,000.00. The College will not pay the Provider any amount in excess of the not-to-exceed compensation for completing the Services.

- 4.1 Subcontractor's Payment.** If the Provider engages any subcontractors to perform any of the Work, Provider shall not markup work performed by its subcontractors more than 5%. Provider shall pay any such subcontractor within thirty days (or such shorter period as required by law) of the Provider's receipt of payment from the College for undisputed services provided by the subcontractor. Provider shall pay interest of 1.5% per month (or any part of a month) to the subcontractor on an undisputed amount not paid on time to the subcontractor.
- 4.2 Reimbursable expenses** include the following ordinary, necessary, and reasonable expenses incurred by the Provider and its subcontractors related to the Work:
- Owner-requested printing, reproductions, plots and standard form documents.
 - Postage, handling and delivery of Instruments of Service as requested by the Owner.
 - Renderings, models, mockups, professional photography and presentation materials (i.e., computer studies, videos or cd's) requested by the Owner.
- 4.3** All reimbursable expenses shall be at the actual expense incurred by the Provider plus 5%.
- 4.4 Final Payment.** Final payment shall not be due to Owner's Representative until Owner's Representative submits to College the following in such form as may be required by College: (a) a statement identifying all subcontractors who have performed all or a portion of the Work, whether the subcontractors have been paid for their services, and if not, what the unpaid amount owed or allegedly owed to each subcontractor; and (b) data or other documentation establishing payment or satisfaction of Owner's Representative's obligations arising out of this Agreement, such as receipts or releases and waivers of liens, claims, security interests or encumbrances. If a subcontractor refuses to furnish a release or waiver required by the College, Owner's Representative may furnish a bond satisfactory to College to indemnify College against such lien. If such lien remains unsatisfied after final payment is made, Owner's Representative shall refund to College all money that College may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees. Owner's Representative warrants that upon submittal of an invoice, to the best of Owner's Representative's knowledge, information and belief, all work included in the Work shall be free and clear of liens, claims, security interests or encumbrances in favor of the Owner's Representative, subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

4. Project Managers

The College's Project Manager for deferred maintenance and energy efficiency projects is Ron Prince. The College's Project Manager for new construction and renovations is Bob Cochran. The provider's Project Manager is Dale Kuykendall. Each party shall give the other written notification of any change in their respective Project Manager. Changes in key personnel by the Provider must be approved by the College in writing and may include interviews with replacement staff and is the Owner's sole discretion as to the acceptance of the replacement staff.

5. Project Information

The Provider agrees to share all project information, to fully cooperate with all corporations, firms, contractors, governmental entities, and persons involved in or associated with the project. No information, news, or press releases related to the project shall be made to representatives of newspapers, magazines, television and radio stations, or any other news medium without the prior authorization of College's Public Information Officer, Lori Hall.

6. Duty to Inform

The Provider shall give prompt written notice to the College's Project Manager(s) if, at any time during the performance of this Contract, Provider becomes aware of actual or potential problems, faults or defects in the Project, any nonconformity with the Contract, or with any federal, state, or local law, rule or regulation, or has any objection to any decision or order made by the College. Any delay or failure on the part of the College to provide a written response to the Provider shall constitute neither agreement with nor acquiescence in Provider's statement or claim and shall not constitute a waiver of any of College's rights.

7. Provider is Independent Contractor

The Provider is an independent contractor for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Contract. The Provider hereby expressly acknowledges and agrees that as an independent contractor, the Provider is not entitled to indemnification by the College or the provision of a defense by the College under the terms of ORS 30.285. This acknowledgment by the Provider shall not affect his/her independent ability (or the ability of his/her insurer) to assert the monetary limitations found at ORS 30.270, the immunities listed at ORS 30.265, or other limitations affecting the assertion of any claim under the terms of the Oregon Tort Claims Act (ORS 30.260 to ORS30.300).

8. Overtime

Any person employed on work under this Contract, other than a person subject to being excluded from the payment of overtime pursuant to either ORS 653.010 to 653.261 or 29 USC §201 to 209, shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week.

9. Representations

The Provider represents and covenants that:

- i. The Provider has the required authority, ability, skills and capacity to, and shall, perform the Services in a manner consistent with this Contract. Further, any employees and subcontractors of the Provider employed in performing the Services shall have the skill, experience and licenses required to perform the Services assigned to them. All work products of the Provider required to be stamped shall be stamped by the appropriately licensed professional.
- ii. To the extent the Provider deems necessary, in accordance with prudent practices, the Provider has inspected the sites and all of the surrounding locations whereupon the Provider may be called to perform the Provider's obligations under this Contractor and is familiar with requirements of the Services and accepts them for such performance.
- iii. The Provider has knowledge of all of the legal requirements and business practices in the State of Oregon, Clackamas County and the City of Oregon City that must be followed in performing the Services and the Services shall be performed in conformity with such requirements and

- practices.
- iv. The Provider is validly organized and exists in good standing under the laws of the State of Oregon Clackamas County and the City of Oregon and has all the requisite powers to carry on the Provider's business as now conducted or proposed to be conducted and the Provider is duly qualified, registered or licensed to do business in good standing the State of Oregon.
 - v. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Provider or any other person which has not been obtained or (b) result in a breach of default under the certificate of incorporation or by-laws of the Provider or any indenture or loan or credit agreement or other material agreement or instrument to which the Provider is a party or by which the Provider's properties and assets may be bound or affected. All such consents and approvals are in full force and effect.

10. Indemnity

- i. **Mutual Indemnification.** Each Party (the "Indemnifying Party") agrees to indemnify, defend, and hold harmless the other Party (the "Indemnified Party") from and against any and all claims, damages, and liabilities, including any and all expense and costs, legal or otherwise, caused by the negligent act or omission of the Indemnifying Party, its subcontractors, agents, or employees, incurred by the Indemnified Party in the investigation and defense of any claim, demand, or action arising out of the work performed under this Agreement; including breach of the Indemnifying Party of this Agreement. The Indemnifying Party shall not be liable for any claims, damages, or liabilities caused by the sole negligence of the Indemnified Party, its subcontractors, agents, or employees. The Indemnified Party shall notify promptly the Indemnifying Party of the existence of any claim, demand, or other matter to which the Indemnifying Party's indemnification obligations would apply, and shall give them a reasonable opportunity to settle or defend the same at their own expense and with counsel of their own selection, provided that the Indemnified Party shall at all times also have the right to fully participate in the defense. If the Indemnifying Party, within a reasonable time after this notice, fails to take appropriate steps to settle or defend the claim, demand, or the matter, the Indemnified Party shall, upon written notice, have the right, but not the obligation, to undertake such settlement or defense and to compromise or settle the claim, demand, or other matter on behalf, for the account, and at the risk, of the Indemnifying Party. The rights and obligations of the Parties under this Article shall be binding upon and inure to the benefit of any successors, assigns, and heirs of the Parties.
- ii.

11. Work is Property of College

All work product prepared by the Provider pursuant to this Contract, including but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall upon payment of all amounts rightfully owed by the College to the Provider herein remain the property of the College under all circumstances, whether or not the Services are complete. When requested by the College, all work products shall be delivered to the College in electronic, PDF or full-size, hard copy form. Work products shall be provided to the College at the time of completion of any of the discrete tasks specified in the Services. Provider shall maintain copies on file of any such work product involved in the Services for three (3) years after the College makes final payment on this Contract and all other pending matters are closed, shall make them available for the College's use, and shall provide such copies to the College upon request at commercial printing or reproduction rates.

12. Law of Oregon

The Contract shall be governed by the laws of the State of Oregon. The venue shall be in Clackamas County, Oregon.

13. Errors

The Provider shall perform such additional work as may be necessary to correct errors in the Services without undue delays and without additional cost.

14. Extra or Changes in Work

Only the College Vice President or the Project Manager may authorize extra (and/or change) work. Failure of Provider to secure authorization for extra work shall constitute a waiver of all right to adjustment in the Contract price or Contract time due to such unauthorized extra work and Provider thereafter shall be entitled to no compensation whatsoever for the performance of such work.

15. Successors and Assignments

- i. Each party binds itself, and any partner, successor, executor, administrator, or assign to this Contract.
- ii. Provider shall assign or transfer their interest or obligation hereunder in this Contract without the written consent of the College. Provider must obtain College's written consent before subcontracting any part of the work required of the Provider under this Contract. Any assignment, transfer, or subcontract attempted in violation of this subparagraph shall be void.

16. Records

- i. Provider shall retain all books, documents, papers, and records that are directly pertinent to this Contract for at least three (3) years after College makes final payment on this Contract and all other pending matters are closed.
- ii. Provider shall allow College, or any of its authorized representatives, to audit, examine, copy, take excerpts from, or transcribe any books, documents, papers, or records that are subject to the foregoing retention requirement.

17. Confidentiality

During the performance of the Contract and for all time subsequent to completion of the Services under this Contract, the Provider agrees not to use or disclose to anyone, except as required by the performance of this Contract or by law, or as otherwise authorized by the College, any and all information given to the Provider by the College or developed by the Provider as a result of the performance of this Contract. The Provider agrees that if the College so requests, the Provider will execute a confidentiality agreement in a form acceptable to the College and will require any employee or subcontractor performing work under this Contract or receiving any information deemed confidential by the College to execute such a confidentiality agreement.

18. Provider Trade Secrets and Open Records Requests

- i. Public Records. The Provider acknowledges and agrees that all documents in the College's possession, including documents submitted by the Provider, are subject to the provisions of the law, and the Provider acknowledges that the College shall abide by the Law, including honoring all proper public records requests. The Provider shall be responsible for all Provider's costs incurred in connection with any legal determination regarding the Law, including any determination made by a court pursuant to the law. The Provider is advised to contact legal counsel concerning such acts in application of the law to the Provider.
- ii. Confidential or Proprietary Materials. If the Provider deems any document(s) which the Provider submits to the College to be confidential, proprietary or otherwise protected from disclosure under the Law, then the Provider shall appropriately label such document(s), and submit such

document(s) to the College together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. The request will either be approved or denied by the College in the College's discretion. The College will make a good faith effort to accommodate a reasonable confidentiality request if in the College's opinion the College determines the request complies with the law.

19. Breach of Contract

- i. Provider shall remedy any breach of this Contract within the shortest reasonable time after Provider first has actual notice of the breach or College notifies Provider of the breach, whichever is earlier. If Provider fails to remedy a breach in accordance with this paragraph, College may terminate that part (or all) of the Contract affected by the breach upon written notice to Provider, may obtain substitute services in a reasonable manner, and may recover from Provider the amount by which the price for those substitute services exceeds the price for the same services under this Contract.
- ii. If the breach is material and Provider fails to remedy the breach in accordance with this paragraph, College may declare Provider in default and pursue any remedy available for a default.
- iii. Pending a decision to terminate all or part of this Contract, College unilaterally may order Provider to suspend all or part of the Services under this Contract. If College terminates all or part of the Contract pursuant to this paragraph, Provider shall be entitled to compensation only for Services rendered prior to the date of termination, but not for any Services rendered after the College ordered suspension of those Services. If the College suspends certain Services under this Contract and later orders the Provider to resume those Services, the Provider shall be entitled to reasonable damages actually incurred, if any, as a result of the suspension.
- iv. To recover amounts due under this paragraph, College may withhold from any amounts owed by the College to the Provider, including but not limited to, amounts owed under this Contract.

20. Mediation/ Trial without a jury

Should any dispute arise between the parties to this Contract it is agreed that such dispute will be submitted to a mediator prior to any litigation and the parties hereby expressly agree that no claim or dispute arising under the terms of this Contract shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation. Any litigation arising under or as a result of this Contract shall be tried to the court without a jury. Each party agrees to be responsible for payment of its own professional fees, including attorneys fees.

The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If a party requests mediation and the other party fails to respond within ten (10) days, or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Clackamas County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Section.

21. Termination for Convenience

The College may terminate all or part of this Contract at any time for its own convenience by written notice to Provider. Upon termination under this paragraph, the Provider shall be entitled to compensation for all Services rendered prior to actual notice of the termination or the receipt of the College's written notice of termination, whichever is earlier, plus the Provider's reasonable costs actually incurred in closing out the Contract.

22. Intellectual Property

The interest in any intellectual property, including but not limited to copyrights and patents of any type, arising from the performance of this Contract shall vest in the College. The Provider shall execute any assignment or other documents necessary to effect this paragraph. The Provider may retain a nonexclusive right to use any intellectual property that is subject to this paragraph with prior written authorization. The Provider shall transfer to the College any data or other tangible property generated by Provider under this Contract and necessary for the beneficial use of intellectual property covered by this paragraph.

23. Payment for Labor or Material

The Provider shall make payment promptly, as due, to all persons supplying to Provider labor or material for the prosecution of the work provided for in this Contract. (ORS 279B.220)

24. Contributions to the Industrial Accident Fund

The Provider shall pay all contributions or amounts due the Industrial Accident Fund from Provider incurred in the performance of this Contract, and shall ensure that all subcontractors pay those amounts due from the subcontractors. (ORS 279B.220)

25. Liens and Claims

The Provider shall not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. (ORS 279B.220)

26. Income Tax Withholding

Provider shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. (ORS279B.220)

27. Payment of Claims by the College

If the Provider fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Provider or a subcontractor by any person in connection with this Contract as the claim becomes due, the College may pay the claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to Provider pursuant to this Contract. The College's payment of a claim under this Paragraph shall not relieve Provider or Provider's surety, if any, from responsibility for those claims.

28. Hours of Labor

Provider shall pay employees for overtime work performed under the terms of this Contract in accordance with ORS 653.010 to ORS 653.261 and the Fair labor standards Act of 1938. (29 USC §§ 201 *et. seq.*)

29. Workers' Compensation

The Provider is a subject employer that will comply with ORS 656.017. Provider warrants that all persons engaged in contract work and subject to the Oregon Workers' Compensation law are covered by a workers' compensation plan or insurance policy that fully complies with Oregon law. Provider shall indemnify College for any liability incurred by the College as a result of Provider's breach of the warranty under this Paragraph. (ORS 279B.230)

30. Medical Care for Employees

The Provider shall make payment of all sums to any person, co-partnership, association or

corporation, furnishing medical, surgical and/or hospital care incident to the sickness or injury of the Provider's employee(s), all sums which the Provider agrees to pay for such services and all monies and sums which the Provider collected or deducted from the wages of employees pursuant to any law, contract or contract for the purpose of providing or paying for such service. (ORS 279B.230)

31. Non-Discrimination

The Provider agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Provider also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

32. Foreign Contractor

If Provider is not domiciled in or registered to do business in the state of Oregon, Provider shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Provider shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this Contract.

33. Federal Environmental Laws

Provider shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

34. Tax Representation

The Provider represents it has complied with the tax laws of Oregon and the tax laws of all political subdivisions of Oregon, as applicable, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Provider warrants that it will continue to comply with the tax laws of Oregon and the tax laws of all political subdivisions of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318, for the term of this Contract. Provider's failure to comply with the tax laws of Oregon or a political subdivision of this state prior to executing this Contract, or during the term of this Contract, is a default for which the College may terminate this Contract and seek damages as well as other relief available under applicable law.

35. Notice

Notice, bills, payments, and other information shall also be made via email to the parties listed below. Payments may be made by personal delivery, mail, or electronic transfer. The addresses provided in the signature blocks to this Contract. When notices are so mailed, they shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this Section.

College

Provider

Ron Prince
19600 Molalla Ave
Oregon City Oregon 97045
ron.prince@clackamas.edu
503-594-6787
CC
Wesley Buchholz
wesley.buchholz@clackamas.edu

Dale Kuykendall,
505 S. 336th Street, Suite 630
Federal Way, WA98003
DaleK@wenahagroup.com
503-887-4178
CC
Rob Quaempts
robq@wenahagroup.com

36. Modification

Any modification of the provisions of this Contract shall be reduced to writing and signed by the parties.

37. No Waiver of Legal Rights

No waiver of any provisions of this Contract shall be deemed to constitute a waiver of any other provision of the Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

38. Counterparts/Integration/Entire Contract

This Contract constitutes the entire agreement between the parties hereto relating to the Services and sets forth the rights, duties, and obligations of each party to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Contract are of no force and effect. This Contract may be executed in counterparts, each of which shall be deemed to be an original, which together shall constitute a binding agreement. Each person signing below represents that she or he has the authority to sign this Contract for and on behalf of the party for whom she or he is signing. This Contract, including any exhibits attached hereto, constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, between the parties with respect to the subject matter. Any party shall be entitled to sign and transmit electronic signatures to this Contract (whether by facsimile, .pdf, or electronic mail transmission), and any such signature shall be binding on the party whose name is contained therein. Any party providing an electronic signature to this Contract agrees to promptly execute and deliver to the other parties, upon request, an original signed Contract.

39. Severability

If any provision or portion of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the Contract.

[Remainder of this page is intentionally left blank; signatures are on the following page.]

IN WITNESS WHEREOF, the parties have duly executed this Contract as of the Effective Date.

CLACKAMAS COMMUNITY COLLEGE

WENAHA GROUP, Inc.

Date signed: _____

Date signed: _____

Signature: _____

Signature: _____

Name: Jeff Shaffer

Name: Dale Kuykendall

Title: Vice President of Finance and
Operations/CFO

Title: Project Executive

DRAFT

EXHIBIT A PROVIDER'S SERVICES

The Work, including the construction project management and related consulting services will be performed in phases, which will be determined by the College based on available funding, the permitting process and other factors.

PHASE I PRE-CONSTRUCTION PHASE

1. The OR will assist the college in the selection of the design team including the review and scoring of proposals, attending interviews, reviewing preliminary design costs, and assisting in the final recommendation to the Board of Education.
2. The OR will attend design charrettes, Schematic Design, Design Development and Contract Document development meetings.
3. OR shall provide Owner with a preliminary evaluation of cost, schedule or other issues identified in its review of all documentation to date.
4. OR, with advice from the Contractor (or construction manager) shall prepare a value engineering and constructability review of the Construction Documents, as determined in consultation with Owner and Architect. OR shall consult with Owner and Architect regarding the results of the value engineering and constructability review and make recommendations whenever design details adversely affect constructability, cost, or schedules.
5. OR shall expeditiously review design documents during each of the Design Phases, and advise on proposed site use and improvements, selection of materials, building systems and equipment, and methods of Project delivery. OR shall provide recommendations on time requirements for procurement, installation and construction, feasibility of construction methods, availability of materials and labor, and factors related to construction cost including, but not limited to, costs of alternate designs or materials, preliminary budgets, and possible economies. OR will endeavor to ensure that the design of the Project meets the overall program objectives of Owner, consistent with budget constraints and, inform Architect as to OR and Owner comments, and verify they are addressed by Architect.
6. OR will facilitate and participate in design charrettes to identify all possible durability and sustainable design options. If LEED certification is a Project requirement, the OR will assist Architect and/or its LEED consultant, in registering the Project and submitting design credit related documents.
7. OR shall provide recommendations and information to Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractor. OR shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

8. OR shall prepare and periodically update a Project Schedule for Architect's review and Owner's written acceptance. In the Project Schedule, OR shall coordinate and integrate the Contractor's Work, the Architect's services and the Owner's responsibilities and occupancy requirements with anticipated phasing, construction schedules and long-lead items.
9. OR shall advise and make recommendations to Owner regarding the procurement methods and strategies to be used for the work.
10. OR shall review bid Drawings and Specifications prepared by Architect and assist Architect with preparing the documents/packets for requests for bids, design/bid/build or CMGC services.
11. OR shall assist Owner in managing the selection of a general contractor under a guaranteed maximum price contract or lump sum proposal. OR shall assist in preparing a RFP for general contractors, interview qualified responders, and shall make a recommendation to Owner regarding selection of a general contractor that will provide preconstruction advising services and act as an at-risk general contractor (or construction manager) for the Project based on its qualifications and proposal for overhead, profit and general conditions. The selection process shall evaluate not only the proposal for overhead, profit and general conditions but shall also include evaluation of qualifications, and cost of the pre- construction services if applicable.
12. OR will attend the Contractor's pre-bid conference for prospective subcontractors and together with the Owner and the Architect, provide clarifications should Contractor require any regarding questions from prospective subcontractors.
13. OR will monitor the Contractor's subcontractor bidding process, assist as needed and review the Contractor's bid analysis of Subcontractor pricing and scope and advise Owner on appropriateness of such bids.
14. OR will assist Owner to ensure that proper insurance and bond documents (if any) are in place, correct Drawings, Specifications and schedules are being incorporated, and exclusions (if any) by Owner or Contractor are stated in the final Construction Contract. For purposes of clarification, OR's role is purely advisory and Architect, Owner's legal counsel and insurance representatives shall have primary responsibility for such review and recommendations.
15. OR shall monitor Architect's progress in obtaining building permits and special permits, except for permits required to be obtained directly by the Contractor or specialty subcontractors such electrical, plumbing and/or mechanical or other. OR shall manage, on behalf of Owner with the assistance of Architect and its consultants, the Contractor's performance under the Construction Contract to ensure that all permits are procured on or before the dates each such permits are required to assure appropriate progress in the Work.
16. OR shall use its cost management templates to develop and regularly produce and deliver to Owner total Project financial reports, which shall include budget, actual and cash flow information for the Project and show variances between actual and budgeted or estimated costs. In the event that Owner desires to incorporate financial information that is outside the

scope of the Project, Owner and OR shall develop a process to facilitate such incorporation.

17. OR shall submit written status reports (“Status Reports”) to Owner monthly or more often as may be appropriate relative to the progress of the Project, including updated cost management reports, updated Project Schedule, updated Project Budget, progress of entitlements, permitting, design and construction for the Project, the financial status of the development program for the Project and such other reports as may reasonably be required by Owner and other Project information required by Owner. The reports may be included in monthly Board of Education packages and a written and verbal quarterly update to the board is anticipated.
18. OR shall provide recordkeeping for the Project, including meeting notes (by other Project team members and by OR), Project files, management of intermittent reports and studies, contracts and invoices. All files will be stored on a cloud-based file system accessible to both the OR and the owner.
19. OR shall attend meetings with the Project team in order to represent Owner’s best interests.
20. OR shall coordinate incorporation of signage, security, audio/visual, computer, data/telecom and specialty equipment; and fixtures, furniture, and furnishings for the Project.
21. OR shall solicit, assess, and make recommendations regarding Owner-direct consultant proposals for services and extra work items which may be requested by the Architect. OR will assist Owner in managing Project consultants contracted with the Owner and monitor their performance.
22. OR will review and make recommendations for Project invoices submitted by the Architect, any engineer, and/or other Owner-direct consultants.
23. OR will assist Owner in obtaining required land use and permits from the City and/or State by assisting in the preparation and filing of appropriate applications, meeting with staff of the departments or agencies and assisting in preparing for any public hearings that are required to obtain design review approval, administrative and conditional use approvals. OR will have support from and be able to rely upon the advice of Owner’s land use consultant and legal counsel and other consultants or contractors as required in the application of regulations or in the process for achieving entitlement approvals.
24. OR shall assist Owner in coordination of Project activities with activities undertaken by staff or other Owner consultants to advance the Project, including relocation, move-in, and communications.
25. Review bids and qualifications of contractors submitting proposals.

PHASE 2 CONSTRUCTION PHASE(S)

1. The Construction Phase will commence with the Notice-to-Proceed (“NTP”) to the Contractor for construction of the Project and will end upon the later of approval of Contractor’s final payment for the Work or Final Completion of the Project and release of retainage.
2. OR shall assist Owner with record keeping necessary for review and tracking of the construction progress, including but not limited to a) keeping a periodic log containing a record of work on the site.
3. OR shall provide administrative, supervisory, and related services to coordinate scheduled activities and responsibilities of the Contractor with those of OR, Owner, Architect and any consultants in order to develop the Project in an expeditious manner, consistent with the Owner’s best interests.
4. OR shall facilitate, attend, and coordinate regular meetings (Owner, Architect and Contractor) to discuss such matters as procedures, progress, and scheduling, and to review and provide comments on agendas and minutes produced by the Contractor.
5. OR shall coordinate with the Contractor the procurement of long-lead items and Owner’s responsibilities related to furniture, fixture and equipment, systems, data/telecom, security, audio/visual and signage or other Owner provided items.
6. Utilizing the construction schedules provided by the Contractor and approved in writing by Owner, OR shall update the Project Schedule incorporating the activities of the Contractor on the Project, including activity sequences and durations, allocation of labor and materials, processing of shop drawings, product data and samples, and delivery of products requiring long-lead time and procurement. The Project Schedule and the construction schedule shall include Owner's occupancy requirements showing portions of the Project having occupancy priority. OR shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project Schedule may not be met the OR shall recommend corrective action to the Owner and Architect. OR will review, monitor and make recommendations regarding adjustments to the Contractor’s construction schedule. OR will also review Contractor look-ahead schedules and monitor procurement of long-lead items and inform Owner of Owner action items that will be required during construction to maintain the Project Schedule and the construction schedule.
7. Consistent with the applicable bidding documents, and utilizing additional information provided by the Contractor, OR shall review the Contractor’s sequence of construction and assignment of space in areas where the Contractor is performing Work and advise Contractor and Owner of any concerns or inconsistencies.

8. OR shall endeavor to obtain performance of the Construction Contract by the Contractor. The parties acknowledge that Owner is relying on the experience and expertise of OR to oversee so as to identify as early as possible nonperformance by the Contractor and to recommend corrective action and alternatives.
9. As appropriate, the OR shall have authority to require additional inspection or testing of the Work in accordance with the provisions of the Construction Contract, whether or not such work is fabricated, installed or completed. OR shall advise the Owner and Architect when OR becomes aware of work which does not conform to the Drawings and Specifications. OR shall recommend courses of action to Owner when requirements of a contract are not being fulfilled.
10. OR shall use its cost management reports to update the Project Budget and cash flow reports for the Project which shall advise the Owner as to variances between actual and budgeted or estimated costs.
11. OR shall maintain records of all authorized Work performed by the Contractor.
12. OR shall develop and implement procedures for the review and processing of applications by Contractor for progress and final payments. Based on OR 's observations and evaluations of the Contractor's Application for Payment, OR shall review the amounts due to the Contractor.
13. OR shall review the safety programs developed by the Contractor and make recommendations to Owner associated therewith. OR 's responsibilities for review of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Subcontractors, agents or employees of the Contractor or its Subcontractors, or any other persons performing portions of the Work and not directly employed by OR.
14. Prior to the commencement of construction, OR shall receive, review and forward to Owner certificates of insurance and certified policies of insurance from the Contractor (and from any Subcontractors requested by Owner) in order that Owner may confirm such certificates of insurance conform to Owner's requirements.
15. OR shall determine in general if the Work of the Contractor is being performed in accordance with the requirements of the Contract Documents, endeavoring to guard Owner and the Project against defects and deficiencies in the Work. As appropriate, OR shall have authority, upon written authorization from Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. OR, in consultation with the Owner and the Architect, may reject Work which does not conform to the requirements of the Contract Documents.

16. OR shall manage and coordinate the professional services of surveyors and other special consultants and shall assist the Contractor as needed with coordination of testing and inspection and special inspection services.
17. OR shall monitor requests for interpretations (RFIs) of the meaning and intent of the Drawings and Specifications and assist in the resolution of questions that may arise.
18. In collaboration with Architect and its consultants, the OR shall establish and implement procedures for expediting the processing and approval of shop drawings, product data, samples and other submittals to be reviewed and approved by Architect.
19. OR shall review RFIs, Bulletins, Submittal and Shop Drawings and the associated logs and assist Owner and Architect in resolution when necessary.
20. OR shall review requests for changes. In conjunction with Owner and Architect, the OR shall negotiate the Contractor's proposals. OR shall submit recommendations to Architect for review and to Owner for written authorization.
21. OR shall assist in the initial review of any claims made by the Contractor.
22. OR shall analyze Contractor's schedules (initial and ongoing), recommend action to improve scheduling issues, and track against Contractor's progress and records.
23. With respect to the Contractor's own Work, OR shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of the Contractor or its Subcontractors, since these are solely their respective responsibility; provided, however, in the event OR becomes aware or receives notice that any such construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work are defective, inaccurate or incomplete, OR shall promptly notify Owner of the same in writing and shall advise Owner of the implication to the Contract Documents, the Project Budget, the Project Schedule, the Construction Schedule or the Construction Cost. OR shall not be responsible for the Contractor's failure to carry out the Work in accordance with the respective Contract Documents. OR shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons performing portions of the Work not directly employed by OR (including consultants employed by OR).
24. OR shall record the progress of the Project. OR shall submit monthly written Status Reports to the Owner including updated cost management reports and schedule, and information on the Work and the Project, showing percentages of completion.
25. OR shall coordinate with the contractor to maintain one record copy of all Contract Documents, Drawings, Specifications, addenda, change orders and other modifications, in good order and marked currently to record changes and selections made during construction, and in addition, approved shop drawings and submittals.
26. OR shall coordinate the delivery and storage of Owner-purchased materials, systems and equipment that are a part of the Project until such items are

incorporated into the Project.

27. OR shall assist in verifying and inspecting equipment and placement in accordance with the Contract Documents.
28. With Architect and Owner's maintenance personnel (if any), the OR shall observe the Contractor's final testing and start-up of utilities, operational systems and equipment.
29. Following issuance of a certificate of Substantial Completion of the Work or a designated portion thereof, OR shall review and monitor Architect's list of items for completion or correction of all punch list Items, assist Architect in evaluating completion of the Work, monitor correction and completion of the Work, and make recommendations to Architect and Owner when Work is ready for final inspection. OR shall supervise the correction and completion of the punch list Items and shall assist the Architect and Owner in conducting final inspections.
30. OR shall secure and transmit to Owner warranties and similar submittals required by the Contract Documents and deliver all keys, manuals, record drawings and maintenance stocks to Owner. OR shall forward to Owner a final Application for Payment with release of Contractor's final retention upon compliance with the requirements of the Contract Documents.
31. In conjunction with Contractor, the OR will coordinate training for Owner's end-user staff on the Project's HVAC, electrical, plumbing and life safety systems including fire alarm, security system and CCTV.
32. With input from the Contractor and Owner's end-users, the OR will provide Owner with guidelines for managing warranty work.
33. In conjunction and coordination with the contractor verify (with final TAB report) that all testing and balancing conforms to the project specification and all commission items are tested, recorded, and addressed before final payment. Third party commissioning agents will be used.
34. Duties, responsibilities and limitations of authority of OR as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of Owner. Consent shall not be unreasonably withheld.

**EXHIBIT D
COMPENSATION AND FEE SCHEDULE**

1. The College will not pay the Provider for services performed before the term of this Contract starts or after the term of this Contract ends.
2. No compensation will be paid by College for any portion of the Services not performed. Payment shall not be considered acceptance or approval of any Services or waiver of any defects therein. The compensation and reimbursable expenses shall constitute full and complete payment for said Services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Contract or agreed to by mutual written and duly signed agreement of College and Provider. Failure of Provider to secure authorization for extra work shall constitute a waiver of all right to adjustment in the compensation, reimbursable expenses, or any stated project schedule due to such unauthorized extra work and Provider thereafter shall be entitled to no compensation whatsoever for the performance of such work.
3. The College will pay only for Services that are accepted by the College.
4. Provider will submit monthly invoices to the College for Services performed by the 10th of each month. The invoices shall describe all services performed and shall explain all expenses that this Contract requires the College to pay and for which Provider claims reimbursement. Each invoice shall also include the total amount invoiced to date by Provider for work performed under this Contract prior to the current invoice. Invoices shall be emailed to Accounts Payable apinvoices@clackamas.edu
5. College shall make payments in a timely manner, within thirty (30) days of receipt of invoice. Invoices received from the Provider pursuant to this Contract will be reviewed and approved by the College prior to payment.
6. If College does not pay within thirty (30) days of receipt of invoice acceptable to College, the invoice shall incur a service charge of 1.5% per month on the unpaid monthly balance.

2025 Rates

Proposed Team:	Hourly Rate:
Dale Kuykendall, Project Executive	\$226.00
Luke Harkness, Project Manager	\$159.00
Bobby Daniels, Outreach and Engagement Advisor	\$187.00

Additional Staff if required and approved by the College.

Project Coordinator	\$92.00 - \$117.00
Project Managers	\$133.00 - \$169.00

Senior Project Managers	\$187.00 - \$204.00
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Moving Management and FF&E Team

Moving and FF&E Project Manager	\$92.00 - \$142.00
Moving and FF&E Project Executive	\$202.00

Notes

Hourly rates will be increased by 4% per calendar year, unless as agreed by both parties.
Hourly rates include mileage, cell phones, computers, meals, office furnishings and supplies.