

CONSTRUCTION AGREEMENT

ARTICLE 1 - AGREEMENT

DATE: FEBRUARY 9, 2024	
PROJECT: PORTLAND PUBLIC SCHOOLS PH 11	CONTRACTOR: AMERESCO, INC. 9700 SW CAPITOL HIGHWAY, SUITE 110 PORTLAND, OR 97219
PROJECT NO.: 10064411.000	
OWNER: PORTLAND PUBLIC SCHOOLS P.O. BOX 3107 PORTLAND, OR 97208	SUBCONTRACTOR: EMPOWER DIGITAL SOLUTIONS, INC. 7700 SW HYLAND WAY, BEAVERTON, OR 97008

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CONTRACT PRICE: \$357,489.00
THREE HUNDRED FIFTY SEVEN THOUSAND FOUR HUNDRED EIGHTY NINE AND 00/100 DOLLARS

Contract Price is firm subject only to additions and deletions as explicitly provided herein. Contract Price also includes payment and performance bonds as prescribed by GC4-8 of the general conditions.

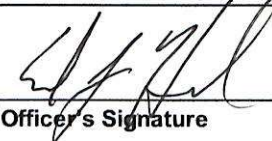
Substantial Completion: The Subcontractor's Work shall be Substantially Complete by February 28, 2025, as such term is later defined herein, and performance by the Subcontractor hereunder shall be subject to the Liquidated Damages provisions attached hereto and incorporated herein as Appendix G.

AMERESCO, INC.

EMPOWER DIGITAL SOLUTIONS, INC

GORAN MATESIC

Officer's Signature



Officer's Signature

SENIOR VP CONSTRUCTION SERVICES

Printed Name & Title of Authorized Personnel

Erik J. Hopkins, President

Printed Name & Title of Authorized Personnel

1.1 Agreement. This Construction Agreement (this "Agreement") is made effective as of the date above, by and between AMERESCO, INC. its successors and assigns, and its directors, officers, employees, agents, and representatives hereinafter referred to as the ("Contractor") and the company listed above hereinafter referred to as the ("Subcontractor"), to perform the work described in Appendix A as it may be amended or supplemented from time to time in accordance with this Agreement. This Agreement may be executed in one or more counterparts (including counterparts delivered by facsimile or other electronic means), each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same instrument.

ARTICLE 2 - SCOPE OF WORK

2.1 Work. Contractor employs the Subcontractor as an independent contractor, to perform the work described in Appendix A, attached. The Subcontractor shall perform its work (hereinafter called the "Work") under the general direction of Contractor and in accordance with this Agreement and the Contract Documents as such term is defined below.

2.2 Materials. The term Materials shall be defined as those Materials and miscellaneous Materials provided by Subcontractor to complete the Work under this Agreement.

2.3 Contract Documents. The Contract Documents, which are binding on Subcontractor, are set forth in Article 1, the Table of Contents. Subcontractor acknowledges receipt of this Agreement (including all Exhibits and Appendices listed in Article 1, the Table of Contents, which are hereby incorporated by reference), which shall comprise all of the Contract Documents.

2.4 Conflicts and Amendments. Where a provision of the Contract Documents is inconsistent with any other provision of the Contract Documents, the provision imposing the higher standards, duty, cost or obligation on Subcontractor shall govern.

2.5 Commencement of Work. The Subcontractor shall commence its Work upon receipt of written notice to proceed ("Notice to Proceed") in the form as provided in Appendix H, from Contractor and if such Work is interrupted for any reason, Subcontractor shall resume such Work within two (2) working days from Contractor's notice to do so.

2.6 Representations of Subcontractor. Subcontractor represents and acknowledges that it has carefully examined this Agreement and the locations where the Work is to be performed and that it has satisfied itself as to (and Subcontractor shall have, and does hereby assume, full and sole responsibility for) the nature, location, character, quality, and quantity of the Work and all requirements of this Agreement as well as the conditions and other matters that may be encountered or that may affect performance of the Work or the cost or difficulty thereof, including, but not limited to, those conditions and matters affecting: transportation, access, disposal, handling, and storage of Materials, equipment, and other items; availability and quality of labor, power and utilities; and physical conditions. The failure of Subcontractor to fully acquaint itself with any applicable condition or matter shall not in any way relieve it from the responsibility for performing the Work in accordance with, and for the compensation provided for, in this Agreement. Subcontractor also represents that it has and will maintain at all times during the term hereof, all necessary permits, trade and business licenses, city, state authorizations to do business.

ARTICLE 3 - CHANGES

3.1 Changes in the Work. Should alterations or extra work hereunder be required by Contractor, Subcontractor shall furnish the material for and perform same. Should omissions be required, Subcontractor shall omit such of the Work as Contractor may from time to time direct. Should Subcontractor encounter during the progress of the Work subsurface and/or latent conditions at the site materially differing from those indicated on the drawings or specifications to the Contract Documents which could not have been foreseen or reasonably anticipated, or unknown conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as existing in work of the character provided for in the plans and specifications, Contractor's attention shall be called to same in writing before such conditions are disturbed.

3.2 Contract Price. Contractor, without invalidating this Agreement, may order changes in the Work consisting of additions, deletions or modifications, the Contract Price and contract Schedule being adjusted accordingly (The Contract Price shall only increase with additions to the Scope of Work). Such changes in the Work shall be authorized by written Change Order signed by Contractor. The Contract Price and contract Schedule shall be changed only by Change Orders signed by Contractor. The cost or credit to Contractor from a change in the Work shall be determined by mutual agreement. Additions to the Work shall be priced at corresponding unit cost, or if none, then by mutual agreement.

3.3 Firm Proposal. To facilitate a determination of any such increase or decrease, Subcontractor at Contractor's request will within five (5) days submit to Contractor a firm proposal for the performance by Subcontractor of any alterations or extra work required by Contractor in such detail as Contractor may require, but the actual addition to the Contract Price shall be fixed in accordance with the foregoing provisions of this paragraph after the increase in the amount due shall have been finally determined. No changes are to be made, however, except upon a written order from Contractor and Contractor shall not be liable to Subcontractor for any extra labor, materials, or equipment furnished without such written order. Nothing contained in this Article shall excuse Subcontractor from proceeding with the prosecution of the changed work when and as directed by Contractor.

ARTICLE 4 - SCHEDULE OF WORK

4.1 Time is of the Essence. Time is of the essence for Subcontractor, and Subcontractor agrees to see to the performance of the Work and the work of its sub-subcontractors so that the entire project may be completed in accordance with the Contract Documents including the Schedule of Work attached hereto as Appendix G. Subcontractor, prior to commencement of the Work, shall prepare and deliver to

Contractor a schedule of the Work (hereinafter called the "Schedule of Work") in conformance with Contractor's schedule and shall update its schedule from time to time in conformance with Contractor's schedule as required by Contractor.

4.2 Duty to be Bound. Subcontractor shall be bound by the Schedule of Work. Subcontractor shall provide Contractor with any requested scheduling information for the Work. The Schedule of Work and all subsequent changes thereto shall be provided by Contractor to Subcontractor in advance of the required performance. Subcontractor shall advise Contractor of any disagreement with the provided Schedule of Work.

4.3 Schedule Changes. Subcontractor recognizes that changes will be made in the Schedule of Work of Subcontractor and agrees to comply with such changes.

4.4 Priority of Work. Contractor shall have the right to decide the time, order and priority in which the various portions of the Work shall be performed and all other matters relative to the timely and orderly conduct of Subcontractor's Work.

4.5 Substantial Completion. Subcontractor's Work shall be substantially completed no later than the date identified in Appendix G, Schedule and Liquidated Damages.

4.6 Force Majeure. Neither Contractor nor Subcontractor shall be responsible for any failure to fulfill, or any delay in fulfilling, its obligations hereunder, except for the obligation to make payments of money, if such failure or delay is beyond the reasonable ability of such party to control, avoid or mitigate and is due to storm, flood, or other Act of God, or to fire, war, rebellion, scarcity of water, insurrection, riots, strikes (other than strikes directed at Subcontractor), or is the result of some order, rule or regulation of any federal, state, municipal, or other governmental agency that could not have been reasonably anticipated or that was not scheduled to take effect.

ARTICLE 5 - CONTRACT INTERPRETATION

5.1 Inconsistencies and Omissions. Should inconsistencies or omissions appear in the Contract Documents, it shall be the duty of Subcontractor to so notify Contractor in writing within three (3) working days of Subcontractor's discovery thereof.

5.2 Law and Effect. This Agreement shall be governed by the laws of the State in which Subcontractor's Work is being performed.

5.3 Severability and Waiver. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

5.4 Titles. The titles given to the articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

5.5 Entire Agreement. This Agreement and Contract Documents are solely for the benefit of the signatories hereto and represent the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral.

5.6 Work Continuation and Payment. Unless otherwise agreed in writing, Subcontractor shall carry on the Work and maintain the Schedule of Work pending dispute resolution, and, if so, Contractor shall continue to make payments in accordance with this Agreement.

5.7 Venue. Subcontractor agrees that it will not commence any action against Contractor, or the sureties on the performance bond given by Subcontractor to Contractor because of any matter arising out of this Agreement in the Courts of any State other than the State in which the Work is being performed.

5.8 Cooperation in Proceedings with Owner. If the Owner and Contractor go to dispute resolution, mediation, arbitration or litigation under the Prime Contract (as defined in Exhibit A) over a matter involving, in whole or in part, Subcontractor's performance of the Work, Subcontractor agrees, upon Contractor's request, to submit to the jurisdiction of such, dispute resolution, mediation, arbitration or litigation and to prepare for such proceeding, at Subcontractor's sole expense, the portion of the matter involving Subcontractor's Work, and, when requested by Contractor, to become a party to such proceeding.

ARTICLE 6 – ALTERNATIVE DISPUTE RESOLUTION

6.1 Informal Dispute Resolution. If during the term of this Agreement any issue, dispute, claim or controversy should arise out of or in connection with the Agreement ("Dispute") and the parties are unable to resolve the Dispute on or before the 30th Day following written notice of such Dispute, which notice describes in reasonable detail the nature of the Dispute and the facts and circumstances relating thereto, each party shall nominate a member of its senior management team for the purpose of meeting at a mutually agreeable time and place to resolve such Dispute. Such meeting shall take place on or before forty-five (45) Days following the date of the notice of the Dispute, and if the Dispute has not been resolved within fifteen (15) Days following such meeting (or if a party fails to designate a member of its senior management team), any party may commence legal proceedings.

ARTICLE 7 - NOTICE

7.1 Written Notice. Any notice, request, approval, consent, order, instruction, direction, or other communication under this Agreement given by either party to the other party shall be in writing and shall be delivered in person or mailed, properly addressed and stamped with the required postage, to the intended recipient at the address and to the attention of the person specified below at the company name and address set forth on the Cover page of this Agreement. Either party may from time to time change such address by giving the other party notice of such change in accordance with the provisions of this Article 7.

7.2 Work Changes Notice. For questions related to changes in the Work or conditions at the Premises not requiring a change in the Agreement or a Change Order, all questions should be directed to Contractor's and Subcontractor's Authorized Representative(s) as follows:

Name: Natasha Coats
Telephone: 801-358-5260
Email: ncoats@ameresco.com

Name: Erik Hopkins
Telephone: 503-806-0530
Email: erik.hopkins@empowerdigital.com

7.3 Contract Changes Notice. For all other matters, the Parties designate the following as their address for all other Notices under this Agreement

Natasha Coats
9700 SW Capitol Highway, Suite 110
Portland, OR 97219

Erik Hopkins
7700 SW Hyland Way
Beaverton, OR 97008