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APPENDIX 5.1 – SAMPLE DESIGN-BUILD AGREEMENT**Oregon State Board of Higher Education
DESIGN-BUILD AGREEMENT for a Fixed Price (“Agreement”)**

THIS AGREEMENT IS BETWEEN THE:**“OWNER”:****The State Board of Higher Education acting by and through Portland
State University
PO Box 751
Portland, OR 97207****and****“DESIGN-BUILDER”:**_____

_____**The “PROJECT” is:****Campus Wide Parking Availability Counting and Monitoring System****Design-Builder’s Representative is:**_____

_____**Owner's Representative is:****Francis McBride, Project Manager
Facilities and Planning
Portland State University
PO Box 751
Portland OR 97207****RECITALS**

WHEREAS, Owner wishes to install parking availability counting and monitoring systems in multiple parking structures on the Portland State University (the “University” or “PSU”) campus, it being Owner’s intent that the parking availability counting and monitoring system be fully designed, constructed, and installed to provide adequate use (the “Project”); and,

WHEREAS, Owner requires a design/build contractor to perform the design, construction, and installation work necessary for the Project, and Design/Builder is prepared to complete such design, construction, and installation work, under the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, Owner and Design/Builder agree as follows:

AGREEMENT

ARTICLE 1 GENERAL AND DEFINED TERMS

1.1 Incorporation of Recitals. The foregoing Recitals are incorporated herein as additional promises, representations and warranties of the Design-Builder, as though set forth fully herein.

1.2 Contract Documents. The contract documents listed or referred to in **Article 12** of this Agreement (the “Contract Documents”) are intended to reflect the understanding of the Owner and the Design-Builder (the “Parties”) of their respective rights and responsibilities concerning completion of the Work within the Contract Time and for the Contract Price.

1.3 Effective Date. This Agreement shall become effective on the first date on which every party has signed this Agreement (the “Effective Date”).

1.4 The Agreement; Order of Precedence. This Agreement, together with the other Contract Documents, forms the entire contract between the Parties related to the Project and the other subject matter hereof (the “Contract”). The order of precedence of the Contract Documents is established in **Article 12** of this Agreement, in the event there are inconsistent or conflicting terms among the Contract Documents. The Parties understand and agree that one of the Contract Documents, the State of Oregon – Oregon University System General Conditions for Public Improvement Contracts (rev. July 1, 2012) (the “General Conditions”), a copy of which is attached hereto and incorporated herein by this reference as **Exhibit C**, is used with a variety of alternative contracting methods, and that some of the terms of the General Conditions may not be applicable in a design-build context. Owner and Design-Builder agree that the General Conditions shall be subordinate to the terms of the Agreement and that in the event of any conflict or ambiguity between the General Conditions and the Agreement, the terms and conditions stated in the Agreement shall control. The Supplemental General Conditions, attached hereto and incorporated herein by this reference as **Exhibit D**, are also Contract Documents and their order of precedence is established in **Article 12**. The General Conditions, the Supplemental General Conditions and other Contract Documents, to the extent consistent with this Agreement, shall also apply to the services/work of all of Design-Builder’s consultants, sub-consultants and subcontractors pursuant to **Section 2.6** below (the “Consultants”).

1.5 Indemnity Regarding “Architect/Engineer”. Included among the entities and persons covered by the indemnification provision in **Section G.1.2 of the General Conditions** is the “Architect/Engineer”. Given that this Agreement is a design-build agreement, the Parties agree that the **Section G.1.2** indemnification would not include the “Architect/Engineer”, as that term is defined in **Section A.1 of the General Conditions** (as revised and supplemented for this Project), to the extent Design-Builder or its Consultants are performing the design services; provided, however, the indemnification provision does apply to the “Architect/Engineer” to the extent an employee or agent of Owner, including but not limited to the Owner’s Representative, is performing other functions or duties of the “Architect/Engineer”, including contract administration and project management.

1.6 Defined Terms. Except as specifically defined in the body of this Agreement or as set forth below in this **Section 1.6**, the defined terms used in this Agreement (indicated by being capitalized), are set forth in **Section A.1 of the General Conditions**, as revised and supplemented for this Project. Additional terms utilized in this Agreement are defined as follows:

1.6.1 “Amendment” means a written modification of the Contract, identified as an amendment to the Contract, and executed by Design-Builder and the Owner.

1.6.2 “Designer” means the designer that is employed or otherwise retained by the Design-Builder as a Consultant under this Agreement to provide design services under the Agreement, who is so identified in **Exhibit A** to this Agreement.

1.6.3 "Business Days" means every day except Saturday, Sunday, legal holidays, official closure days, or furlough days for PSU.

1.6.4 “Change Order” means a written modification of the Contract under **Section D.1 of the General Conditions**, as they may be modified for the Project, (including without limitation any agreed change to the Fixed Price), identified as a change order and executed by the Owner and the Design-Builder.

1.6.5 “Construction Documents” means the final form of the Design Development Documents, after review by the applicable jurisdictions and the Owner, any necessary revisions of the Design Development Documents and final approval by the applicable jurisdictions and the Owner.

1.6.6 “Consultant” means an individual or firm identified in **Exhibit A** to this Agreement, attached hereto and incorporated herein by this reference, or others as may be approved in writing by Owner, who performs services under this Agreement for Design-Builder as a consultant, sub-consultant or contractor or subcontractor with the approval of the Owner, as more specifically described in this Agreement.

1.6.7 “Design Development Documents” means: 1) any manufacturer's complete literature/documentation and technical data; 2) the complete design drawings, specifications, and other documents setting forth in detail the requirements for the construction of the Project; 3) all Designer’s, professional engineer's and land surveyor’s drawings and design development calculations; 4) all samples; 5) shop drawings; 6) cost estimates; 7) project budgets, more particularly set forth in the design specifications, that are initially provided by Design-Builder after full execution of this Agreement and that have not yet been finalized after review and approval by Owner.

1.6.8 “Work” means all services and work within the scope of work to be provided by the Design-Builder under the Contract, including without limitation all design services, construction services, labor, materials, equipment, transportation, incidentals and other related services necessary to complete any individual item or the entire Contract and the carrying out of duties and responsibilities imposed by the Contract. “Work” also refers to the combination of “Design Services” and “Construction Services” as those terms are defined in this Agreement.

1.6.9 “Reimbursable Expenses” means actual direct expenditures (without overhead, fee, markup or profit) made by the Design-Builder in the interest of the Project for the following items: long-distance communications; reproductions, postage and handling of plans, drawings, specifications and other documents (excluding reproductions for the office use of the Design-Builder). Mileage shall be reimbursable at the Federal reimbursement rate for trips of 25 miles or more from the office of the Design-Builder. Other travel charges and parking charges are not reimbursable.

1.6.10 “Fixed Fee,” means the fee described in **Section 5.2** below.

ARTICLE 2

DESIGN AND CONSTRUCTION SERVICES UNDER THIS AGREEMENT

2.1 General Standards For the Services/Work. Concerning the general standards and terms of performance for all pre-design and design services provided under **Section 2.3** of this Agreement (the “Design Services”) and all



construction services under **Section 2.4** of this Agreement (the “Construction Services”) (the Design Services and the Construction Services are collectively referred to as the “Work”), the Parties agree as follows:

- 2.1.1** All Design Services shall be provided by the Design-Builder’s Designer, identified in **Exhibit A** to this Agreement. No substitution of Design-Builder’s Designer shall occur except with the prior written consent of Owner. Design-Builder agrees to support Owner’s efforts to create a collaborative and cooperative team among the Designer, Design-Builder and Owner’s Representative, and Design-Builder agrees that the Designer shall attend all Project team meetings between the representatives of the Owner and the Design-Builder, and at other Project meetings as requested by the Owner. Nevertheless, Design-Builder remains solely liable to Owner for completion and delivery of all Design Services required under this Agreement.
- 2.1.2** Design-Builder agrees that this Agreement, the Design Development Documents and the Construction Documents prepared by Design-Builder and approved by Owner shall serve as the basis for the Work.
- 2.1.3** Design-Builder shall use its best efforts in performing or providing all Design Services and all Construction Services under the Contract, and shall be held to the highest standard of care, skill, business judgment and diligent efforts for those performing design and construction services/work on major development projects in major metropolitan areas. Design-Builder agrees to act in the best interest of the Owner when performing its duties under the Contract.
- 2.1.4** Within one (1) week after execution of the Agreement, Design-Builder shall submit for Owner’s approval a schedule for the performance of Design Services, which shall include allowances for periods of time required for Owner’s review and for approval of submissions by authorities having jurisdiction over the Project. Once approved by Owner, Design-Builder or Owner shall not, except for reasonable cause, exceed time limits established by this schedule. Within one (1) week after Owner approves the schedule for the Design Services, Design-Builder will submit for approval by Owner a schedule for the performance of the Construction Services.
- 2.1.5** Design-Builder shall appoint a representative who will be reasonably available to Owner and who shall have the expertise and experience required to supervise the Work (the “Design-Builder’s Representative”) for the duration of the Project. Design-Builder’s Representative shall communicate regularly with Owner and shall have the authority to act on behalf of Design-Builder. Design-Builder’s Representative may be replaced during the Project only with Owner’s prior written consent.
- 2.1.6** Design-Builder shall conduct meetings with Owner and the Design-Builder’s Designer at least once every two (2) weeks during the design phase and weekly meetings during the construction phases of the Work. At the meetings, the Design-Builder shall provide to Owner a status report detailing the progress of the Work and other information as required by the Project documents. The status report shall include not less than the following items: 1) whether the Work is proceeding according to schedule; 2) any discrepancies, conflicts, or ambiguities in the Contract Documents that require resolution; 3) any safety issues related to the Work; 4) any other matters that require resolution to ensure timely and cost-effective completion of the Work. At least four Business Days prior to the scheduled meeting, Design-Builder shall submit to Owner a list of identified matters that will require resolution, any matters that require Owner’s approval, and any proposed deviations from the Project schedule. The Design-Builder shall take meeting notes and within three (3) Days following each meeting provide the Owner’s Representative and attendees with minutes of the meeting.



2.1.7 Owner's review of, and response to, any of the matters presented above shall not relieve Design-Builder of its obligation to complete the Work within the Contract Time, and shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.2 Scope Definition Phase. Prior to initiating any subsequent phases of the Project, if at all, the parties shall complete the Scope Definition Phase. During the Scope Definition Phase, Design-Builder will perform the activities listed below in this Section 2.2. In this phase, Owner and Design-Builder will develop a scope of work, which will be subject to Owner's approval. Following development and approval of a scope of work in this Scope Definition Phase, Owner may authorize in writing the Design Services set forth in Section 2.3 and the Construction Services set forth in Section 2.4 below. If Owner authorizes the Design Services and Construction Services, the parties shall execute an amendment to this Agreement to memorialize and effect the authorization and incorporate the scope of work and establish the Fixed Fee into the Agreement. All other terms and conditions shall remain binding on Design-Builder. Design-Builder shall not commence the Design Services set forth in Section 2.3 and the Construction Services set forth in Section 2.4 below without an approved and fully executed amendment to this Agreement.

1. Review existing documentation;
2. Consult with Owner regarding elements of the Work to be included within project budget;
3. Begin development of project documents and cost estimates;
4. Assist Owner in developing a scope of work to be performed consistent with the project budget.

2.3 Design Services. Subject to authorization in writing as set forth in Section 2.2 above, Design-Builder shall develop and generate the Design Development Documents and, following approval of the Design Development Documents by Owner and any further adjustments in the scope or quality of the Project or in the Construction Budget authorized by Owner, Design-Builder shall prepare, for approval by Owner, Construction Documents based on the completed Design Development Documents, consisting of Drawings, Specifications and other documents setting forth in detail the requirements for construction of the entire Project.

A. Pre-Design/Schematic Design Phase

In consultation with the Owner, and in compliance with the Design Criteria provided by the Owner, the Design-Builder shall:

1. Verify the exact project name with the Owner prior to beginning work.
2. Identify applicable building codes, administrative, and permit processing requirements as relevant;
3. Verify, by on-site inspection unless specifically stated otherwise by the Owner, existing conditions and systems, including but not necessarily limited to architectural, structural, mechanical and electrical systems, to confirm that these conditions and systems are of adequate condition and capacity to support the Work to be executed on the Project;
4. In consultation with Owner, use all available information to evaluate the program requirements, and with appropriate data and graphics propose a series of improvements deemed necessary and desirable to satisfy the Program Requirements, including; space needs, budget, availability of utilities, effect of codes



and ordinances, safety and energy requirements, compliance with all applicable ADA (as defined below) requirements, historical character of the building, etc.;

5. Based on the revised Program Requirements, develop Schematic Design studies consisting of drawings, and other documents for the Owner's approval;
6. Provide documents suitable for submission to and approval by the City of Portland Design Review. The Design-Builder's and Designer's attendance is required at all City of Portland Design Review Presentations and other potential agency approvals required for the work. The Design-Builder shall pay all required jurisdictional application, plan review and appeal fees.
7. Submit to the Owner three (3) copies and one (1) electronic copy of the following documents, information and other data:
 - a. A project schedule delineating the estimated time required for the Designer to complete the Design Development and Construction Documents Phases of the Project;
 - b. Recommendations by the Consultants (structural, mechanical, electrical) of the technical requirements necessary to implement the Program Requirements;
 - c. Preliminary plans, elevations, and other drawings necessary to describe the entire scope of the Project.
8. All Pre-Design/Schematic Design plans are to be prepared on an AutoCAD version 2011 or later. Provide all schedules, estimates, recommendations and other Pre-Design/Schematic design documents, exclusive of plans, in Microsoft Word, Version 2010, or if approved by the Owner Adobe Acrobat, Version 9.0 or higher.

B. Design Development Phase

Upon notification of the Owner's approval of the Pre-Design/Schematic Design Phase, and upon written authorization from the Owner to proceed, the Design-Builder, in compliance with the design criteria provided by the Owner, shall:

1. Prepare drawings and other documents to fix and describe the size and character of the entire Project as to design, materials and appearances, and such other essentials as may be appropriate and in accordance with governing codes and ordinances;
2. Verify, by on-site inspection unless specifically stated otherwise by the Owner, prior to completion of the Construction Documents Phase, existing conditions as required to address significant constructability issues.
3. The Design-Builder shall design the Project and each element thereof in compliance with the Americans with Disabilities Act ("ADA"), and if, due to the fault of the Design-Builder or the Designer, the design for the Project, or any portion thereof, is not in compliance therewith, the Design-Builder and the Designer shall redesign such non-complying aspects of the Project at no additional cost to the Owner. Nothing in this Agreement shall operate to relieve the Design-Builder or the Designer of its responsibility to comply with the requirements of the ADA and any regulations or guidelines duly adopted there under or to limit Owner's remedies for Design Builder's noncompliance with this Agreement.



4. Design-Builder shall file all documents and pay all fees related to approval of various governmental agencies having jurisdiction over the Project, including but not limited to, the City of Portland Office of Planning and Development Review, Portland Design Review Board, and Fire Bureau (the “Jurisdictional Agencies”); required appeals and plan review fees.
5. The Design-Build team will provide progress cost estimates at the completion of the Design Phase.
6. Upon Completion of Design Development, submit to the Owner three (3) bound copies and one (1) electronic copy of the following documents, information and other data, unless alternative quantities are specified:
 - a. One copy of Manufacturer’s catalog cut sheets of all preliminary material and equipment recommendations.
 - b. One-line diagrams for mechanical systems design(s).
 - c. One-line diagrams for electrical systems design(s).
 - d. Complete outline specification and Project manual, including, but not necessarily limited to, bidding and contract forms, general, special, and supplemental conditions, etc.
 - e. Recommendations for construction phasing to ensure continued operation of Owner's activities.
 - f. Equipment layouts showing location, size, and configuration of all equipment in the Project.
 - g. An update of the Fire and Life Safety requirements resulting from previous reviews with the City of Portland.
7. All Design Development plans are to be prepared on an AutoCAD version 2011 or later. Provide all schedules, estimates, recommendations and other Pre-Design/Schematic design documents, exclusive of plans, in Microsoft Word, Version 2010, or if approved by the Owner Adobe Acrobat, Version 9.0 or higher.

C. Construction Documents Phase

Upon notification of the Owner's approval of the Design Services performed under the Design Development Phase and upon written authorization from the Owner to proceed, the Design-Builder, in compliance with the Design Criteria provided by the Owner, shall:

1. Prepare working drawings and specifications, setting forth all necessary plans, elevations, and construction details, descriptions of materials and equipment, methods of installation, and standards of workmanship.
2. All Construction Documents shall be prepared in conformance with the document drafting and formatting criteria for Portland State University Projects provided by the Owner.
3. The Design-Builder shall ensure that the Project complies with the American with Disabilities Act Accessibility Guidelines (“ADAAG”), latest version, and allows for access to programs, activities, and services in the most integrated setting possible. The Owner will be responsible for review of accessibility and interpretation of ADAAG for compliance with Federal requirements.



4. The Design-Build team will provide progress cost estimates at the 25%, 50%, 75%, and at the completion of the Construction Documents.
5. Prepare Construction Documents as may be required to expedite the Work in phases so as to take maximum advantage of weather and availability of facilities for demolition and reconstruction.
6. Prepare specifications setting forth descriptions of materials and equipment, methods of installation, and standards of workmanship. Include in the appropriate section of Division 1 of the specifications Portland State University project coordination requirements and a complete listing of all warranties required under the technical portions of the specifications.
7. Provide the Owner three (3) sets of the 75% complete project manual including the bidding requirements, contract forms, bonds, conditions of the construction contract, specifications, drawings, and other supporting documentation. A marked-up set of changes will be returned to the Designer for revision of the documents prior to 100% completion review.
8. Provide the Owner five (5) sets and one (1) electronic set of the 100% complete Project manual, including the Construction Documents.
9. File the required documents for the approval of various governmental agencies having jurisdiction over the Project, including but not limited to the Jurisdictional Agencies. Design-Builder shall pay for all required plan review fees.
10. Submit to the Owner the following documents, information and other data:
 - a. Structural calculations;
 - b. Electrical system design load calculations.
11. Construction Documents are to be prepared on an AutoCAD base, version 2011 or later. Provide all schedules, estimates, recommendations and other Pre-Design/Schematic design documents, exclusive of plans, in Microsoft Word, Version 2010, or if approved by the Owner Adobe Acrobat, Version 9.0 or higher.

2.4 Construction Services--General. Subject to authorization as set forth in Section 2.2 above and approval of the Design Development Documents and the Construction Documents in accordance with Section 2.3, Design-Builder agrees to provide all Construction Services required for the Project, consistent with the following standards:

2.4.1 Upon completion by Design-Builder and approval by Owner of the Design Services by Owner's issuance of a Notice to Proceed, Design-Builder shall perform the Construction Services described in this Agreement. Design-Builder shall provide all necessary construction services, labor and materials to furnish to Owner a complete, fully functional facility, capable of being legally occupied and fully used for the purposes described hereinabove upon completion of the Construction Services and full performance of the Contract. Upon receiving a Notice to Proceed from Owner, Design-Builder shall perform the Construction Services as follows:

- A. Attend the pre-construction conference at a site to be determined by Owner.
- B. Provide general administration of the Construction Services as contemplated by the provisions of this Agreement.



- C. Perform all other Construction Services otherwise specified in the Contract.
- D. Design-Builder shall have complete control over and charge of and shall be responsible for construction means, methods, techniques, sequences or procedures, and for safety precautions and programs in connection with the Work. These roles are solely Design-Builder's responsibility under the Contract. Design-Builder shall be fully responsible for maintaining construction schedules and for any failure to carry out the Work in accordance with the Contract Documents and in substantial conformance with the Construction Documents. Design-Builder shall be deemed to have complete control over or charge of acts or omissions of the design professionals, the construction contractors, subcontractors, or their agents or employees, or of any other persons performing portions of the Construction Services.
- E. Design-Builder's responsibility to provide the Construction Services under this Agreement commences with the execution of this Agreement and terminates upon Design-Builder's satisfaction of all obligations set forth in the Contract, including those enumerated at **Section K of the General Conditions**, as revised and supplemented for this Project.
- F. Design-Builder shall supervise and administer all construction activities as set forth in this Agreement and in the General Conditions, as revised and supplemented for this Project, current as of the date of this Agreement, unless otherwise provided in this Agreement.
- G. Arrange periodic visits to the Project Site by Design-Builder's Consultants, with such frequency as to ascertain the progress and quality of the Work, attend progress meetings, determine in general if the Work is proceeding in accordance with the Construction Documents, and submit a written report to the Owner within **five (5)** Business Days of each visit.
- H. Coordinate review and appropriate action regarding shop drawings and samples; such actions shall be taken with reasonable promptness to cause no delay in the Work.
- I. Design-Builder's duties, responsibilities and limitations of authority shall not be modified or extended without the express written agreement of both the Owner and Design-Builder and any other required State of Oregon approvals.
- J. Except as may otherwise be provided in the Contract Documents or when direct communications have otherwise been specifically authorized, Owner shall conduct all communications concerning the Construction Services through Design-Builder's Representative.
- K. Subject to the right to suspend and terminate as provided in **Section J of the General Conditions** as revised and supplemented for this Project, in no event shall the existence of any claim, dispute or question constitute a justification for either Party to suspend or terminate the progress of the Construction Services, and both Parties, in such event, shall continue to prosecute the Construction Services and perform under the Contract diligently, and shall resolve the claim, dispute or question either by agreement or mediation or other lawful means.
- L. The Design-Builder shall notify the Design-Builder's Designer and the Owner when the Construction Services or an agreed-upon portion thereof is substantially completed by issuing a Certificate of Substantial Completion, which shall: 1) establish the date of Substantial Completion; 2) include a list of items to be completed or corrected; and 3) fix the time within which Design-Builder shall complete items listed therein.



- M. At its own expense, Design-Builder shall correct Construction Services, which do not conform to the Construction Documents.
- N. Design-Builder warrants to Owner that materials and equipment incorporated in the Work will be new unless otherwise specified, and that all services/work performed in furtherance of the Construction Services will be of good quality, free from faults and defects, and in conformance with the Contract Documents and the Construction Documents. Construction Services not conforming to these requirements shall be corrected in accordance with the terms of the Contract, including but not limited to **Section I of the General Conditions**, as revised and supplemented for this Project.
- O. Design-Builder shall pay all sales, consumer, use and similar taxes and shall obtain and pay for all general building, electrical, mechanical and plumbing permits for the project through the City of Portland's Facilities Permit Program and other permits, licenses and inspections necessary for the proper execution and completion of the Construction Services which are either customarily secured or are legally required except as modified by the Supplemental General Conditions. The Design-Builder shall pay all costs of this Project that result from errors or defects in the design of the Project, provided by Design-Builder or its Consultants, or in the Construction Services, provided, however, that such errors or defects were not caused by appropriate and justifiable reliance on information provided by the Owner where such reliance is agreed to by Owner and is consistent with Design-Builder's responsibilities and applicable standard of care under the Contract.
- P. Design-Builder shall give notices and comply with all laws, statutes, ordinances, rules, regulations, lawful orders and other requirements ("Laws") of all federal, state and municipal governments, agencies, courts, departments, commissions, boards and offices, any national or local Board of Fire Underwriters, or any other body exercising functions similar to those of any of the foregoing, which may be applicable to the Project and the operation thereof (including, but not limited to, laws, ordinances, orders, rules, regulations and requirements prohibiting restraints on trade, or discrimination whether on the basis of race, creed, color, religion, sex, sexual orientation, national origin, ancestry, age, physical handicap or otherwise or pertaining to the environment and the effects of the environment on human health), including but not limited to ORS 455.010 through ORS 455.897, as amended, and rules adopted pursuant to those statutes.
- Q. Design-Builder shall be responsible to Owner for the completion of the Construction Services in accordance with the Contract.
- R. Design-Builder shall keep the Project Site free from accumulation of waste materials or rubbish caused by Design-Builder's operations. At the completion of the Construction Services, Design-Builder shall remove from and about the Project all of Design-Builder's tools, construction equipment, machinery, surplus materials, waste materials and rubbish.
- S. Design-Builder shall prepare Change Orders for Owner's approval and execution and shall have authority to make minor changes in the design and construction consistent with the intent of the Project not involving an adjustment in the Contract Price or an extension of the Contract Time. Design-Builder shall promptly inform Owner, in writing, of all minor changes in the design and construction of the Project.
- T. Design-Builder shall maintain in good order at the Site one true and correct record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders, and other modifications, marked currently to record changes made during construction (together, the "Record Documents"). The Record



Documents shall be delivered to Owner upon completion of the design and construction and prior to final payment. The Record Documents shall be based solely on information obtained by Design-Builder.

- U. In addition to constituting a "public improvement," the Project construction constitutes a "public works" project for the purposes of the prevailing wage rate laws as provided in ORS 279C.800 through 279C.870. Design-Builder and all its Consultants shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates and payment of any fees to the Bureau of Labor and Industries ("BOLI"), as outlined in **Section C of the General Conditions**, and regarding the required public works bond as outlined in **Section G.2.3 of the General Conditions**, as those Sections of the General Conditions are revised and supplemented for this Project. The BOLI wage rate requirements applicable to this Agreement and the Project, which are incorporated herein by this reference, are the PREVAILING WAGE RATES for Public Works Contracts in Oregon, **dated July 1, 2013**. These BOLI wage rates are available online at: http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_state.shtml
- V. Design-Builder shall be fully responsible for initiating, maintaining and providing supervision of safety precautions and programs in connection with the Construction Services.
- W. Design-Builder shall take reasonable precautions to ensure the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: 1) employees of Owner present on the site, employees of Design-Builder, and other persons who may be affected; 2) the Work and materials and equipment to be incorporated therein; and 3) other property at, or adjacent to the Site.
- X. Design-Builder shall be liable for damage or loss to property at the Site caused by the negligence of Design-Builder, anyone directly or indirectly employed by Design-Builder, or anyone for whose acts it may be liable, except to the extent that damage or loss is attributable to the acts or omissions of Owner. This subparagraph shall in no way affect the applicability or coverage of the bonds and insurance required by **Section G of the General Conditions**, as revised and supplemented for this Project.
- Y. The Design-Builder shall retain and pay the Consultants identified in **Exhibit A**. The Owner's Representative will review and approve or amend the "punch list" of incomplete or defective items and issue to Design-Builder within ten (10) Business Days after issuance of the Notice of Substantial Completion. The Design-Builder shall expediently remedy deficiencies at no additional cost to the Owner.

2.4.2 [Reserved]

2.5 [Reserved]

2.6 Extra Services/Work To Be Provided By Design-Builder.

- 2.6.1 All copies/sets of documents in excess of those set forth herein shall be furnished by Design-Builder upon the written request of Owner, for which Owner shall reimburse Design-Builder for the cost of reproduction.
- 2.6.2 Design-Builder shall be paid, subject to fully executed Amendments or Change Orders to the Contract, with any required Owner approvals, for extra services and expenses outside the scope of the Project, only in the following specific circumstances:



- A. Substantial changes are ordered by Owner to the Work, after Owner has acknowledged the acceptance of one or more of the design phases described in **Sections 2.3 A through 2.3 C** above, the Construction Services described in **Sections 2.4 and 2.5** above, or any sub-component thereof;
 - B. Design-Builder suffers a loss due to damage that occurs as a result of fire or other casualty to the structure contemplated in the Project, through no fault of Design-Builder or the Consultants, and such loss is not of a kind that is insurable under one or more of the insurance coverages required to be carried by Design-Builder under this Agreement;
 - C. Owner requests the selection and specification of furnishings outside the scope of the Design Services or Construction Services; or
 - D. Owner requests extra/additional services not identified under the Design Services or Construction Services Sections of this Agreement.
- 2.6.3** If authorized by the Owner through a fully executed and approved Amendment or Change Order to the Contract, or in a written and signed directive from Owner to Design-Builder, the Design-Builder shall, directly or through its Consultants, provide all Design Services, Construction Services and other Work as provided in **Sections 2.1 through 2.4** of this Agreement.

2.7 Design Builder's Consultants, Sub-Consultants and Subcontractors.

- 2.7.1** Design-Builder shall be assisted by the consultants, sub-consultants, and subcontractors identified in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Consultants"). The Parties acknowledge and agree that the Consultants have been reviewed and approved by Owner prior to the execution of this Agreement. Design-Builder agrees to submit the name of any additional or replacement Consultant (other than the Designer identified in **Section 2.1.1 or Exhibit A**) to Owner not less than three (3) Business Days prior to employment of that consultant. Owner shall be deemed to have consented to the employment of such Consultant unless Owner objects to the employment of such Consultant in writing within such three day period; *provided that* if Owner subsequently discovers information which leads Owner to reasonably believe a Consultant selected by Design-Builder and approved by Owner is unqualified to perform the Work, Design-Builder shall replace such Consultant upon the request of Owner. In the event Design-Builder intends to replace either the Designer or the general contractor, any proposed replacement Designer or general contractor must first be reviewed and approved by Owner as follows: (a) Design-Builder will provide Owner at least fifteen (15) Days prior written notice of the intended substitution and request Owner's approval of the proposed substitute Designer or general contractor, which approval shall not be unreasonably withheld; (b) when the replacement Designer or general contractor has been approved by Owner, Design-Builder shall provide a transition period of at least 10 Business Days during which the original and replacement Designer or general contractor shall be working on the Project concurrently, if possible; and (c) once a replacement Designer or general contractor is authorized, further replacement of that Consultant shall not occur without the written permission of Owner.
- 2.7.2** Owner may authorize and provide reimbursement to Design-Builder beyond the Fixed Fee established in **Section 5.1** below for additional consulting services required in performing extra or additional services under **Section 2.6** above, upon prior written request from Design-Builder and pursuant to an Amendment to the Contract. Such an Amendment shall be made in advance of the additional Consultant services, with negotiation to determine the effect, if any, upon the Fixed Fee. If the employment of a Consultant reduces the amount of the Design Services or Construction Services to be



performed by Design/Builder under this Agreement, an adjustment shall be made for that portion of the Work.

2.7.3 Any requirement of Owner, if any, for a "Designer Certification" from Design-Builder's Designer or other Consultants shall be limited to certification of Substantial Completion and Final Completion.

2.8 **Special Testing and Inspection Services.** The Owner shall, so far as the Work under this Agreement may require, furnish and pay for special testing and inspection required by the governing jurisdictions and not resulting from Design-Builder's deficiencies, shop fabrication or means and methods. The Design-Builder shall be responsible for any and all additional testing and inspection costs resulting from the Design-Builder's acceleration of the construction schedule.

**ARTICLE 3
RELATIONSHIP AND ROLES OF THE PARTIES**

3.1 **Independent Contractor.** Design-Builder is an independent contractor and not an officer, employee, or agent of Owner as those terms are used in ORS 30.265.

3.2 **Owner's Representative.** Owner's Representative is the individual or entity designated by Owner to provide project and contract management services for the Project. Design-Builder understands and agrees that Owner's Representative is Owner's exclusive representative to Design-Builder with respect to this Agreement, unless Owner designates another representative and notifies Design-Builder in writing of that designation. All instructions from Owner to Design-Builder will be issued or made through Owner's Representative. Owner's Representative shall have the authority to establish procedures, consistent with the Contract, to be followed by Design-Builder and to call periodic conferences to be attended by Design-Builder and the Design-Builder's Designer throughout the term of the Contract. Owner's Representative shall have no authority to amend the Contract outside the Change Order process that is set forth in **Section D.1 of the General Conditions**, as revised and supplemented for this Project. Owner acknowledges and agrees that members of the Design-Builder's design team will take directions only from Design-Builder in connection with their performance of their professional services. Accordingly, Owner agrees that no member of Design-Builder's design team is an agent or representative of the Design-Builder, and that, therefore, no design team member will have authority to commit the Design-Builder to any obligation that alters or modifies the Design-Builder's obligations to Owner as set forth in the Contract. Owner agrees that it will not provide direction to members of the Design-Builder's design team in the absence of a representative of the Design-Builder that would cause Design-Builder additional costs or delays; provided, however, the Design-Builder agrees, at the request of the Owner, to require its Designer and other design team members to attend design meetings with the Owner in addition to other specific provisions of this Agreement, whereby the Design-Builder's Designer is required to attend Project meetings with the Design-Builder.

3.3 **Design-Builder's Project Staff.** Design-Builder's Project staff shall consist of the following personnel.

3.3.1 Principal-in-Charge, Project Manager; Assistant Project Manager:
_____ shall be Design-Builder's Representative,
_____ shall be Design-Builder's Project Executive,

3.3.2 Construction Project Manager and Job Superintendent:
_____ shall be Design-Builder's on-site Senior Superintendent,
_____ shall be Design-Builder's Senior Project Manager and



- 3.4 Key Persons.** Design-Builder's personnel identified in **Section 3.3** above shall be considered unique, key personnel and shall not be replaced during the Project without the written permission of Owner, which shall not be unreasonably withheld. If Design-Builder intends to substitute personnel, a request must be given to Owner at least 30 Days prior to the intended time of substitution. When Owner has approved replacements, Design-Builder shall provide a transition period of at least 10 Business Days during which the original and replacement personnel shall be working on the Project concurrently. Once a replacement for any of these staff members is authorized, further replacement shall not occur without the written permission of Owner.

ARTICLE 4

DATE OF COMMENCEMENT AND COMPLETION OF THE DESIGN SERVICES AND THE CONSTRUCTION SERVICES

- 4.1 Commencement of Services.** Design-Builder shall commence the Work contemplated by this Agreement upon complete execution of the Agreement, subject to the terms and conditions of this Agreement.
- 4.2 Completion of Project.** The Design Builder shall complete initial approved Construction Documents and specifications (the approved permit set) to begin construction on or before **December 16, 2013**. Design-Builder shall achieve Substantial Completion for all Construction Services by no later than **January 31, 2014** and Final Completion of all Work under this Agreement by no later than **February 28, 2014**.
- 4.3 Notice to Proceed.** Owner will issue a Notice to Proceed authorizing Design-Builder's commencement of the Construction Services in accordance with Design-Builder's Schedule. Notwithstanding the foregoing, if Owner has not responded within two weeks of the date required, Owner shall be deemed to have issued the Notice to Proceed.
- 4.4 Time is of the Essence.** All time limits stated in the Contract Documents are of the essence. No provision of this Agreement shall preclude recovery of actual damages for delay by either party. Foreseeable actual damages incurred by Owner in the event of late completion include but are not limited to: costs of temporary facilities for Owner and Owner's lessees, professional fees and charges, and administrative expenses. Each Party agrees to bear its own legal expenses.
- 4.5 Time for Performance.** This Agreement shall take effect on the Effective Date and shall continue in force, unless canceled, through Project Completion, in accordance with the Schedule of Work set forth in **Article 13** of this Agreement.
- 4.6 Punch List.** The punch list will include a requirement that Design-Builder deliver one complete set of "as built" drawings of the Project to Owner, if such drawings have not been provided with the Notice of Substantial Completion. Upon satisfactory and documented completion of all items specified in the punch list, the Project shall be deemed satisfactorily completed. Any subsequently discovered defects shall be processed as warranty claims.

ARTICLE 5

COMPENSATION OF DESIGN-BUILDER

- 5.1 Design Services and Construction Services.** Owner agrees to compensate Design-Builder for all Design Services and Construction Services performed under this Agreement, including all services and expenses of the Consultants, a Fixed Fee of _____ . The Fixed Fee includes the entire cost of all labor, materials, Consultants' fees, components and systems required for a complete, fully functional facility, as contemplated by the Parties under the Contract, and includes all contingencies and Design-Builder overhead

and profit. The Fixed Fee shall be payable pursuant to the terms of **Article 10** hereof and **Section E of the General Conditions**, as revised and supplemented for this Project.

5.2 Adjustments to the Fixed Fee. The Fixed Fee shall be increased as a result of properly authorized Change Orders that result in an increase in the scope of the Project.

ARTICLE 6 **CHANGES IN THE WORK**

Adjustments to the Fixed Fee required by changes in the Work beyond the stated scope may be determined by any of the methods listed in **Section D of the General Conditions**, as revised and supplemented for this Project.

ARTICLE 7 **INSURANCE PROVISIONS**

During the term of this Agreement, Design-Builder shall maintain in full force, at its own expense, from companies licensed to do business in Oregon, the insurance coverage (and related insurance requirements) noted in Sections 7.1 through 7.10 below. All insurance carried by Design-Builder under this Contract shall be the primary coverage, and any Owner's insurance is excess and solely for damages or losses for which the Owner is responsible. The coverages indicated are minimums, unless otherwise specified in the Contract. The Design-Builder shall be responsible for any deductible amounts.

- 7.1 Workers' Compensation.** All employers on the Project, including Design-Builder, that employ subject workers as defined in ORS 656.027, shall provide workers' compensation insurance coverage for those workers, and must comply with ORS 656.017, unless they meet the requirements for an exemption under ORS 656.126(2). If Design-Builder is not subject to ORS Ch. 656, but utilizes any employees in performance of the Contract required to be covered by workers' compensation insurance under another state's regulations, Contractor shall provide such coverage as may be required. Contractor shall require and ensure that each of its subcontractors complies with these requirements. If, with regard to this Agreement, Design-Builder is subject to Employer's Liability Insurance, as defined in ORS 656.023, Design-Builder shall obtain, at Design-Builder's expense, Employer's Liability insurance coverage in the minimum amount required by statute for each accident.
- 7.2 Commercial General Liability** – The Design-Builder shall obtain, at the Design-Builder's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the Owner. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under the Contract, and is made on an occurrence basis. Combined single limit per occurrence shall not be less than the amounts listed in the Supplemental General Conditions.
- 7.3 Builder's All-Risk/Direct Risk Of Physical Damage.**
Builder's Risk: During the term of this Contract, for new construction the Design-Builder shall obtain and keep in effect Builder's Risk insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of the Contract. Any deductible shall not exceed **\$50,000** for each loss, except the earthquake and flood deductible shall not exceed 2 percent of each loss or **\$50,000**, whichever is more. The policy will include as loss payees the Owner, the Design-Builder and its Subcontractors as their interests may appear.
- 7.4 Automobile Liability.** Design-Builder shall obtain, at Design-Builder's expense, and keep in effect during the term of this Agreement, Automobile Liability Insurance covering owned, non-owned and hired vehicles, as applicable. The coverage may be written in combination with the Commercial General Liability Insurance.

Design-Builder shall provide proof of insurance to Owner of not less than the amounts listed in the Supplemental General Conditions.

- 7.5 Professional Liability/Errors & Omissions.** Design-Builder shall provide Owner with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by any negligent error, omission, or any act for the Project, its drawings and project manual, and all related work products of Design-Builder, as it pertains to the design services provided under the Contract. The policy may be provided to Design-Builder's Designer and may be either a practice based policy or a policy pertaining to the specific Project. Professional Liability insurance to be provided shall have a combined single limit of not less than **\$1,000,000** per claim/**\$2,000,000** annual aggregate.
- 7.5.1** Because Design-Builder will provide the Design Services for the Project through one or more Consultants, Design-Builder shall require its Consultant(s) to obtain the Professional Liability/Errors and Omissions coverage described in **Section 7.5**. The insurance shall cover damages caused by any negligent error or omission in the Design Services for the Project, whether performed by a designer, engineer or other provider. Design-Builder shall provide Owner with proof of this insurance coverage. The policy may be either a practice based policy or a policy pertaining to the specific Project, but the policy must protect the State of Oregon, Board of Higher Education and PSU as "owner". The coverage must comply with the limits stated in **Section 7.5**. Design-Builder shall name Owner as an intended third-party beneficiary in any subcontract with its Consultant(s), in a form acceptable to Owner, and shall provide Owner with written confirmation of any such Consultant's agreement to Owner's status as an intended third-party beneficiary. Design-Builder shall cooperate fully with Owner in its pursuit of any claims against the Design-Builder's Consultant(s), and shall, on a timely basis, take all actions reasonably necessary to assist Owner in its ability to recover the proceeds of this coverage for claims arising from design errors and omissions on the Project, and any other acts in furtherance of Design Services for the Project.
- 7.6 "Tail" Coverage.** If any of the required liability insurance is arranged on a "claims made" basis, Design-Builder shall provide "tail" coverage at the completion of the Contract for a duration of 48 months or the maximum time period available in the marketplace if less than 48 months. Design-Builder will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 48 months following completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Agreement. This will be a condition of the Final Acceptance of Work and Related Warranty, if any.
- 7.7 Certificate of Insurance.** Prior to the signature by Owner to this Agreement, Design-Builder shall furnish to the appropriate Owner official Certificates of Insurance as evidence of the insurance coverages required under this Agreement. The certificate(s) shall provide that the insurance policies have been endorsed/amended so that the insurance company or companies shall give a 30-calendar day notice (without reservation) to Owner if the applicable policy is canceled or materially changed, or if the aggregate limits have been reduced. The certificate(s) should provide specifically that the insurance is provided for this Agreement.
- 7.8 Additional Insureds.** The Certificates of Insurance, except for Workers' Compensation and Professional Liability, shall provide that the policies have been endorsed/amended so that the State of Oregon, the Owner, and its directors, officers, agents and employees are Additional Insureds with respect to Design-Builder's Work to be provided under this Agreement. Design-Builder shall provide Owner with copies of all policy endorsements/amendments confirming the State of Oregon and Owner's status as Additional Insureds, as required by this Agreement. The requirements of this Section shall also apply to policies for insurance coverage provided by Consultants of Design-Builder.



ARTICLE 8
OWNERSHIP AND USE OF WORK PRODUCT OF DESIGN-BUILDER

8.1 Definitions. The following terms have the meanings set forth below:

8.1.1 “Design-Builder Intellectual Property” means any intellectual property owned by the Design-Builder and developed independently from the Contract.

8.1.2 “Third Party Intellectual Property” means any intellectual property owned by parties other than Owner or the Design-Builder.

8.1.3 “Work Product” means copies of the Design Development Documents, the Construction Documents, and all plans, specifications, reports or other materials required to be delivered under the Contract, including any materials identified as “instruments of service” in any agreement between the Design-Builder and any of its Consultants, and every other invention, discovery, work of authorship, trade secret or other tangible or intangible item, and all intellectual property rights therein, that the Design-Builder is required to deliver to Owner pursuant to the Contract, or develops in relation to the Project.

8.2 Work Product. All Work Product created by the Design-Builder, including derivative works and compilations, and whether or not such Work Product is considered a “work made for hire,” shall be the exclusive property of Owner. Owner and the Design-Builder agree that Work Product that constitutes original works of authorship (the “Original Work Product”) is “work made for hire” of which Owner is the author within the meaning of the United States Copyright Act. If for any reason Original Work Product is not “work made for hire,” the Design-Builder hereby irrevocably assigns and transfers to Owner any and all of its rights, title, and interest in all Original Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Owner’s reasonable request, the Design-Builder shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in Owner. The Design-Builder forever waives any and all rights relating to Original Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. However, see **Sections 8.3, 8.4, 8.5 and 8.6** immediately below, for provisions applicable to Design-Builder Intellectual Property, Third Party Intellectual Property, Design-Builder Intellectual Property Derivative Work and Third Party Intellectual Property Derivative Work.

8.3 Design-Builder Intellectual Property. In the event that any Work Product is Design-Builder Intellectual Property (Design-Builder Intellectual Property that is applicable to the Services being performed by the Design-Builder under the Contract, or included in Work Product deliverable to Owner under the Contract), or in the event any Design-Builder Intellectual Property is needed by Owner to reasonably enjoy and use any Work Product, the Design-Builder hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Design-Builder Intellectual Property, including the right of Owner to authorize contractors, consultants and others to do the same on Owner’s behalf. At the request of the Design-Builder, Owner shall take reasonable steps to protect the confidentiality and proprietary interests of the Design-Builder in any Design-Builder Intellectual Property licensed under this **Section 8.3**, within the limits of the Oregon Public Records Law (ORS 192.410 through 192.505) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).

8.4 Third Party Intellectual Property. In the event that Work Product is Third Party Intellectual Property (Third Party Intellectual Property that is applicable to the Services being performed by the Design-Builder under the Contract, or included in Work Product deliverable to Owner under this Contract), or in the event any Third Party



Intellectual Property is needed by Owner to reasonably enjoy and use any Work Product, the Design-Builder shall secure on Owner's behalf and in the name of Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, including the right of Owner to authorize contractors, consultants and others to do the same on Owner's behalf.

- 8.5 Design-Builder Intellectual Property-Derivative Work.** In the event that Work Product is a derivative work based on Design-Builder Intellectual Property, or is a compilation that includes Design-Builder Intellectual Property, the Design-Builder hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of Design-Builder Intellectual Property employed in the Work Product, including the right of Owner to authorize others to do the same on Owner's behalf.
- 8.6 Third Party Intellectual Property-Derivative Work.** In the event that Work Product is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, the Design-Builder shall secure on Owner's behalf and in the name of Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, including the right to authorize others to do the same on Owner's behalf.
- 8.7 Confidential Information.** The Design-Builder acknowledges that it and its employees, subcontractors, sub-consultants and agents may, in the course of performing their responsibilities under the Contract, be exposed to or acquire information that is confidential to Owner. Any and all information that Owner provides to the Design-Builder or its employees, subcontractors, sub-consultants and agents in the performance of the Contract that Owner designates as confidential (either on the document itself or through related correspondence), as well as all reports and other documents and materials (including software) that result from the Design-Builder's use of such information and any other Work Product that Owner designates as confidential, is deemed to be confidential information of Owner ("Confidential Information"). Confidential Information does not include information that (i) is or becomes (other than by disclosure by the Design-Builder) publicly known; (ii) is furnished by Owner to others without restrictions similar to those imposed by the Contract; (iii) is rightfully in the Design-Builder's possession without the obligation of nondisclosure prior to the time of its disclosure under the Contract; (iv) is obtained from a source other than Owner without the obligation of confidentiality, (v) is disclosed with the written consent of Owner, or (vi) is independently developed by employees, subcontractors, sub-consultants or agents of the Design-Builder who can be shown to have had no access to the Confidential Information.
- 8.8 Non-Disclosure.** The Design-Builder agrees to hold Confidential Information in strict confidence, using at least the same degree of care that the Design-Builder uses in maintaining the confidentiality of its own confidential information, and shall not, without Owner's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services to the Owner under the Contract. The Design-Builder shall cause each of its employees, subcontractors, sub-consultants and agents of their obligations to keep Confidential Information confidential. The Design-Builder shall use every reasonable effort to assist Owner in identifying and preventing any unauthorized use or disclosure of any Confidential Information. The Design-Builder shall advise Owner immediately if the Design-Builder learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms this **Section 8.8**, and the Design-Builder shall, at its expense, cooperate with Owner in seeking injunctive or other equitable relief in the name of Owner against any such person. The Design-Builder agrees that, except as directed by Owner, the Design-Builder will not at any time during or after the term of this Agreement

disclose, directly or indirectly, any Confidential Information to any person, except in accordance with the Contract and that upon termination of the Contract or at Owner's request, the Design-Builder shall turn over to Owner all documents, papers, and other matter in the Design-Builder's possession that embody Confidential Information. In the event Design-Builder is required to disclose Confidential Information pursuant to a subpoena or other legal process, the Design-Builder shall notify Owner of such subpoena or other legal process, provide Owner with copies of any subpoena, other legal process and any other written materials supporting the subpoena or other legal process, and otherwise cooperate with Owner in the event Owner decides to oppose the disclosure of the Confidential Information. In the event Owner decides not to oppose such subpoena or other legal process or Owner's decision to oppose the subpoena or legal process has not been successful, the Design-Builder shall be excused from the confidentiality provisions of **Sections 8.7 and 8.8** of this Agreement, to the extent necessary to meet the requirements of the subpoena or other legal process controlling the required disclosure.

ARTICLE 9 **ACCOUNTING RECORDS**

Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management and reporting under the Contract; the accounting and control systems shall be satisfactory to Owner. Owner and Owner's representatives, including the Oregon Secretary of State accountants and auditors, shall be afforded reasonable and regular access to Design-Builder's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, payroll, labor and wage records and other data relating to the Contract and the Project, and Design-Builder shall preserve these records and information for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 10 **PAYMENTS**

- 10.1 Schedule of Payments.** Owner shall make payments to Design-Builder according to the following schedule:
- 10.1.1** By the thirtieth (30th) of the month following completion and acceptance by Owner of Design-Builder's Schedule of Values, and at the same time each month thereafter, a Progress Payment calculated as provided in **Section 10.2** below.
 - 10.1.2** Upon issuance of a final Certificate of Occupancy, the balance of the Fixed Fee, less retainage of five percent (5%) of all Work and services.
 - 10.1.3** Within thirty (30) Days following completion by Design-Builder of all "punch list" items, all retained funds.
- 10.2 Progress Payments.** Owner shall make Progress Payments to Design-Builder according to the following schedule:
- 10.2.1** Design-Builder shall develop, no later than the date by which Construction Documents are completed, a detailed Schedule of Values, as contemplated by **Section E.1 of the General Conditions**, as revised in the Supplemental General Conditions for design and construction of the Project.
 - 10.2.2** On the fifth (5th) of each month following execution of the Agreement, Design-Builder shall certify to Owner the value of all items from the Schedule of Values that have been completed during the previous month.
 - 10.2.3** Owner shall pay to Design-Builder, within 30 Days of receipt of an approved payment application, an amount equal to the value of all certified items accepted by Owner, less retainage as specified in **Section 10.1.2** above.
 - 10.2.4** Payment of Progress Payments shall not be deemed by either party to constitute acceptance or approval of any item covered by such Payment, or of the Construction Services in general, or a waiver of any defects therein.



10.2.5 Notwithstanding the Schedule of Values, Design-Builder shall have the right to apply savings in one of the values in the Schedule of Values to overruns in another of the said values and certify the same for payment so long as the Fixed Fee specified in **Section 5.1** of this Agreement is not exceeded.

10.3 Interest Payments. Design-Builder shall be entitled to receive payment of interest, at the rate permitted under ORS 293.462, on the value of any certified item accepted by Owner which remains unpaid forty-five (45) Days following the date payment is due under **Section 10.2.3**.

ARTICLE 11 TERMINATION OR SUSPENSION

11.1 Owner's Termination for Convenience. Owner may terminate the Contract, in whole or in part, without penalty for convenience pursuant to **Section J.5 of the General Conditions**, as revised and supplemented for this Project; however, under no circumstances shall the amount to be paid to Design-Builder under the Contract exceed the Fixed Fee. In the event of a termination for convenience, Design-Builder shall remain liable for all Work performed or provided or to have been provided, prior to the termination.

11.2 Termination for Cause. The Contract may be terminated by Owner for cause as provided in **Section J.4 of the General Conditions**, as revised and supplemented for this Project.

11.3 Amounts Payable on Owner's Termination for Certain Causes. Notwithstanding any of the above, if Owner elects to terminate the Contract for cause due to failure of Design-Builder to: a) adhere to the schedule defined in **Article 13**, or b) perform the Construction Services according to the drawings and specifications provided by Design-Builder, Owner shall reimburse Design-Builder for its reasonable expenses and costs, less the cost that Owner incurs for correcting and remedying those deficiencies caused by Design-Builder's deficient performance. If Owner's cost of correcting or remedying those defects exceeds Design-Builder's reasonable expenses and costs, Design-Builder shall pay the difference to Owner.

11.4 Termination of Contract/Non-availability of Funds.

11.4.1 Owner and Design-Builder, by mutual written agreement, may terminate the Contract at any time.

11.4.2 Owner may terminate the Contract, in whole or in part, immediately upon notice to Design-Builder, or at such later date as Owner may establish in such notice, upon the occurrence of any of the following events:

11.4.2.1 Owner lacks lawful funding, appropriations, limitations or other expenditure authority at levels sufficient to allow Owner, in the exercise of its reasonable discretion, to pay for the Work or any portion of the Work, or to proceed with or complete the Project;

11.4.2.2 Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Design Services or Construction Services performed under the Contract are prohibited or Owner is prohibited from paying for such Design Services or Construction Services from the planned funding source;

11.4.2.3 Design-Builder or its Consultants no longer hold any license or certificate that is required to perform the Work;

11.4.2.4 Design-Builder commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform the Design Services or



Construction Services under the Contract within the time specified herein or any extension thereof, or so fails to perform the Design Services or Construction Services as to endanger Design-Builder's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within 7 Days after delivery of Owner's notice, or such longer period of cure as Owner may specify in such notice.

11.4.3 The Project and Owner's payment obligations as described herein are dependent upon Owner's ability to obtain funding, and in an amount satisfactory to the Owner (whether related to an appropriation, appropriation limitation, grant, bond or other funding source or restriction), to allow the Owner, in the exercise of its reasonable administrative discretion, to meet its payment obligations under the Contract. Design-Builder is not entitled to receive payment under the Contract from any part of Oregon state government or any other entity of the State other than PSU. Nothing in the Contract is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Design-Builder accepts the risk that such funding is not obtained and commits to use its best efforts to assist the Owner in obtaining satisfactory funding.

11.4.4 In the event of termination of the Contract: 1) Owner shall compensate Design-Builder for all Work performed prior to the termination date, and such amounts shall immediately become due and payable; and 2) Design-Builder shall immediately cease performance of Design Services and Construction Services (as applicable) under the Contract, unless Owner expressly directs otherwise in the notice of termination, and shall provide to Owner all plans, specifications, CAD drawings on diskettes, mylar drawings, and all documents, information, Work-in-progress or other Work Product or property that are or would be deliverables had performance under the Contract been completed.

11.5 Termination of Contract for Cause by Design-Builder. Design-Builder may terminate the Contract for cause if the Work is stopped for 120 Days in the aggregate through no act or fault of Design-Builder or a Consultant, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with Design-Builder, for any of the following reasons:

11.5.1 Issuance of an order of a court or other public authority having jurisdiction;

11.5.2 An act of government, such as a declaration of national emergency, making material unavailable;

11.5.3 Owner has failed to make timely payments in accordance with **Section E of the General Conditions**, as revised and supplemented for this Project, following notice as provided below and 10 Days opportunity to cure.

11.6 Delivery of Work Product; Retained Remedies of the Owner. As directed by the Owner, Design-Builder shall, upon termination, deliver to the Owner all then existing Work Product, as defined in **Article 8** of this Agreement, and other property that, if the Contract had been completed, would be required to be furnished to the Owner. By Design-Builder's signature on this Agreement, Design-Builder acknowledges the Owner's ownership and right to use the Work Product and other property for Owner's intended use. The rights and remedies of the Owner provided in this **Section 11.6** related to defaults by Design-Builder shall not be exclusive and are in addition to any other rights and remedies provided by law or equity or elsewhere herein.

ARTICLE 12

**ENUMERATION OF CONTRACT DOCUMENTS;
ORDER OF PRECEDENCE**

12.1 Document Precedence. The Contract Documents, except for Amendments and Change Orders issued after execution of this Agreement, are specifically listed in **Section SG-2** of the Supplementary General Conditions and are intended to be complementary. However, in the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the descending order of precedence in **Section SG-2**. Regarding the order of precedence within this Agreement, including all Exhibits to the Agreement, interpretations will be based on the following, descending order of precedence:

12.1.1 The Agreement, without Exhibits;

12.1.2 Exhibit D;

12.1.3 Exhibit C;

12.1.4 All other Exhibits.

12.2 The order of precedence among the Contract Documents shall in no way relieve the Design-Builder of its obligation to comply with all statutory requirements and administrative rules, orders and procedures applicable to the Project, including but not limited to the following:

12.2.2 Compliance with the provisions of **ORS 279C.800 through 279C.870, and ORS 279C.836**, relative to Prevailing Wage Rates, Fees to the Bureau of Labor and Industry, and Public Works Bonding.

12.2.3 Compliance with the provisions of **OAR 580-061-0030, OAR 580-061-0040** and any other administrative rules promulgated by the Oregon State Board of Higher Education, relative to Affirmative Action Requirements.

ARTICLE 13
CONSTRUCTION PROJECT SCHEDULES

The Project Schedules for the Work, for both Design Services and Construction Services, shall be provided according to **Section 2.1.4**.

ARTICLE 14
MISCELLANEOUS PROVISIONS

14.1. Governing Law; Jurisdiction; Venue. The Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Owner and Design-Builder that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah County for the State of Oregon; *provided, however*, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. DESIGN-BUILDER, BY EXECUTION OF THIS AGREEMENT, CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.



- 14.2. Notices.** Except as otherwise expressly provided in the Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Owner or Design-Builder or Owner at the addresses or numbers as either party may hereinafter indicate pursuant to this Section. Any notice so addressed and mailed shall be deemed to be given five (5) Days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against Owner, such facsimile transmission must be confirmed by telephone notice to Owner's Representative for the Project. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications may be transmitted through one of the methods set forth above, in person, by e-mail, or by other similar electronic transmission.
- 14.3 Owner Defense Requirements – Design-Builder Indemnity, Hold Harmless & Defense of Owner.** Notwithstanding the defense obligations of the Design-Builder under this Agreement, the General Conditions or any other Contract Document, neither the Design-Builder nor any attorney engaged by Design-Builder may defend any claim in the name of the Owner nor purport to act as legal representative of the Owner without the prior written consent of the Owner. The Owner, at any time at their election may each assume their own defense and settlement if they determine that Design-Builder is prohibited from defending that entity, that Design-Builder is not adequately defending such party's interests, or that an important governmental principle is at issue or that it is in the best interests of that entity to do so. The Owner reserves all rights to pursue any claims they may have against Design-Builder, if the Owner, elects to assume its own defense.
- 14.4 Disclosure of Tax Identification Number.** Design-Builder shall provide its federal tax ID number to the Owner. This number is requested pursuant to ORS 305.385(2) & (3), OAR 125-246-0333(5)(d) and OAR 150-305.385(6)-(A). The Tax Identification Number provided pursuant to this authority will be used for the administration of state, federal and local tax laws.
- 14.5. Severability.** The Parties agree that if any term or provision of the Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 14.6. Waiver.** The failure of Owner to enforce any provision of the Contract shall not constitute a waiver by Owner of that provision, or any other provision of the Contract.
- 14.7 Media Contacts.** Design-Builder shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without Owner's prior written authorization.
- 14.8 Conflict of Interest.** Except with Owner's prior written consent, Design-Builder shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Design-Builder's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.
- 14.9 Merger Clause.** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTER ADDRESSED HEREIN. THE TERMS OF THE CONTRACT CANNOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES AND CONTAINING ALL REQUIRED OWNER AND OTHER STATE OF OREGON APPROVALS. ANY SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION, OR AMENDMENT, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THE CONTRACT, EXCEPT AS CONTAINED, INCORPORATED OR REFERENCED HEREIN. DESIGN-BUILDER, BY THE SIGNATURE BELOW



Portland State UNIVERSITY

OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THE CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS AGREEMENT MAY BE EXECUTED IN SEVERAL COUNTERPARTS, EACH OF WHICH SHALL BE AN ORIGINAL, AND ALL OF WHICH SHALL CONSTITUTE BUT ONE AND THE SAME INSTRUMENT.

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

Counterparts: This Agreement may be executed in several counterparts, electronically transmitted, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

IN WITNESS WHEREOF, the Parties have executed this Agreement and this Agreement shall be effective as of the Effective Date.

DESIGN-BUILDER:

Address: _____
Federal Tax I.D. #: _____ Construction Contractor's Oregon License Registration No.: _____

By: _____ Title: _____ Date: _____

OWNER:

The State Board of Higher Education acting by and through Portland State University
By: _____ Title: _____ Date: _____



Exhibits:

List of Consultants (**Exhibit A**)

Design-Builder's Project Proposal (**Exhibit B**)

OUS Standard General Conditions (July 1, 2012) (**Exhibit C**)

Supplemental General Conditions (**Exhibit D**)



Exhibit A – List of Consultants
To
DESIGN-BUILD AGREEMENT

Consultants for the Project:



Portland State
UNIVERSITY

Exhibit B – Design-Builder’s Project Proposal

To

DESIGN-BUILD AGREEMENT



Portland State
UNIVERSITY

Exhibit C – OUS Standard General Conditions (July 1, 2012)

To

DESIGN-BUILD AGREEMENT



Portland State
UNIVERSITY

Exhibit D – Supplemental General Conditions

To

DESIGN-BUILD AGREEMENT

APPENDIX 5.2 – SUPPLEMENTAL GENERAL CONDITIONS

OREGON UNIVERSITY SYSTEM SUPPLEMENTAL GENERAL CONDITIONS to the GENERAL CONDITIONS

Project Name: Parking Availability Counting and Monitoring System

The following modify the Oregon University System “General Conditions for Public Improvement Contracts”, July 1, 2012, (OUS General Conditions) for this Contract. Where a portion of the OUS General Conditions is modified by these Supplemental General Conditions, the unaltered portions shall remain in effect.

Whether this Contract is for a public improvement or a public works project, the requirements applicable to public improvement projects and those applicable to public works projects shall apply.

SG-1 DEFINITION OF TERMS

Section A.1 is modified by making the following changes:

Add “the Division One (General Requirements)” to the definition of “Contract Documents”.

Add the following sentence to the end of the definition of “Contractor”:

““Contractor” and “Design-Builder” are used interchangeably in the Contract Documents.”

SG-2 Interpretation of Contract Documents

Section A.3.1, modify the precedence of Contract Documents as follows;

“In the event of conflicts or discrepancies among the Contract Documents, interpretation will be based on the following descending order of precedence:

- (a) Contract amendments, Change Orders, and Construction Change Directives with those of later date having precedence over those of earlier date;
- (b) **The OSBHE Design/Build Agreement for a Fixed Fee;**
- (c) **The Supplemental General Conditions;**
- (d) **The OUS General Conditions For Public Improvement Contracts;**
- (e) **Division One (General Requirements) of the Project Specifications;**
- (f) The Solicitation Documents **based on the following descending order of precedence;**
 - 1) Addenda to the Request for Proposals for Design-Build Construction Services;**
 - 2) Request for Proposals for Design-Build Construction Services;**
- (g) The accepted Offer.”

SG-3 Interpretation of Contract Documents

Section A.3.1 is modified by adding the following language:

“This procurement is governed by the Request for Proposals (RFP). The RFP shall take precedence over all other solicitation documents during the solicitation period. Accordingly, the instructions to Bidders and related bidding documents apply to submission of Proposals to the extent the terms of those documents are not inconsistent with the RFP. The Bid and Bidder shall therefore be read as Proposals and Proposers within the Contract Documents as the context requires.”

SG-4 Permits

Section B.4 is revised to read:

“Owner shall obtain and pay for all general building, electrical, mechanical and plumbing permits for the project through the City of Portland's Facilities Permit Program. Contractor shall obtain and pay for all other necessary permits and licenses, except for those specifically excluded in the Supplemental General Conditions, for the construction of the Work, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental Work, etc., as required for the project. Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities. The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent or other proprietary rights and save harmless and blameless from loss, on account thereof, the State of Oregon, and its departments, divisions, members and employees.”

SG-5 Inspection

Section B.7.3 is modified as follows:

“Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals, with the exception of inspections under the City of Portland's Facilities Permit Program which shall be paid for by the Owner. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Owner's Authorized Representative timely notice of when and where tests and inspections are to be made so that the Owner's Authorized Representative may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner's Authorized Representative.”

SG-7 Schedule

Section H.2.1 is deleted and replaced with the following:

"Contractor shall provide, by or before the pre-construction conference, a detailed project Work schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by significant project components, significant labor trades, long lead items, broken down by building and/or floor where applicable. Each schedule item shall account for no greater than 5% of the monetary value of the project or 5% of the available time. Schedules with activities of less than one day or valued at less than 1% of the Contract shall be considered too detailed and shall not be accepted. Schedules lacking adequate detail, or unreasonably detailed, shall be rejected. Included within the schedule are the following: Notice to Proceed, Substantial Completion, and Final Completion. Contractor shall provide an updated, full project schedule with each payment request. In addition, twice monthly, the Contractor shall provide an updated three-week forward-looking schedule. Acceptance of the Schedule by the Owner does not constitute agreement by the Owner as to the Contractor's sequencing, means, methods, or durations. Any positive difference between the Contractor's scheduled completion and the contract completion date is float owned by the Owner. Use of the float shall be negotiated. In no case shall the Contractor make a claim for delays if the Work is completed within the Contract Period but after Contractor's scheduled completion."

END OF SUPPLEMENTAL GENERAL CONDITIONS

APPENDIX 5.3 – OUS GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT

OREGON UNIVERSITY SYSTEM

GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS

July 1, 2012

INSTRUCTIONS: The attached **Oregon University System General Conditions for Public Improvement Contracts** ("OUS Public Improvement General Conditions") apply to all designated public improvement contracts. Changes to the OUS Public Improvement General Conditions (including any additions, deletions or substitutions) should only be made by attaching Public Improvement Supplemental General Conditions. The text of these OUS Public Improvement General Conditions should not otherwise be altered.

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**OREGON UNIVERSITY SYSTEM
GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT
CONTRACTS
("OUS Public Improvement General Conditions")**

**SECTION A
GENERAL PROVISIONS A.1 DEFINITION OF TERMS**

In the Contract Documents the following terms shall be as defined below:

APPLICABLE LAWS, means federal, state and local laws, codes, rules, regulations and ordinances applicable to the Work and to the Contract.

ARCHITECT/ENGINEER, means the Person appointed by the Owner to make drawings and specifications and, to provide contract administration of the Work contemplated by the Contract to the extent provided herein or by supplemental instruction of Owner (under which Owner may delegate responsibilities to the Architect/Engineer), in accordance with ORS Chapter 671 (Architects) or ORS Chapter 672 (Engineers) and administrative rules adopted thereunder.

BID, means an offer binding on the Bidder and submitted in response to an Instructions to Bidders or a proposal in connection with a Request for Proposals.

BIDDER, means an Entity that submits a Bid in response to Instructions to Bidders or a proposer in connection with a Request for Proposals.

CHANGE ORDER, means a written order which, when fully executed by the Parties to this Contract, constitutes a change to the Contract Documents. Change Orders shall be issued in accordance with the changes provisions in Section D and, if applicable, establish a Contract Price or Contract Time adjustment. A Change Order shall not be effective until executed as a Change Order.

CLAIM, means a demand by Contractor pursuant to Section D.3 for review of the denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, submitted in accordance with the requirements and within the time limits established for review of Claims in these OUS Public Improvement General Conditions.

CONSTRUCTION CHANGE DIRECTIVE, means a written order by the Owner to the Contractor requiring a change in the Work within the general scope of the Contract Documents, issued under the changes provisions of Section D.

CONTRACT, means the written agreement between the Owner and the Contractor comprised of the Contract Documents which describe the Work to be done and the obligations between the parties.

CONTRACT DOCUMENTS, means the Solicitation Document and addenda thereto, Instructions to Bidders, Supplemental Instructions to Bidders, the OUS Public Improvement Contract, OUS Public Improvement General Conditions, Public Improvement Supplemental General Conditions, if any, the accepted Bid, Plans, Specifications, Change Orders, and Construction Change Directives.

CONTRACT PERIOD, as set forth in the Contract Documents, means the total period of time beginning with the full execution of this Contract and, if applicable, the issuance of a Notice to Proceed and concluding upon Final Completion.

CONTRACT PRICE, means the total of the awarded Bid amount, as increased or decreased by the price of approved alternates, as indicated in the Contract Documents.

CONTRACT TIME, means any incremental period of time allowed

under the Contract to complete any portion of the Work as reflected in the project schedule.

CONTRACTOR, means the Person awarded the Contract for the Work contemplated.

DAYS, are calendar days, including weekdays, weekends and holidays, unless otherwise specified.

DIRECT COSTS, means, unless otherwise provided in the Contract Documents, the cost of materials, including sales tax, cost of delivery; cost of labor, including social security, Medicare and unemployment insurance, and fringe benefits required by agreement or custom; worker's compensation insurance; project specific insurance (including, without limitation, Builder's Risk Insurance and Builder's Risk Installation Floater); bond premiums, rental cost of equipment, and machinery required for execution of the Work; Owner's costs to correct defective Work; and the additional costs of field personnel directly attributable to the Work.

FINAL COMPLETION, means the final completion of all requirements under the Contract, including Contract Closeout as described in Section K but excluding Warranty Work as described in Section I.2, and the final payment and release of all retainage, if any, released.

FORCE MAJEURE, means an act, event or occurrence caused by fire, riot, war, acts of God, nature, sovereign, or public enemy, strikes, freight embargoes or any other act, event or occurrence that is beyond the control of the party to this Contract who is asserting Force Majeure.

MWESB REPORT, means an accurate report by the Contractor to the Owner identifying all Minority, Women and Emerging Small Business (MWESB) enterprises, as those terms are defined in ORS 200.005, receiving contracts throughout the course of the Work. An initial MWESB report is required (see Section E.2.9) and MWESB Reports are required annually (see Section E.2.9) and as a condition of final payment (see Section K.1). The initial report shall be in the form required by OUS and as posted from time to time on the OUS website and shall include the total number of contracts and subcontracts awarded to MWESB enterprises and the dollar value of their respective contracts and subcontracts. The annual reports shall include the total number of contracts and subcontracts awarded to MWESB enterprises, the dollar value of each, and the expenditure toward each contract and subcontract during the previous twelve (12) months. The final report shall include the total number of contracts and subcontracts awarded to MWESB enterprises and the dollar value of their respective contracts and subcontracts including all Change Orders incorporated during the course of the project. The reports shall only include enterprises certified with the State of Oregon as MWESB enterprises and shall include individual identification of each enterprise as a Minority business enterprise, a Women business enterprise, and/or an Emerging Small Business Enterprise, as applicable.

NOTICE TO PROCEED, means the official written notice from the Owner stating that the Contractor is to proceed with the Work defined in the Contract Documents. Notwithstanding the Notice to Proceed, Contractor shall not be authorized to proceed with the Work until all initial Contract requirements, including the Contract, performance bond and payment bond, and certificates of insurance, have been fully executed and submitted to Owner in a suitable form.

OVERHEAD, means those items which may be included in the Contractor's markup (general and administrative expense and profit) and that shall not be charged as Direct Cost of the Work, including without limitation such Overhead expenses as wages or

salary of personnel above the level of foreman (i.e., superintendents and project managers), expenses of Contractor's offices and supplies at the job site (e.g. job trailer) and at Contractor's principal place of business and including expenses of personnel staffing the job site office and Contractor's principal place of business, and Commercial General Liability Insurance and Automobile Liability Insurance.

OWNER, means the State of Oregon acting by and through the Oregon State Board of Higher Education, in its own right or on behalf of one of its institutions as identified in the Solicitation Document, also known as the Oregon University System (OUS). Owner may elect, by written notice to Contractor, to delegate certain duties to more than one party, including without limitation, to an Architect/Engineer. However, nothing in these OUS Public Improvement General Conditions is intended to abrogate the separate design professional responsibilities of Architects under ORS Chapter 671 or of Engineers under ORS Chapter 672.

PERSON, means a natural person or entity doing business as a sole proprietorship, a partnership, a joint venture, a corporation, a limited liability company or partnership, or any other entity possessing the legal capacity to contract.

PLANS, means the drawings which show the location, type, dimensions, and details of the Work to be done under the Contract.

PUNCH LIST, means the list of Work yet to be completed or deficiencies which need to be corrected in order to achieve Final Completion of the Contract.

RECORD DOCUMENT, means the as-built Plans, Specifications, testing and inspection records, product data, samples, manufacturer and distributor/supplier warranties evidencing transfer of ownership to Owner, operational and maintenance manuals, shop drawings, Construction Change Directives, MWESB Reports, correspondence, certificate(s) of occupancy, and other documents listed in Subsection B.9.1 of these OUS Public Improvement General Conditions, recording all Services performed.

SOLICITATION DOCUMENT, means Instructions to Bidders or Bidders or a Request for Proposal or a Request for Quotes.

SPECIFICATION, means any description of the physical or functional characteristics of the Work, or of the nature of a supply, service or construction item. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications generally will state the results or products to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed. Specifications may be incorporated by reference and/or may be attached to the Contract.

SUBCONTRACTOR, means a Person having a direct contract with the Contractor, or another Subcontractor, to perform one or more items of the Work.

SUBSTANTIAL COMPLETION, means the date when the Owner accepts in writing the construction, alteration or repair of the improvement to real property constituting the Work or any designated portion thereof as having reached that state of completion when it may be used or occupied for its intended purpose. Substantial Completion of facilities with operating systems occurs only after thirty (30) continuous Days of successful, trouble-free operation of the operating systems as provided in Section K.4.2.

SUBSTITUTIONS, means items that in function, performance, reliability, quality, and general configuration are the same or better than the product(s) specified. Approval of any substitute item shall be solely determined by the Owner. The decision of the Owner is final.

PUBLIC IMPROVEMENT SUPPLEMENTAL GENERAL CONDITIONS, means those conditions that remove from, add to, or modify these OUS Public Improvement General Conditions. Public Improvement Supplemental General Conditions may be included in the Solicitation Document or may be a separate attachment to the Contract.

WORK, means the furnishing of all materials, equipment, labor, transportation, services and incidentals necessary to successfully complete any individual item or the entire Contract and the carrying out of duties and obligations imposed by the Contract Documents.

A.2 SCOPE OF WORK

The Work contemplated under this Contract includes all labor, materials, transportation, equipment and services for, and incidental to, the completion of all construction work in connection with the project described in the Contract Documents. The Contractor shall perform all Work necessary so that the project can be legally occupied and fully used for the intended use as set forth in the Contract Documents.

A.3 INTERPRETATION OF CONTRACT DOCUMENTS

A.3.1 Unless otherwise specifically defined in the Contract Documents, words which have well-known technical meanings or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Contract Documents are intended to be complementary. Whatever is called for in one, is interpreted to be called for in all. However, in the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following descending order of precedence:

- (a) Contract Change Orders and Construction Change Directives, with those of later date having precedence over those of an earlier date;
- (b) The Public Improvement Supplemental General Conditions;
- (c) The OUS Public Improvement Contract;
- (d) The OUS Public Improvement General Conditions;
- (e) Division One (General Requirements) of the Specifications;
- (f) Detailed Schedules of finishes, equipment and other items included in the Specifications;
- (g) Plans and Specifications (other than Division One and the Detailed Schedules to the Specifications);
- (h) Large-scale drawings on Plans;
- (i) Small-scale drawings on Plans;
- (j) Dimension numbers written on Plans which shall prevail and take precedence over dimensions scaled from Plans;
- (k) The Solicitation Document, and any addenda thereto;
- (l) The accepted Bid.

A.3.2 In the case of an inconsistency between Plans and Specifications or within either document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner's interpretation in writing.

A.3.3 If the Contractor finds discrepancies in, or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner. Matters concerning and interpretation of requirements of the Contract Documents will be decided by the Owner, who may delegate that duty in some instances to the Architect/Engineer. Responses to Contractor's requests for interpretation of Contract

Documents will be made in writing by Owner (or the Architect/Engineer) within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner (or Architect/Engineer) will be consistent with the intent of and reasonably inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner (or Architect/Engineer).

- A.3.4 References to standard specifications, manuals, codes of any technical society, organization or association, to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws or regulations in effect in the jurisdiction where the project is occurring on the first published date of the Solicitation Document, except as may be otherwise specifically stated.

A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE

- A.4.1 It is understood that the Contractor, before submitting a Bid, has made a careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Work required; and has made a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the Work. No oral agreement or conversation with any officer, agent, or personnel of the Owner, or with the Architect/Engineer either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
- A.4.2 Should the Plans or Specifications fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Work, Contractor shall have the duty to make inquiry of the Owner and Architect/Engineer as to what is required prior to performance of the Work. Absent Specifications to the contrary, the materials or processes that would normally be used to produce first quality finished Work shall be considered a part of the Contract requirements.
- A.4.3 Any design errors or omissions noted by the Contractor shall be reported promptly to the Owner, including without limitation, any nonconformity with Applicable Laws.
- A.4.4 If the Contractor believes that adjustments to cost or Contract Time is involved because of clarifications or instructions issued by the Owner (or Architect/Engineer) in response to the Contractor's notices or requests for information, the Contractor must submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt by Contractor of the clarifications or instructions issued. If the Owner denies Contractor's request for additional compensation, additional Contract Time, or other relief that Contractor believes results from the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

A.5 INDEPENDENT CONTRACTOR STATUS

The service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee or agent of the Owner as those terms are used in ORS 30.265.

A.6 RETIREMENT SYSTEM STATUS AND TAXES

Contractor represents and warrants that it is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment received under this Contract. Contractor will not be eligible for any benefits from these Contract payments of federal Social Security, employment insurance, workers' compensation or the Public Employees' Retirement System, except as a self-employed individual. Unless the Contractor is subject to backup withholding, Owner will not withhold from such payments any amount(s) to cover Contractor's federal or state tax obligations.

A.7 GOVERNMENT EMPLOYMENT STATUS

- A.7.1 If this payment is to be charged against federal funds, Contractor represents and warrants that it is not currently employed by the Federal Government. This does not preclude the Contractor from holding another contract with the Federal Government.
- A.7.2 Contractor represents and warrants that Contractor is not an employee of the State of Oregon for purposes of performing Work under this Contract.

**SECTION B
ADMINISTRATION OF THE CONTRACT**

B.1 OWNER'S ADMINISTRATION OF THE CONTRACT

- B.1.1 The Owner shall administer the Contract as described in the Contract Documents (1) during construction (2) until final payment is due and (3) during the one-year period for correction of Work. The Owner will act as provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.
- B.1.2 The Owner will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Owner will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.
- B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall communicate with each other about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.
- B.1.4 Based upon the Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

**B.2 CONTRACTOR'S MEANS AND METHODS;
MITIGATION OF IMPACTS**

B.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.

B.2.2 The Contractor is responsible to protect and maintain the Work during the course of construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which may affect cost, schedule, or quality.

B.2.3 The Contractor is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.

B.3 MATERIALS AND WORKMANSHIP

B.3.1 The intent of the Contract Documents is to provide for the construction and completion in every detail of the Work described. All Work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.

B.3.2 The Contractor is responsible to perform the Work as required by the Contract Documents. Defective Work shall be corrected at the Contractor's expense.

B.3.3 Work done and materials furnished shall be subject to inspection and/or observation and testing by the Owner to determine if they conform to the Contract Documents. Inspection of the Work by the Owner does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.

B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.

B.3.5 The Contractor shall furnish Samples of materials for testing by the Owner and include the cost of the Samples in the Contract Price.

B.4 PERMITS

Except to the extent otherwise directed by Owner, Contractor shall obtain and pay for all necessary permits, licenses and fees, except for those specifically excluded in the Public Improvement Supplemental General Conditions, for the construction of the Work, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental Work, etc., as required for the project. Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities.

B.5 COMPLIANCE WITH GOVERNMENT REGULATIONS

B.5.1 Contractor shall comply with Applicable Laws pertaining to the Work and the Contract. Failure to comply with such

requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following, as applicable:

(i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended; (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

B.5.2 Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations, and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts.

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by Applicable Laws or this Contract when performing the Work.

B.5.3 Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.

B.5.4 Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape contractor's license issued pursuant to ORS 671.560.

B.5.5 The following notice is applicable to Contractors who perform excavation Work. "ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987."

B.5.6 Failure to comply with any or all of the requirements of B.5.1 through B.5.5 shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

B.6 SUPERINTENDENCE

Contractor shall keep on the site, during the progress of the Work, a competent superintendent and any necessary assistants who shall be satisfactory to the Owner and who shall represent the Contractor on the site. Directions given to the superintendent by the Owner shall be confirmed in writing to the Contractor.

B.7 INSPECTION

B.7.1 Owner shall have access to the Work at all times.

B.7.2 Inspection of the Work will be made by the Owner at its discretion. The Owner will have authority to reject Work that does not conform to the Contract Documents. Any Work found to be not in conformance with the Contract Documents, in the discretion of the Owner, shall be removed and replaced at the Contractor's expense.

B.7.3 Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by Applicable Laws or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.

B.7.4 As required by the Contract Documents, Work done or material used without required inspection or testing and/or without providing timely notice to the Owner may be ordered removed at the Contractor's expense.

B.7.5 If directed to do so any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done without required testing or inspection or sufficient notice to the Owner, the uncovering and restoration shall be done at the Contractor's expense. If the Work uncovered is acceptable and was done with sufficient notice to the Owner, the uncovering and restoration will be paid for pursuant to a Change Order.

B.7.6 If any testing or inspection reveals failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's and Architect/Engineer's services and expenses, shall be at the Contractor's expense.

B.7.7 When the United States government participates in the cost of the Work, or the Owner has an agreement with other public or private organizations, or if any portion of the Work is being performed for a third party or in close proximity to third party facilities, representatives of these organizations shall have the right to inspect the Work affecting their interests or property. Their right to inspect shall not make them a party to the Contract and shall not interfere with the rights of the parties of the Contract. Instructions or orders of such parties shall be transmitted to the Contractor, through the Owner.

B.8 SEVERABILITY

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

B.9 ACCESS TO RECORDS

B.9.1 Contractor shall keep, at all times on the Work site, one record copy of the complete Contract Documents, including the Plans, Specifications, Construction Change Directives and addenda, in good order and marked currently to record field changes and selections made during construction, and one record copy of Shop Drawings, Product Data, Samples and similar submittals, and shall at all times give the Owner access thereto.

B.9.2 Contractor shall retain and the Owner and its duly authorized representatives shall have access, for a period not less than ten (10) years, to all Record Documents, financial and accounting

records, and other books, documents, papers and records of Contractor which are pertinent to the Contract, including records pertaining to Overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. If for any reason, any part of the Work or this Contract shall be subject to litigation, Contractor shall retain all such records until all litigation is resolved and Contractor shall continue to provide Owner and/or its agents with full access to such records until such time as all litigation is complete and all periods for appeal have expired and full and final satisfaction of any judgment, order or decree is recorded and Owner receives a record copy of documentation from Contractor.

B.10 WAIVER

Failure of the Owner to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

B.11 SUBCONTRACTS AND ASSIGNMENT

B.11.1 Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound by the terms and conditions of these OUS Public Improvement General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Owner thereunder, unless (1) the same are clearly inapplicable to the subcontract at issue because of legal requirements or industry practices, or (2) specific exceptions are requested by Contractor and approved in writing by Owner. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with sub-subcontractors at any level.

B.11.2 At Owner's request, Contractor shall submit to Owner prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor. If Owner disapproves such form, Contractor shall not execute the form until the matters disapproved are resolved to Owner's satisfaction. Owner's review, comment upon or approval of any such form shall not relieve Contractor of its obligations under this Agreement or be deemed a waiver of such obligations of Contractor.

B.11.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under this Contract, in whole or in part, without the prior written approval of the Owner. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

B.12 SUCCESSORS IN INTEREST

The provisions of this Contract shall be binding upon and shall accrue to the benefit of the parties to the Contract and their respective permitted successors and assigns.

B.13 OWNER'S RIGHT TO DO WORK

Owner reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor shall coordinate work with the other contractors or forces, cooperate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Work with the work of the others in an acceptable manner and perform it in proper sequence to that of the others. The Owner will resolve any disagreements that may arise

between or among Contractor and the other contractors over the method or order of doing all work (including the Work). In case of unavoidable interference, the Owner will establish work priority (including the Work) which generally will be in the sequence that the contracts were awarded.

B.14 OTHER CONTRACTS

In all cases and at any time, the Owner has the right to execute other contracts related to or unrelated to the Work of this Contract. The Contractor of this Contract shall fully cooperate with any and all other contractors without additional cost to the Owner in the manner described in section B.13.

B.15 GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflict of laws.

B.16 LITIGATION

Any Claim between Owner and Contractor that arises from or relates to this Contract and that is not resolved through the Claims Review Process in Section D.3 shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon, unless stated otherwise in the Contract Documents, provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION B.16.

B.17 ALLOWANCES

B.17.1 The Contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct.

B.17.2 Unless otherwise provided in the Contract Documents:

- (a) when finally reconciled, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;
 - (c) whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (i) the difference between actual costs and the allowances under Section B.17.2(a) and (2) changes in Contractor's costs under Section B.17.2(b).
- (d) Unless Owner requests otherwise, Contractor shall provide to Owner a proposed fixed price for any allowance work prior to its performance.

B.18 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

B.18.1 The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Owner if approval authority has not been delegated to the

Architect/Engineer), a schedule and list of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. Owner reserves the right to finally approve the schedule and list of submittals. Submittals include, without limitation, Shop Drawings, Product Data, and Samples which are described below:

- (a) Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor (including any sub-subcontractor), manufacturer, supplier or distributor to illustrate some portion of the Work.
- (b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- (c) Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

B.18.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

B.18.3 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect/Engineer without action.

B.18.4 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

B.18.5 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect/Engineer.

B.18.6 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's review or approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and (i) the Architect/Engineer has given written approval to the specific deviation as a minor change in the Work, or (ii) a Change Order or Construction Change Directive has been executed by Owner authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect/Engineer's review or approval thereof.

B.18.7 In the event that Owner elects not to have the obligations and duties described under this Section B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner.

B.19 SUBSTITUTIONS

The Contractor may make Substitutions only with the consent of the Owner, after evaluation by the Owner and only in accordance with a Change Order or Construction Change Directive. Substitutions shall be subject to the requirements of the Bid documents. By making requests for Substitutions, the Contractor: represents that the Contractor has personally investigated the proposed substitute product; represents that the Contractor will provide the same warranty for the Substitution that the Contractor would for the product originally specified unless approved otherwise; certifies that the cost data presented is complete and includes all related costs under this Contract including redesign costs, and waives all claims for additional costs related to the Substitution which subsequently become apparent; and will coordinate the installation of the accepted Substitution, making such changes as may be required for the Work to be completed in all respects.

B.20 USE OF PLANS AND SPECIFICATIONS

Plans, Specifications and related Contract Documents furnished to Contractor by Owner or Owner's Architect/Engineer shall be used solely for the performance of the Work under this Contract. Contractor and its Subcontractors and suppliers are authorized to use and reproduce applicable portions of such documents appropriate to the execution of the Work, but shall not claim any ownership or other interest in them beyond the scope of this Contract, and no such interest shall attach. Unless otherwise indicated, all common law, statutory and other reserved rights, in addition to copyrights, are retained by Owner.

B.21 FUNDS AVAILABLE AND AUTHORIZED

Owner reasonably believes at the time of entering into this Contract that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within the Owner's appropriation or limitation. Contractor understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Owner's payment of amounts under this Contract attributable to Services performed after the last day of the current biennium is contingent on Owner receiving from the Oregon Legislative Assembly appropriations, limitations or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

B.22 NO THIRD PARTY BENEFICIARIES

Owner and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or

provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

SECTION C WAGES AND LABOR

C.1 MINIMUM WAGE RATES ON PUBLIC WORKS

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), are included as attachments to or are incorporated by reference in the Contract Documents. Pursuant to ORS 279C.830(1)(d), Contractor shall pay workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all subcontracts. If the Work is subject to both the state prevailing wage rate law and the federal Davis-Bacon Act, Contractor shall pay the higher of the applicable state or federal prevailing rate of wage. Contractor shall provide written notice to all workers of the number of hours per day and days per week such workers may be required to work.

C.2 PAYROLL CERTIFICATION AND FEE REQUIREMENTS

C.2.1 In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Owner, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read the certified statement, that the Contractor or Subcontractor knows the contents of the certified statement, and, that to the Contractor's or Subcontractor's best knowledge and belief, the certified statement is true. The certified statements shall set out accurately and completely the payroll records for the prior week, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on the project shall be submitted once a month, by the fifth business day of the following month. The Contractor and Subcontractors shall preserve the certified statements for a period of ten (10) years from the date of completion of the Contract.

C.2.2 Pursuant to ORS 279C.845(7), the Owner shall retain 25 percent of any amount earned by the Contractor on this public works project until the Contractor has filed the certified statements required by section C.2.1. The Owner shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.

C.2.3 Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-tier Subcontractor on this public works project until the first-tier Subcontractor has filed with the Owner the certified statements required by C.2.1. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement. Within 14 days after the first-tier Subcontractor files the required certified statement the

Contractor shall pay the first-tier Subcontractor any amount retained under this subsection.

- C.2.4 In accordance with statutory requirements and administrative rules promulgated by the Commissioner of the Bureau of Labor and Industries, the fee required by ORS 279C.825(1) will be paid by Owner to the Commissioner.

C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS

C.3.1 As a condition to Owner's performance hereunder, the Contractor shall:

- C.3.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.
- C.3.1.2 Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.
- C.3.1.3 Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Owner, or assign any sums due by Owner, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Owner.
- C.3.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- C.3.2 As a condition to Owner's performance hereunder, if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with the project as such claim becomes due, the proper officer(s) representing the Owner may pay the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract. Payment of claims in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.
- C.3.3 Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten (10) Days out of such amounts as are paid to the Contractor by the public contracting agency under such contract.
- C.3.4 All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

C.4 PAYMENT FOR MEDICAL CARE

As a condition to Owner's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such services and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

C.5 HOURS OF LABOR

As a condition to Owner's performance hereunder, no person shall be employed to perform Work under this Contract for more than ten (10) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

- (a) For all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive Days, Monday through Friday; or
- (b) For all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the work week is four consecutive Days, Monday through Friday; and
- (c) For all Work performed on Saturday and on any legal holiday specified in ORS 279C.540.

This section C.5 will not apply to Contractor's Work under this Contract to the extent Contractor is currently a party to a collective bargaining agreement with any labor organization.

This Section C.5 shall not excuse Contractor from completion of the Work within the time required under this Contract.

SECTION D CHANGES IN THE WORK

D.1 CHANGES IN WORK

- D.1.1 The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written agreement and then only after any necessary approvals have been obtained. A Change Order is required, which shall not be effective until its execution by the parties to this Contract and all approvals required by public contracting laws have been obtained.
- D.1.2 It is mutually agreed that changes in Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction. Within the general scope of this Contract, the Owner may at any time, without notice to the sureties and without impairing the Contract, require changes consistent with this Section D.1. All changes to the Work shall be documented and Change Orders shall be executed under the conditions of the Contract Documents. Such changes may include, but are not limited to:
- (a) Modification of specifications and design.
 - (b) Increases or decreases in quantities.
 - (c) Increases or decreases to the amount of Work.
 - (d) Addition or elimination of any Work item.
 - (e) Change in the duration of the project.
 - (f) Acceleration or delay in performance of Work.
 - (g) Deductive changes.

Deductive changes are those that reduce the scope of the Work, and shall be made by mutual agreement whenever feasible. In cases of suspension or partial termination under Section J, Owner reserves the right to unilaterally impose a deductive change and to self perform such Work, for which the provisions of B.13 (Owner's Right to Do Work) shall then apply. Adjustments in compensation shall be made under the provisions of D.1.3, in which costs for deductive changes shall be based upon a Direct Costs adjustment together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Owner.

- D.1.3 The Owner and Contractor agree that adjustments to or deletions from the Work shall be administered and compensated according to the following:

- (a) Unit pricing may be utilized at the Owner’s option when unit prices or solicitation alternates were provided that established the cost for adjustments to Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the adjustment to Work.
- (b) If the Owner elects not to utilize unit pricing, or in the event that unit pricing is not available or appropriate, fixed pricing may be used for adjustments to or deletions from the Work. In fixed pricing the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. Notwithstanding the foregoing, the mark-ups set forth in D.1.3(c) shall be utilized in establishing fixed pricing, and such mark-ups shall not be exceeded. Cost and price data relating to adjustments to or deletions from the Work shall be supplied by Contractor to Owner upon request, but Owner shall be under no obligation to make such requests.
- (c) In the event that unit pricing and fixed pricing are not utilized, then adjustments to or deletions from the Work shall be performed on a cost reimbursement basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. In addition, the following markups shall be added to the Contractor’s or Subcontractor’s Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the Contractor’s or Subcontractor’s own forces:

On Labor.....	15%
On Equipment.....	10%
On Materials.....	10%

- (d) When adjustments to or deletions from the Work under D.1.3(c) are invoiced by an authorized Subcontractor at any level, each ascending tier Subcontractor or Contractor will be allowed a supplemental mark-up on each piece of subcontract Work covered by a an Change Order as follows:

\$0.00 - \$5,000.00	10%, and then
Over \$5,000.00	5%

Payments made to the Contractor shall be complete compensation for Overhead, profit, and all costs that were incurred by the Contractor or by other forces furnished by the Contractor, including Subcontractors, for adjustments to or deletions from the Work pursuant to a Change Order. Owner may establish a maximum cost for additional Work under this Section D.1.3, which shall not be exceeded for reimbursement without additional written authorization from Owner in the form of a Change Order. Contractor shall not be required to complete such additional Work without additional authorization.

D.1.4 Any necessary adjustment of Contract Time that may be required as a result of adjustments to or deletions from the Work must be agreed upon by the parties before the start of the revised Work unless Owner authorizes Contractor to start the revised Work before agreement on Contract Time adjustment. Contractor shall submit any request for additional compensation (and additional Contract Time if Contractor was authorized to start Work before an adjustment of Contract Time was approved) as soon as possible but no later than thirty (30) Days after receipt of Owner’s request for additional Work . If Contractor’s request for additional compensation or adjustment of Contract Time is not made within the thirty (30) Day time limit, Contractor’s requests pertaining to that additional Work shall be barred. The thirty (30) Day time limit for making requests shall not be extended for any reason, including without

limitation Contractor’s claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by Owner. If the Owner denies Contractor’s request for additional compensation or adjustment of Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process. No other reimbursement, compensation, or payment will be made, except as provided in Section D.1.5 for impact claims.

D.1.5 If any adjustment to Work under Section D.1.3 causes an increase or decrease in the Contractor’s cost of, or the Contract Time required for the performance of any other part of the Work under this Contract, Contractor shall submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt of Owner’s request for adjustments to or deletions from the Work by Contractor.

The thirty (30) Day time limit applies to claims of Subcontractors, suppliers, or manufacturers who may be affected by Owner’s request for adjustments to or deletions from the Work and who request additional compensation or an extension of Contract Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the thirty (30) Day time limit, and including their requests with Contractor’s requests. If the request involves Work to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the adjustments to compensation and Contract Time requested. The Contractor shall analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor’s analysis and evaluation of those requests with Contractor’s requests for adjustments to compensation or Contract Time that Contractor submits to the Owner. Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor’s requests submitted to Owner within the time period and by the means described in this section shall constitute a waiver of these Subcontractor claims. The Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract. The consideration of such requests and claims under this section does not give any Person, not a party to the Contract the right to bring a claim against Owner, whether in this claims process, in litigation, or in any dispute resolution process.

If the Owner denies the Contractor’s request for adjustment to compensation or Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

D.1.6 No request or Claim by the Contractor for additional costs or an adjustment of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Final payment application must be made by Contractor within the time required under Section E.6.4.

D.1.7 It is understood that changes in the Work are inherent in construction of this type. The number of changes, the scope of those changes, and the effect they have on the progress of the original Work cannot be defined at this time. The Contractor is notified that numerous changes may be required and that there will be no compensation made, unless and only to the extent otherwise provided in the Contract Documents, to the Contractor directly related to the number of changes. Each change will be evaluated for extension of Contract Time and increase or decrease in compensation based on its own merit.

D.2 DELAYS

D.2.1 Delays in construction include "Avoidable Delays", which are defined in Section D.2.1.1, and "Unavoidable Delays", which are defined in Section D.2.1.2. The effect of Avoidable Delays is described in Section D.2.2 and the effect of Unavoidable Delays is described in Section D.2.3.

D.2.1.1 Avoidable Delays include any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that:

- (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of neither other parts of the Work nor the completion of the whole Work within the Contract Time.
- (c) Do not impact activities on the accepted critical path schedule.
- (d) Are associated with the reasonable interference of other contractors employed by the Owner that do not necessarily prevent the completion of the whole Work within the Contract Time.

D.2.1.2 Unavoidable Delays include delays other than Avoidable Delays that are:

- (a) To the extent caused by any actions of the Owner, or any other employee or agent of the Owner, or by separate contractor employed by the Owner.
- (b) To the extent caused by any site conditions which differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be inherent to the construction activities defined in the Contract Documents. The Contractor shall notify the Owner immediately of differing site conditions before the area has been disturbed. The Owner will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular Contract. If Contractor and the Owner agree that a differing site condition exists, any adjustment to compensation or Contract Time will be determined based on the process set forth in Section D.1.5 for adjustments to or deletions from Work. If the Owner disagrees that a differing site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.
- (c) To the extent caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (d) To the extent caused by adverse weather conditions. Any adverse weather conditions must be substantiated by documentary evidence that weather conditions were abnormal for the specific time period claimed, could not have been anticipated by the Contractor, and adversely impacted the project in a manner that could not be avoided by rescheduling the Work or by implementing measures to protect against the weather so that the Work could proceed. A rain, windstorm, high water, or other natural phenomenon for the specific locality of the Work, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Work, shall not be construed as abnormal. The parties

agree that rainfall greater than the following levels cannot be reasonably anticipated:

- (i) Daily rainfall equal to, or greater than, 0.50 inch during a month when the monthly rainfall exceeds the normal monthly average by twenty-five percent (25 %) or more.
- (ii) daily rainfall equal to, or greater than, 0.75 inch at any time.

The Office of the Environmental Data Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce nearest the project site shall be considered the official agency of record for weather information.

D.2.2 Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.

D.2.3 In the event of Unavoidable Delays, based on principles of equitable adjustment, Contractor may be entitled to the following:

- (a) Contractor may be entitled to additional compensation or additional Contract Time, or both, for Unavoidable Delays described in Section D.2.1.2 (a) and (b).
- (b) Contractor may be entitled to additional Contract Time for Unavoidable Delays described in Section D.2.1.2(c) and (d).

In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this Section D.2.3 for Unavoidable Delays, other than requests for additional compensation or additional Contract Time for differing site conditions for which a review process is established under Section D.2.1.2 (b), Contractor shall submit a written notification of the delay to the Owner within two (2) Days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Contract Time extension or the additional compensation, or both, as applicable, resulting from the delay. Within seven (7) Days after the cause of the delay has been mitigated, or in no case more than thirty (30) Days after the initial written notification, the Contractor shall submit to the Owner, a complete and detailed request for additional compensation or additional Contract Time, or both, as applicable, resulting from the delay. If the Owner denies Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

If Contractor does not timely submit the notices required under this Section D.2, then unless otherwise prohibited by law, Contractor's Claim shall be barred.

D.3 CLAIMS REVIEW PROCESS

D.3.1 All Contractor Claims shall be referred to the Owner for review. Contractor's Claims, including Claims for adjustments to compensation or Contract Time, shall be submitted in writing by Contractor to the Owner within five (5) Days after a denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these OUS Public Improvement General Conditions. Within thirty (30) Days after the initial Claim, Contractor shall submit to the Owner a complete and detailed description of the Claim (the "Detailed Notice") that includes all information required by Section D.3.2. Unless the Claim is

made in accordance with these time requirements, it shall be waived by Contractor.

D.3.2 The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Contract Time adjustment requested for the Claim. If the Claim involves Work to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Owner. The Owner will not consider direct claims from Subcontractors, suppliers, manufacturers, or others not a party to this Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Owner.

D.3.3 The Owner will review all Claims and take one or more of the following preliminary actions within ten (10) Days of receipt of the Detailed Notice of a Claim: (1) request additional supporting information from the Contractor; (2) inform the Contractor and Owner in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part and identify the reasons for rejection; (4) based on principles of equitable adjustment, recommend approval of all or part of the Claim; or (5) propose an alternate resolution.

D.3.4 The Owner's decision shall be final and binding on the Contractor unless appealed by written notice to the Owner within fifteen (15) Days of receipt of the decision. The Contractor must present written documentation supporting the Claim within fifteen (15) Days of the notice of appeal. After receiving the appeal documentation, the Owner shall review the materials and render a decision within thirty (30) Days after receiving the appeal documents.

D.3.5 The decision of the Owner shall be final and binding unless the Contractor delivers to the Owner its request for mediation, which shall be a non-binding process, within fifteen (15) Days of the date of the Owner's decision. The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) Days of the commencement of the mediation through the mediation process set forth herein.

In the event that a lawsuit must be filed within this sixty (60) Day period in order to preserve a cause of action, the parties agree that, notwithstanding the filing, they shall proceed diligently with the mediation to its conclusion prior to actively prosecuting the lawsuit, and shall seek from the Court in which the lawsuit is pending such stays or extensions, including the filing of an answer, as may be necessary to facilitate the mediation process. Further, in the event settlements are reached on any issues through mediation, the plaintiff shall promptly cause to be entered by the Court a stipulated general judgment of dismissal with prejudice, or other appropriate order limiting the scope of litigation as provided in the settlement.

D.3.6 Should the parties arrive at an impasse regarding any Claims or disputed Claims, it is agreed that the parties shall participate in mediation as specified in Section D.3.5. The mediation process will be considered to have been commenced as of the date one party delivers to the other its request in writing to mediate. The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly

select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Owner's administrative rules governing the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

D.3.7 Unless otherwise directed by Owner, Contractor shall proceed with the Work while any Claim, or mediation or litigation arising from a Claim, is pending. Regardless of the review period or the final decision of the Owner, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease or Delay Work, in whole or in part, without a written stop work order from the Owner.

SECTION E PAYMENTS

E.1 SCHEDULE OF VALUES

The Contractor shall submit, at least ten (10) Days prior to submission of its first application for progress payment, a schedule of values ("Schedule of Values") for the contracted Work. This schedule shall provide a breakdown of values for the contracted Work and will be the basis for progress payments. The breakdown shall demonstrate reasonable, identifiable, and measurable components of the Work. Unless objected to by the Owner, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Owner, Contractor shall revise the schedule of values and resubmit the same for approval of Owner.

E.2 APPLICATIONS FOR PAYMENT

E.2.1 Owner shall make progress payments on the Contract monthly as Work progresses, in accordance with the requirements of this Section E.2. Applications for payment shall be based upon estimates of Work completed and the Schedule of Values. As a condition precedent to Owner's obligation to pay, all applications for payment shall be approved by the Owner. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Owner shall pay to Contractor interest for overdue invoices at the rate of two-thirds of one percent per month on the progress payment, not including retainage, due the Contractor. Overdue invoices will be those that have not been paid within forty five (45) days from the latest of:

- (a) The date of the receipt of the accurate invoice;
- (b) The date Owner receives the correct application for payment if no invoice is received;
- (c) The date all goods and services have been received; or
- (d) The date a Claim is made certain by agreement of the parties or by operation of law.

Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within

fifteen (15) Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within seven (7) Days of being notified by the Owner, shall not cause a payment to be made later than specified in this section unless interest is also paid. Payment of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and the Contractor.

Owner reserves the right, instead of requiring the Contractor to correct or resubmit a defective or improper application for payment, to reject the defective or improper portion of the application for payment and pay the remainder of the application for such amounts which are correct and proper.

Owner, upon written notice to the Contractor, may elect to make payments to the Contractor only by means of Electronic Funds Transfers (EFT) through Automated Clearing House (ACH) payments. If Owner makes this election, the Contractor shall arrange for receipt of the EFT/ACH payments.

E.2.2 Contractor shall submit to the Owner an application for each payment and, if required, receipts or other vouchers showing payments for materials and labor including payments to Subcontractors. Contractor shall include in its application for payment a schedule of the percentages of the various parts of the Work completed, based on the Schedule of Values which shall aggregate to the payment application total, and shall include, on the face of each copy thereof, a certificate in substantially the following form:

"I, the undersigned, hereby certify that the above bill is true and correct, and the payment therefore, has not been received.

Signed: _____
Dated: _____"

E.2.3 Generally, applications for payment will be accepted only for materials that have been installed. Under special conditions, applications for payment for stored materials will be accepted at Owner's sole discretion. Such a payment, if made, will be subject to the following conditions:

(a) The request for stored material shall be submitted at least thirty (30) Days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.

(b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.

(c) The material shall be stored in a bonded warehouse and Owner shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.

(d) The Contractor shall name the Owner as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Owner.

(e) Payments shall be made for materials and equipment only. The submitted amount in the application for payment shall be reduced by the cost of transportation from the storage site to the project site and for the cost of an inspector to verify delivery and condition of the goods at the storage site. The cost of storage and inspection shall be borne solely by the Contractor.

(f) Within sixty (60) Days of the application for payment, the Contractor shall submit evidence of payment covering the material and/or equipment stored and of payment for the storage site.

(g) Payment for stored materials and/or equipment shall in no way indicate acceptance of the materials and/or equipment or waive any rights under this Contract for the rejection of the Work or materials and/or equipment not in conformance with the Contract Documents.

(h) All required documentation shall be submitted with the respective application for payment.

E.2.4 The Owner reserves the right to withhold all or part of a payment, or may nullify in whole or part any payment previously made, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:

- (a) Work that is defective and not remedied, or that has been demonstrated or identified as failing to conform with Applicable Laws or the Contract Documents,
- (b) third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by the Contractor;
- (c) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Owner may issue checks made payable jointly to Contractor and such unpaid Persons under this provision, or directly to Subcontractors and suppliers at any level under Section C.3.2.1);
- (d) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
- (e) damage to the Work, Owner or another contractor;
- (f) reasonable evidence that the Work will not be completed within the Contract Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- (g) failure to carry out the Work in accordance with the Contract Documents; or
- (h) assessment of liquidated damages, when withholding is made for offset purposes.

E.2.5 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- (a) Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in Section E.5. Pending final determination of cost to the Owner of changes in the Work, no amounts for changes in the Work can be included in applications for payment until the Contract Price has been adjusted by a Change Order;
- (b) Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner pursuant to Section E.2.3, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section E.5;
- (c) Subtract the aggregate of previous payments made by the Owner; and
- (d) Subtract any amounts for which the Owner has withheld or nullified payment as provided in the Contract Documents.

E.2.6 Contractor's applications for payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier.

E.2.7 The Contractor warrants to Owner that title to all Work covered by an application for payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Work for which payments are received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided financing, labor, materials and equipment relating to the Work.

E.2.8 If Contractor disputes any determination by Owner with regard to any application for payment, Contractor nevertheless shall continue to expeditiously perform the Work. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.

E.2.9 Contractor shall submit its initial MWESB Report within ten (10) Days of Contractor's execution of the Contract. Contractor shall submit annual MWESB Reports on June 30 of each year the Contract is active. Contracts - first executed by Contractor within ninety (90) Days before June 30 of the year of execution by Contractor may at the discretion of Owner be exempt from submitting the annual MWESB Report otherwise due on that June 30. The final MWESB Report shall be filed with the application for final payment. Timely receipt of MWESB Reports by Owner shall be a condition precedent to Owner's obligation to pay any progress payments or final payment otherwise due.

E.3 PAYROLL CERTIFICATION REQUIREMENT

Owner's receipt of payroll certification pursuant to Section C.2 of this Contract shall be a condition precedent to Owner's obligation to pay any progress payments or final payment otherwise due.

E.4 DUAL PAYMENT SOURCES

Contractor shall not be compensated for Work performed under this Contract from any state agency other than the agency that is a party to this Contract.

E.5 RETAINAGE

E.5.1 Retainage shall be withheld and released in accordance with the requirements set forth in OAR 580-063-0045.

E.5.1.1 Owner may reserve as retainage from any progress payment an amount not to exceed five percent of the payment. As Work progresses, Owner may reduce the amount of retainage on or may eliminate retainage on any remaining monthly Contract payments after 50 percent of the Work under the Contract is completed if, in the Owner's discretion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is 97-1/2 percent completed the Owner may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Owner shall respond in writing within a reasonable time.

E.5.1.2 Contractor may request in writing:

(a) to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds and securities of equal value with Owner or in a custodial account or other mutually-agreed account satisfactory to Owner, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Owner;

(b) for construction projects over \$1,000,000, that retainage be deposited in an interest bearing account, established through the State Treasurer for state agencies, in a bank, savings bank, trust company or savings association for the benefit of Owner, with earnings from such account accruing to the Contractor; or

(c) that the Owner allow Contractor to deposit a surety bond for the benefit of Owner, in a form acceptable to Owner, in lieu of all or a portion of funds retained, or to be retained. Such bond and any proceeds therefrom shall be made subject to all claims in the manner and priority as set forth for retainage.

When the Owner has accepted the Contractor's election of option (a) or (b), Owner may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Owner has agreed to Contractor's request for option (c), Contractor shall accept like bonds from Subcontractors and suppliers on the project from which Contractor has required retainages.

E. 5.1.3 The retainage held by Owner shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Owner shall pay to Contractor interest at the rate of two-thirds of one percent per month on the final payment due Contractor, interest to commence forty five (45) Days after the date which Owner receives Contractor's final approved application for payment and Work under the Contract has been completed and accepted and to run until the date when final payment is tendered to Contractor. The Contractor shall notify Owner in writing when the Contractor considers the Work complete and deliver to Owner its final application for payment and Owner shall, within thirty (30) Days after receiving the written notice and the application for payment, either accept the Work or notify the Contractor of Work yet to be performed on the Contract. If Owner does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run forty five (45) Days after the end of the 30-Day period.

E.5.1.4 Owner will reduce the amount of the retainage if the Contractor notifies the Owner that the Contractor has deposited in an escrow account with a bank or trust company, in a manner authorized by the Owner, bonds and securities of equal value of a kind approved by the Owner and such bonds and securities have in fact been deposited in accordance with Applicable Laws.

E.5.1.5 Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection E.5 as apply to Owner's retainage from any progress payment due to Contractor.

E.6 FINAL PAYMENT

E.6.1 Upon completion of all the Work under this Contract, the Contractor shall notify the Owner, in writing, that Contractor has completed Contractor's obligations under the Contract and shall prepare its application requesting final payment. Upon receipt

of such notice and application for payment, the Owner will inspect the Work, and, if acceptable, submit to Contractor a recommendation as to acceptance of the completed Work and the final estimate of the amount due the Contractor. If the Work is not acceptable, Owner will notify Contractor within fifteen (15) Days of Contractor's request for final payment. Upon approval of this final application for payment by the Owner and compliance by the Contractor with provisions in Section K, and Contractor's satisfaction of other provisions of the Contract Documents as may be applicable, the Owner shall pay to the Contractor all monies due under the provisions of these Contract Documents.

- E.6.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner (1) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) Days' prior written notice has been given to the Owner, (2) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (3) consent of surety, if any, to final payment and (4), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- E.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.
- E.6.4 Contractor agrees to submit its final payment application within ninety (90) Days after Substantial Completion, unless written extension is granted by Owner. Contractor shall not delay final payment application for any reason, including without limitation nonpayment of Subcontractors, suppliers, manufacturers or others not a party to this Contract, or lack of resolution of a dispute with Owner or any other person of matters arising out of or relating to the Contract. If Contractor fails to submit its final payment application within ninety (90) Days after Substantial Completion, and Contractor has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Contract Time shall be waived.

SECTION F JOB SITE CONDITIONS

F.1 USE OF PREMISES

Contractor shall confine equipment, storage of materials and operation of Work to the limits indicated by Contract Documents, Applicable Laws, permits or directions of the Owner. Contractor shall follow the Owner's instructions regarding use of premises, if any.

F.2 PROTECTION OF WORKERS, PROPERTY AND THE PUBLIC

F.2.1 Contractor shall maintain continuous and adequate protection of all of the Work from damage and shall protect the Owner, workers and property from injury or loss arising in connection with this Contract. Contractor shall remedy acceptably to the Owner any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Owner.

Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.

- F.2.2 Contractor shall take all necessary precautions for the safety of all personnel on the job site or otherwise engaged in the undertaking of the Work and shall comply with the Contract Documents, best practices and all applicable provisions of federal, state and municipal safety laws and building and fire codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for protection of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Work site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Owner. The Owner has no responsibility for Work site safety. Work site safety shall be the responsibility of the Contractor.
- F.2.3 Contractor shall not enter upon private property without first obtaining permission from the property owner or its duly authorized representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and make, or arrange to make, full restitution. Contractor shall, immediately and in writing, report to the Owner, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.
- F.2.4 Contractor shall be responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, vehicles and materials on the site.
- F.2.5 Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials shall be conducted so no release will occur that may pollute or become hazardous.
- F.2.6 In an emergency affecting the safety of life or limb or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Owner, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by the Owner. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with section D.

F.3 CUTTING AND PATCHING

- F.3.1 Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.
- F.3.2 Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

F.4 CLEANING UP

From time to time as may be prudent or ordered by the Owner and, in any event, immediately after completion of the Work, the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. If Contractor fails to do so within twenty-four hours after notification by the Owner

the work may be done by others and the cost charged to the Contractor and deducted from payment due the Contractor.

F.5 ENVIRONMENTAL CONTAMINATION

F.5.1. Contractor shall be held responsible for and shall indemnify, defend (with counsel of Owner's choice), and hold harmless Owner from and against any costs, expenses, damages, claims, and causes of action, (including attorney fees), or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation, and handling during the performance of the Work or Contractor's obligations under the Contract which occur as a result of, or are contributed by, the negligence or actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section F.5.1 shall limit Contractor's responsibility for obtaining insurance coverages required under Section G.3 of this Contract, and Contractor shall take no action that would void or impair such coverages.

F.5.1.1 Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of Owner and regulatory agencies having jurisdiction in a manner that complies with Applicable Laws. Cleanup shall be at no cost to the Owner and shall be performed by properly qualified and, if applicable, licensed personnel.

F.5.1.2 Contractor shall obtain the Owner's written consent prior to bringing onto the Work site any (i) environmental pollutants or (ii) hazardous substances or materials, as the same or reasonably similar terms are used in any Applicable Laws. Notwithstanding such written consent from the Owner, the Contractor, at all times, shall:

- (a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all Applicable Laws;
- (b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Work site; and
- (c) promptly clean up and remediate, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all Applicable Laws.

F.5.2 Contractor shall report all reportable quantity releases, as such releases are defined in Applicable Laws, including but not limited to 40 CFR Part 302, Table 302.4 and in OAR 340-142-0050, to applicable federal, state, and local regulatory and emergency response agencies. Upon discovery, regardless of quantity, Contractor must telephonically report all releases to the Owner. A written follow-up report shall be submitted to Owner within 48 hours of the telephonic report. Such written report shall contain, as a minimum:

- (a) Description of items released (identity, quantity, manifest numbers, and any and all other documentation required by law.)
- (b) Whether amount of items released is EPA/DEQ reportable, and, if so, when reported.
- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.

(e) Summary of communications about the release between Contractor and members of the press or State, local or federal officials other than Owner.

(f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.

(g) Personal injuries, if any, resulting from, or aggravated by, the release.

F.6 ENVIRONMENTAL CLEAN-UP

F.6.1 Unless disposition of environmental pollution is specifically a part of this Contract, or was caused by the Contractor (reference F.5 Environmental Contamination), Contractor shall immediately notify Owner of any hazardous substance(s) which Contractor discovers or encounters during performance of the Work required by this Contract. "Hazardous substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl (PCB), or petroleum, and any substances, materials or wastes regulated by 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Owner of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the project where a hazardous substance(s) has been discovered or encountered if continued work in such area would present a risk or danger to the health or well being of Contractor's or any Subcontractor's work force, property or the environment.

F.6.2 Upon being notified by Contractor of the presence of hazardous substance(s) on the project site, Owner shall arrange for the proper disposition of such hazardous substance(s).

F.7 FORCE MAJEURE

A party to this Contract shall not be held responsible for delay or default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. The Owner may terminate this Contract upon written notice after determining that delay or default caused by Force Majeure acts, events or occurrences will reasonably prevent successful performance of the Contract.

SECTION G INDEMNITY, BONDING, AND INSURANCE

G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY

G.1.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, employees, guests, visitors, invitees and agents.

G.1.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner, Architect/Engineer, Architect/Engineer's consultants, and their respective officers, directors, agents, employees, partners, members, stockholders and affiliated companies (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever which arise out of, result from or are related to, (a) any damage, injury, loss, expense, inconvenience or delay described in this Section G.1., (b) any accident or occurrence which happens or is alleged to have happened in or about the

project site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects, (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract, (d) the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140), and (e) any lien filed upon the project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section G.1.2.

G.1.3 In claims against any person or entity indemnified under Section G.1.2 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section G.1.2 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND

G.2.1 When the Contract Price is \$100,000 or more (or \$50,000 or more in the case of Contracts for highways, bridges and other transportation projects), the Contractor shall furnish and maintain in effect at all times during the Contract Period a performance bond in a sum equal to the Contract Price and a separate payment bond also in a sum equal to the Contract Price. Contractor shall furnish such bonds even if the Contract Price is less than the above thresholds if otherwise required by the Contract Documents.

G.2.2 Bond forms furnished by the Owner and notarized by awarded Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.

G.2.3 Before execution of the Contract the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting any Subcontractor to start Work.

G.3 INSURANCE

G.3.1 Primary Coverage: Insurance carried by Contractor under this Contract shall be the primary coverage. The coverages indicated are minimums unless otherwise specified in the Contract Documents.

G.3.2 Workers' Compensation: All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. This shall include

Employer's Liability Insurance with coverage limits of not less than the minimum amount required by statute for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation coverage by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.

G.3.3 Builder's Risk Insurance:

G.3.3.1 Builder's Risk: During the term of this Contract, for new construction the Contractor shall obtain and keep in effect Builder's Risk insurance on an all risk forms, including earthquake and flood, for an amount equal to the full amount of the Contract, plus any changes in values due to modifications, Change Orders and loss of materials added. Such Builder's Risk shall include, in addition to earthquake and flood, theft, vandalism, mischief, collapse, transit, debris removal, and architect's fees ("soft costs") associated with delay of project due to insured peril. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible which shall not exceed 2 percent of each loss or \$50,000, whichever is greater. The deductible shall be paid by Contractor if Contractor is negligent. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear.

G.3.3.2 Builder's Risk Installation Floater: For Work other than new construction, Contractor shall obtain and keep in effect during the term of this Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the Work performed under this Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear. Owner may waive this requirement at its sole and absolute discretion.

G.3.3.3 Such insurance shall be maintained until Owner has occupied the facility.

G.3.3.4 A loss insured under the Builder's Risk insurance shall be adjusted by the Owner and made payable to the Owner as loss payee. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner shall have power to adjust and settle a loss with insurers.

G.3.4 General Liability Insurance:

G.3.4.1 Commercial General Liability: Upon execution of this Contract, Contractor shall obtain, and keep in effect at Contractor's expense for the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in the amount of \$1,000,000 per claim and \$2,000,000 per occurrence in a form satisfactory to Owner. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnities provided under this Contract (to the extent contractual liability coverage for the indemnity is available in the marketplace), and shall be issued on an occurrence basis.

G.3.4.2 Automobile Liability: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Automobile Liability Insurance covering owned, and/or hired vehicles, as applicable. The coverage may be written in combination with the Commercial General Liability Insurance. Contractor shall provide proof of insurance of not less than

\$1,000,000 per claim and \$2,000,000 per occurrence. Contractor and its Subcontractors shall be responsible for ensuring that all non-owned vehicles maintain adequate Automobile Liability insurance while on site.

- G.3.4.3 Owner may adjust the insurance amounts required in Section G.3.4.1 and G.3.4.2 based upon institution specific risk assessments through the issuance of Supplemental General Conditions to this Contract.
- G.3.4.4 "Tail" Coverage: If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 36 months or the maximum time period available in the marketplace if less than 36 months. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 36 months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. Owner's receipt of the policy endorsement evidencing such coverage shall be a condition precedent to Owner's obligation to make final payment and to Owner's final acceptance of Work or services and related warranty (if any).
- G.3.4.5: Umbrella Liability (if required by Owner through issuance of Supplemental General Conditions): Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Umbrella liability Insurance over and above the general liability, automobile liability and workers' compensation coverage if required by Owner in specified limits at time of requirement.
- G.3.4.6 Pollution Liability (if required by Owner through issuance of Supplemental General Conditions): Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Pollution liability Insurance in minimum amounts of \$1,000,000, or other amount as indicated in the Supplemental General Conditions, naming Owner as "additional insured," as noted in the "additional insured section below.
- G.3.5 Additional Insured: The general liability insurance coverage, professional liability, umbrella, and pollution liability if required, shall include the Owner as additional insureds but only with respect to the Contractor's activities to be performed under this Contract.
- If Contractor cannot obtain an insurer to name the Owner as additional insureds, Contractor shall obtain at Contractor's expense, and keep in effect during the term of this Contract, Owners and Contractors Protective Liability Insurance, naming the Owner as additional insureds with not less than a \$2,000,000 limit per occurrence. This policy must be kept in effect for 36 months following Final Completion. As evidence of coverage, Contractor shall furnish the actual policy to Owner prior to execution of the Contract.
- G.3.6 Notice of Cancellation or Change: If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify Owner by fax within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. When notified by Owner, the Contractor agrees to stop Work pursuant to this Contract, unless all required insurance remains in effect. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverages provided to the Owner and its institutions, divisions, officers, and employees.

Owner shall have the right, but not the obligation, of prohibiting Contractor from entering the Work site until a new certificate(s) of insurance is provided to Owner evidencing the replacement coverage. The Contractor acknowledges and agrees that Owner reserves the right to withhold payment to Contractor until evidence of reinstated or replacement coverage is provided to Owner.

- G.3.7 Certificate(s) of Insurance: As evidence of the insurance coverage required by this Contract, the Contractor shall furnish certificate(s) of insurance to the Owner prior to execution of the Contract. The certificate(s) will specify all of the parties who are additional insureds or loss payees for this contract. Insurance coverage required under this Contract shall be obtained from insurance companies or entities acceptable to the Owner and that are eligible to provide such insurance under Oregon law. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to conduct an insurance business and issue policies of insurance in the state of Oregon, and certain non-admitted surplus lines insurers that satisfy the requirements of applicable Oregon law and which are subject to approval by the Owner. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder. Any deductible, self-insured retention and/or self-insurance in excess of \$50,000 shall be subject to approval by the Owner in writing and shall be a condition precedent to the effectiveness of this Contract.

SECTION H SCHEDULE OF WORK

H.1 CONTRACT PERIOD

- H.1.1 Time is of the essence. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein. If required by the Contract Documents, Contractor shall commence Work on the site within fifteen (15) Days of Notice to Proceed, unless directed otherwise.
- H.1.2 Unless specifically extended by Change Order, all Work shall be complete by the date contained in the Contract Documents. The Owner shall have the right to accelerate the completion date of the Work, which may require the use of overtime. Such accelerated Work schedule shall be an acceleration in performance of Work under Section D.1.2 (f) and shall be subject to the provisions of Section D.1.
- H.1.3 The Owner shall not waive any rights under the Contract by permitting the Contractor to continue or complete in whole or in part the Work after the date described in Section H.1.2 above.

H.2 SCHEDULE

H.2.1 Contractor shall provide, by or before the pre-construction conference, the initial as-planned schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by project components, with labor trades, and long lead items broken down by building and/or floor where applicable. If Owner shall so elect, Contractor shall provide the schedule in CPM format showing the graphical network of planned activities, including i) a reasonably detailed list of all activities required to complete the Work; ii) the time and duration that each activity will take to completion; and iii) the dependencies between the activities. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. The schedule shall include the following: Notice to Proceed or the date the Work commences, if no Notice to Proceed is issued by Owner, Substantial Completion, and Final Completion. Schedules shall be updated monthly, unless otherwise required by the Contract Documents, and submitted with the monthly application for payment. Acceptance of the Schedule by the

Owner does not constitute agreement by the Owner as to the Contractor's sequencing, means, methods, or durations. Any positive difference between the Contractor's scheduled completion and the Contract completion date is float owned by the Owner. Owner reserves the right to negotiate the float if it is deemed to be in Owner's best interest to do so. In no case shall the Contractor make a claim for delays if the Work is completed within the Contract Time but after Contractor's scheduled completion. **H.3 PARTIAL OCCUPANCY OR USE**

H.3.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage, provided such occupancy or use is consented to by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have reasonably accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, insurance or self-insurance, maintenance, heat, utilities, and damage to the Work, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents with respect to such portion of the Work. Approval by the Contractor to partial occupancy or use shall not be unreasonably withheld. Immediately prior to such partial occupancy or use, the Owner and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. Partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

SECTION I CORRECTION OF WORK

I.1 CORRECTION OF WORK BEFORE FINAL PAYMENT

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects, and that the Work will conform to the requirements of the Contract Documents. Work failing to conform to these requirements shall be deemed defective. Contractor shall promptly remove from the premises and replace all defective materials and equipment as determined by the Owner, whether incorporated in the Work or not. Removal and replacement shall be without loss or expense to the Owner, and Contractor shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than thirty (30) Days after Substantial Completion for completion of defective (Punch List) work. At the end of the thirty-day period, or earlier if requested by the Contractor, Owner shall arrange for inspection of the Work by the Architect/Engineer. Should the work not be complete, and all corrections made, the costs for all subsequent reinspections shall be borne by the Contractor. If Contractor fails to complete the Punch List work within the thirty (30) Day period, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand without affecting Contractor's obligations.

I.2 WARRANTY WORK

I.2.1 Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective Work and, unless a longer period is specified, Contractor shall correct all defects that appear in the Work within a period of one year from the date of issuance of the written notice of Substantial Completion by the Owner except for latent defects which will be remedied by the Contractor at any time they become apparent. The Owner shall give Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Owner's demand. If Contractor fails to complete the warranty work within such period as Owner

determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand, without affecting Contractor's obligations. The Contractor shall perform the warranty Work by correcting defects within twenty-four (24) hours of notification by Owner, unless otherwise specified in the Contract Documents. Should the Contractor fail to respond within the specified response time, the Owner may, at its option, complete the necessary repairs using another contractor or its own forces. If Owner completes the repairs using Owner's own forces, Contractor shall pay Owner at the rate of one and one-half (1½) times the standard hourly rate of Owner's forces, plus related overhead and any direct non-salary costs. If Owner completes the repairs using another contractor, Contractor shall pay Owner the amount of Owner's direct costs billed by the other contractor for the work, plus the direct salary costs and related overhead and direct non-salary expenses of Owner's forces who are required to monitor that contractor's work. Work performed by Owner using Owner's own forces or those of another contractor shall not affect the Contractor's contractual duties under these provisions, including warranty provisions.

I.2.2 Nothing in this Section I.2 shall negate guarantees or warranties for periods longer than one year including, without limitation, such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.

I.2.3 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until such portion of the Work covered by the applicable warranty has been accepted in writing by the Owner.

I.2.4 The one-year period for correction of Work shall be extended with respect to portions of Work performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work, and shall be extended by corrective Work performed by the Contractor pursuant to this Section, as to the Work corrected. The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

I.2.5 Nothing contained in this Section I.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section I.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

I.2.6 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

SECTION J SUSPENSION AND/OR TERMINATION OF THE WORK

J.1 OWNER'S RIGHT TO SUSPEND THE WORK

J.1.1 The Owner has the authority to suspend portions or all of the Work due to the following causes:

- (a) Failure of the Contractor to correct unsafe conditions;
- (b) Failure of the Contractor to carry out any provision of the Contract;
- (c) Failure of the Contractor to carry out orders;
- (d) Conditions, in the opinion of the Owner, which are unsuitable for performing the Work;
- (e) Time required to investigate differing site conditions;
- (f) Any reason considered to be in the public interest.

J.1.2 The Owner shall notify Contractor and the Contractor's Surety in writing of the effective date and time of the suspension, and Owner shall notify Contractor and Contractor's surety in writing to resume Work.

J.2 CONTRACTOR'S RESPONSIBILITIES

- J.2.1 During the period of the suspension, Contractor is responsible to continue maintenance at the project just as if the Work were in progress. This includes, but is not limited to, protection of completed Work, maintenance of access, protection of stored materials, temporary facilities, and clean-up.
- J.2.2 When the Work is recommenced after the suspension, the Contractor shall replace or renew any Work damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete the Work in every respect as though its prosecution had been continuous and without suspension.

J.3 COMPENSATION FOR SUSPENSION

J.3.1 Depending on the reason for suspension of the Work, the Contractor or the Owner may be due compensation by the other party. If the suspension was required due to acts or omissions of Contractor, the Owner may assess the Contractor actual costs of the suspension in terms of administration, remedial work by the Owner's forces or another contractor to correct the problem associated with the suspension, rent of temporary facilities, and other actual costs related to the suspension. If the suspension was caused by acts or omissions of the Owner, the Contractor may be due compensation which shall be defined using Section D, Changes in Work. If the suspension was required through no fault of the Contractor or the Owner, neither party shall owe the other for the impact.

J.4 OWNER'S RIGHT TO TERMINATE CONTRACT

- J.4.1 The Owner may, without prejudice to any other right or remedy, and after giving Contractor seven (7) Days' written notice and an opportunity to cure, terminate the Contract in whole or in part under the following conditions:
 - (a) If Contractor should, voluntarily or involuntarily, seek protection under the United States Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
 - (b) If Contractor should make a general assignment for the benefit of Contractor's creditors;
 - (c) If a receiver should be appointed on account of Contractor's insolvency;
 - (d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;

- (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner; or
- (f) If Contractor is otherwise in breach of any part of the Contract.
- (g) If Contractor is in violation of Applicable Laws, either in the conduct of its business or in its performance of the Work.

J.4.2 At any time that any of the above occurs, Owner may exercise all rights and remedies available to Owner at law or in equity, and, in addition, Owner may take possession of the premises and of all materials and appliances and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the Work is completed. If the Owner's cost of finishing the Work exceeds the unpaid balance of the Contract Price, Contractor shall pay the difference to the Owner.

J.5 TERMINATION FOR CONVENIENCE

- J.5.1 Owner may terminate the Contract in whole or in part whenever Owner determines that termination of the Contract is in the best interest of Owner or the public.
- J.5.2 The Owner shall provide the Contractor with seven (7) Days prior written notice of a termination for Owner's or for public convenience. After such notice, the Contractor shall provide the Owner with immediate and peaceful possession of the premises and materials located on and off the premises for which the Contractor received progress payment under Section E. Compensation for Work terminated by the Owner under this provision will be according to Section E. In no circumstance shall Contractor be entitled to lost profits for Work not performed due to termination.

J.6 ACTION UPON TERMINATION

- J.6.1 Upon receiving a notice of termination, and except as directed otherwise by the Owner, Contractor shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Work terminated and, with the prior written approval of the Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.
- J.6.2 As directed by the Owner, Contractor shall, upon termination, transfer title and deliver to the Owner all Record Documents, information, and other property that, if the Contract had been completed, would have been required to be furnished to the Owner.

I.6.3 Upon Owner's notice of termination pursuant to either Section J.4 or J.5, if Owner shall so elect, Contractor shall assign to the Owner such subcontracts and orders as Owner shall specify. In the event Owner elects to take assignment of any such subcontract or order, Contractor shall take such action and shall execute such documents as Owner shall reasonably require for the effectiveness of such assignment and Contractor shall ensure that no contractual arrangement between it and its subcontractors or suppliers of any tier or sub-tier shall prevent such assignment.

**SECTION K
CONTRACT CLOSE OUT**

K.1 RECORD DOCUMENTS

As a condition of final payment (and subject to the provisions of section E.6), Contractor shall comply with the following: Contractor shall provide Record Documents for the entire project to Owner. Record Documents shall depict the project as constructed and shall reflect each and every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents, unless otherwise directed, and accurate MWESB Reports.

K.2 OPERATION AND MAINTENANCE MANUALS

As part of the Work, Contractor shall submit two completed operation and maintenance manuals ("O & M Manuals") for review by the Owner prior to submission of any pay request for more than 75% of the Work. Owner's receipt of the O & M Manuals shall be a condition precedent to any payment thereafter due. The O & M Manuals shall contain a complete set of all submittals, all product data as required by the specifications, training information, telephone list and contact information for all consultants, manufacturers, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Owner shall review and return one O & M Manual for any modifications or adjustments required. Prior to submission of its final pay request, Contractor shall deliver three complete and approved sets of O & M Manuals in paper form and one complete and approved set in electronic form to the Owner and Owner's receipt of the O & M Manuals shall be a condition precedent to Owner's obligation to make final payment.

K.3 COMPLETION NOTICES

K.3.1 Contractor shall provide Owner written notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and the time within which the Contractor shall finish all items on the Punch List accompanying the Certificate. Both completion notices must be signed by the Contractor and the Owner to be valid. The Owner shall provide the final signature on the approved notices. The notices shall take effect on the date they are signed by the Owner.

K.3.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of thirty (30) continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner. All equipment contained in the Work, plus all other components necessary to enable the Owner to operate the facility in the manner that was intended, shall be complete on the Substantial Completion date. The Contractor may request that a Punch List be prepared by the Owner with submission of the request for the Substantial Completion notice.

K.4 TRAINING

As part of the Work, and prior to submission of the final application for payment, the Contractor shall schedule with the Owner training sessions for all equipment and systems as required by the Contract Documents. Contractor shall schedule training sessions at least two weeks in advance of the date of training to allow Owner to provide its personnel with adequate notice. The O & M Manual shall be used as a basis for training. Training shall be a formal session conducted at the Work site, or as required by the Contract Documents, after the equipment and/or system is completely installed and operational in its normal operating environment.

K.5 EXTRA MATERIALS

As part of the Work, Contractor shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the Contract Documents prior to final payment. Delivery point for extra materials shall be designated by the Owner.

K.6 ENVIRONMENTAL CLEAN-UP

As part of the Final Completion notice, or as a separate written notice submitted with or before the notice of Final Completion, the Contractor shall notify the Owner that all environmental and pollution clean-up, remediation and closure have been completed in accordance with all Applicable Laws and pursuant to the authority of all agencies having jurisdiction, and Contractor shall provide Owner with any and all documentation related to the same, including but not limited to directives, orders, letters, certificates and permits related to or arising from such environmental pollution. The notice shall reaffirm the indemnification given under Section F.5.1 above. Contractor's completion of its obligations under this Section K.6 and Owner's receipt of documents evidencing such completion shall be a condition precedent to Owner's obligation to make final payment.

K.7 CERTIFICATE OF OCCUPANCY

Owner's receipt of an unconditioned certificate of occupancy from the appropriate state and/or local building officials shall be a condition precedent to Owner's obligation to make final payment, except to the extent failure to obtain an unconditional certificate of occupancy is due to the fault or neglect of Owner.

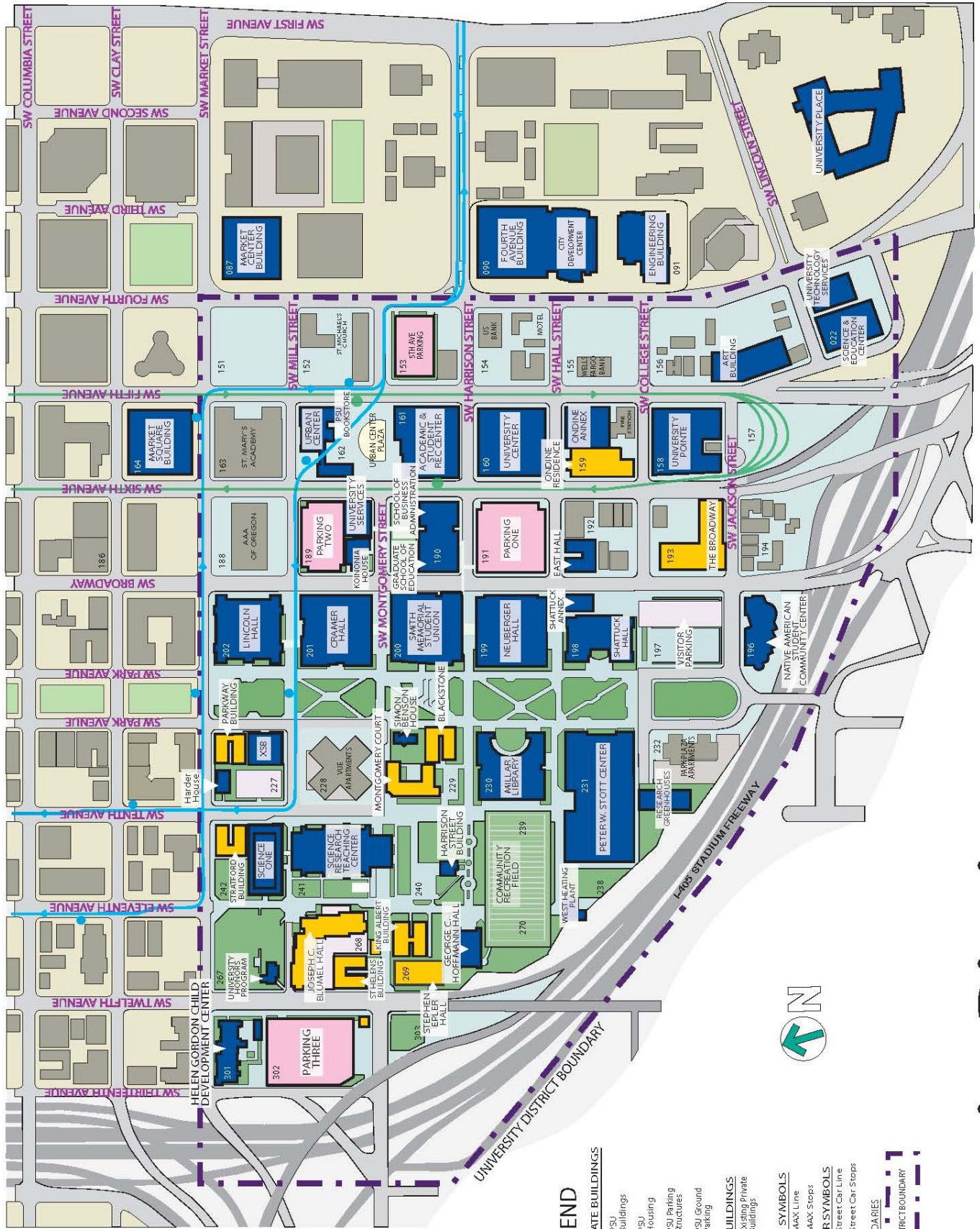
K.8 OTHER CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for returning to the Owner all property of Owner issued to Contractor during construction such as keys, security passes, site admittance badges, and all other pertinent items. Upon notice from Owner, Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from the Contractor to the Owner. The utility transfer date shall not be before Substantial Completion and may not be until Final Completion, if the Owner does not take beneficial use of the facility and the Contractor's forces continue with the Work.

K.9 SURVIVAL

All warranty and indemnification provisions of this Contract, and all of Contractor's other obligations under this Contract that are not fully performed by the time of Final Completion or termination, shall survive Final Completion or any termination of the Contract.

APPENDIX 5.4 – PSU CAMPUS MAP



LEGEND

- PORTLAND, STATE BUILDINGS**
 - PSU Buildings
 - PSU Housing
 - PSU Parking Structures
 - PSU Ground Parking
- OTHER BUILDINGS**
 - Existing Private Buildings
- MAX LINE SYMBOLS**
 - MAX Line
 - MAX Stops
- STREET CAR SYMBOLS**
 - Street Car Line
 - Street Car Stops
- BOUNDARIES**
 - UNIVERSITY DISTRICT BOUNDARY



University District

APPENDIX 5.5 - DIVISION 1

SECTION 01010 - SUMMARY OF WORK

PART 1 - GENERAL

1.01 WORK COVERED BY THE PROJECT MANUAL AND DRAWINGS

- A. Work covered by the Project Manual consists of designing and installing parking availability counting and monitoring system including without limitation:

Provide a mechanism for counting and monitoring vehicle space availability and making such data available on exterior signage and through web-based means. The design-build team will successfully install vehicle detection devices in up to 11 parking facilities consisting of 45 vehicle pass-through points (including entry/exit points) and 3,742 individual parking stalls. In addition, the design-build team will procure and install nine exterior parking availability signs at seven facilities using a campus standard in style and design. The design-build team will provide provisions for data to transmit to a web-based system for viewing by customers, back office and front line staff, and the ability for TAPS to generate reports based on real-time data collection.

Overall, the design-build team will provide a counting and monitoring system that is proven to increase customer satisfaction and reduce “circling” of vehicles as required for a completed Project.

PSU will be responsible for abatement of asbestos within the construction area. If Contractor encounters and hazardous materials in the work area, they must stop work immediately and notify the Owner’s Representative. PSU shall work with the contractor’s mechanical subcontractor to install controls for the space.

- B. The Contractor shall supply all labor, transportation, apparatus, scaffolding, tools and other items necessary for the completion of the work in conformance with OUS General Conditions for Public Improvements Contracts, Section A.2.
- C. The Work shall be started within ten (10) calendar days following approval of the Contractor’s Certificate of Insurance and the Execution of Contract by PSU Facilities, attention (proposals@pdx.edu). All work shall be final completed within the time frames established in the Public Improvement Agreement Form (OUS Contract Form B-7, Item 4).

1.02 CONTRACTOR’S USE OF PREMISES

- A. Contractor shall limit use of the Premises for Work and storage to allow for:
1. Owner and tenant occupancy of adjacent spaces, day and night
 2. Public use, day and night
 3. Security
 4. Safe entry and exit for vehicles and pedestrians
- B. Access through the interior of the building will be coordinated with the Owner’s Authorized Representative.

1.03 PROTECTIONS

- A. Protect sidewalks, asphalt paving, concrete, trees, shrubs, and lawn areas at all times from spillage of materials used in carrying out the Work. Prevent materials from clogging sinks, catch basins and yard drains; maintain drains clean and in proper working conditions. Dumping of plaster, solvents, or other injurious materials in PSU plumbing systems is not permitted. Costs of

cleaning or repair will be withheld from Contractor as required.

- B. Clean, repair, resurface, or restore existing surfaces to their original, or better, condition, or completely replace such surfaces to match existing, where damaged by construction operations.
- C. The Contractor shall be responsible for any and all damages as specified in OUS General Conditions for Public Improvement Contracts Section G.1.1.
- D. The Owner will not be responsible for protection of materials or equipment from vandalism or theft. Security is the responsibility of the Contractor. See Section 01500 Temporary Facilities.
- E. The Contractor will verify that all drains in the construction area are in working order and notify the Owner's Representative, in writing, of any drains that are plugged, prior to the Start of Work. Start of Work will be considered as acknowledgement that all drains are clear and in good working order.
- F. Debris shall not be allowed to remain around the buildings during performance of Work, and shall be disposed of daily and/or as directed by Owner's Authorized Representative.
- G. The Contractor shall manage a safe job environment for both the safety of all people around the Premises as well as the safety of the Owner's and general public's property.
- H. Do not store materials where they will interfere with operations of Owner. Storage areas must be approved by the Owner's Authorized Representative prior to start of the Work.

1.04 OWNER OCCUPANCY

- A. The Owner and building tenants will occupy the Premises during the entire period of construction for the conduct of normal operations. Cooperate and coordinate with Owner's Authorized Representative in construction operations to minimize conflict and to facilitate the Owner's usage, especially in the following areas:
 - 1. Restricted access and parking
 - 2. Use of elevators and stairs
 - 3. Temporary storage space availability
 - 4. Provide a written schedule of Work specifying where and when Work will be accomplished
 - 5. Notify Owner's Authorized Representative a minimum of 72 hours prior to performing any work that will release strong odors or fumes, causes noise, or requires windows to be closed during hot weather. See Section 01734 for additional Indoor Air Quality requirement, which includes coordination of noise abatement.
- B. Conduct operations in such a way to ensure the least inconvenience to University staff, students and the general public.
- C. To maintain continual operations by the Owner and building tenants, evening and/or weekend work by the Contractor will be required for short durations at various stages of the Project. Coordinate with the Owner's Authorized Representative at least seventy-two (72) hours in advance to performing evening or weekend work.

1.05 SALVAGE

- A. All material indicated to be removed shall become the property of the Contractor except those items noted on the drawings and in the specifications as being retained by the Owner.

- B. All locksets, cylinders and strikes removed shall be returned to Owner. Coordinate with Owners Authorized Representative.
- C. The City of Portland has mandated the recycling of demolition materials. See Section 01732 of these Specifications for Waste Management requirements, which includes recycling documentation to be provided to the Architect and Owner by the Contractor.

PART 2 -PRODUCTS

2.01 REUSE OF EXISTING MATERIAL

- A. Except as specifically indicated or specified, materials and equipment removed from existing construction shall not be used in the completed Work.
- B. For material and equipment specifically indicated or specified to be reused in the Work or salvaged to Owner:
 - 1. Use special care in removal, handling, storage, and reinstallation to assure proper function in the completed Work.
 - 2. Arrange for transportation, storage, and handling of products that require off-site storage, restoration or renovation. Pay all costs for such Work.
 - 3. Contractor shall be responsible for removing and reinstalling mechanical units, vents, guys, antennae, and electrical and grounding wires or conduits.

PART 3 -EXECUTION

3.01 PREPARATION

- A. Inspect existing conditions, Work requirements, and the Contract Documents. Verify that materials and equipment being furnished meet requirements specified. Report any discrepancies to the Owner's Authorized Representative prior to proceeding with work.

3.02 MATERIAL HANDLING

- A. If, in the opinion of the Contractor, cranes, hoists, towers, or other lifting devices are necessary for the proper and efficient movement of materials, comply with these requirements:
 - 1. Use only experienced personnel
 - 2. Remove equipment as soon as possible after task is ended
 - 3. Coordinate the placement of such equipment with the Owner's Authorized Representative to ensure that utility tunnels, utilities, and surfaces are not damaged.
 - 4. Obtain required permits and meet the requirements of governing authorities regarding street and sidewalk closures, safety, noise, and other applicable regulations.
 - 5. Provide barricades and warning ribbons to close off areas temporarily for loading and unloading, to insure public safety.
- B. Contractor shall not allow any materials or debris to free-fall from the building.

3.03 WORKMANSHIP

- A. Unless otherwise specified, perform the Work using workers skilled in the particular type of Work involved.

- B. Should the Owner or the Architect, in writing, deem anyone on the Work incompetent or unfit for the assigned duties, dismiss the worker immediately or reassign that worker to a different task requiring a lesser degree of competence.
- C. Workmanship shall be first class in every respect as determined by the Owner's Authorized Representative and Architect, and all Work performed shall be performed in accordance with standard industry practice.
- D. The Contractor shall maintain effective supervision on the project at all times Work is being performed. The Superintendent shall be the same person throughout the course of the Work, and shall attend the pre-construction conference.

3.04 TESTING

- A. The Owner reserves the right to perform any testing as may be required to determine compliance with the Project Manual and Drawings. Costs for such testing will be the Owner's responsibility unless testing indicates noncompliance. Costs for testing which indicates noncompliance shall be borne by the Contractor. Non-complying Work shall be corrected and testing will be repeated until the Work complies with the Project Manual and Drawings. Contractor will pay costs for retesting non-complying Work.
- B. The Contractor shall cooperate in every respect with the activities of the testing agency.

END OF SECTION

SECTION 01030 - RESERVED

SECTION 01040 - PROJECT COORDINATION

PART 1 – GENERAL

1.01 DESCRIPTION:

A. This Section includes administrative and supervisory requirements necessary for coordinating contract documentation, communications and construction operations. The requirements of this Section relate to all work by the Contractor and Sub-contractors performing work under these Contract documents including, but not limited to, the following:

1. Pre-construction Coordination
2. Identification of Owner’s Authorized Representatives
3. Identification of Architect
4. Listing of Sub-contractors
5. Contractor Emergency Contact Information
6. Safety & Emergency Procedures
7. Unforeseen Hazardous Materials
8. Permits and Fees
9. Key Requests
10. Progress Meetings
11. Requests for Clarifications & Information
12. Construction Directives
13. Construction Change Orders

1.02 RELATED WORK IN OTHER SECTIONS:

A. Additional requirements related to Project Coordination may be found in the following:

1. Instructions to Bidders
2. OUS General Conditions
3. Other Sections of these specifications.

PART 2 – PRODUCTS

NOT USED

PART 1 – EXECUTION

1.01 PRE-CONSTRUCTION CONFERENCE

A. A pre-construction conference shall predate the Work and shall include but not be limited to the following agenda:

1. Contract management and communication requirements
2. Emergency phone numbers
2. Record maintenance requirements
3. Work schedule
4. Schedule of values

5. Submittal schedule
 6. Early purchase, long lead items and owner procurements
 7. Multiple contract coordination
 8. Maintenance of access and use of the premises
 9. Traffic control, parking and contractor's use of the job site
 10. Hazardous materials
 11. Job site safety
 12. Job site inspection & observation requirements
 13. Review of contract documents
 14. Progress meetings
 15. Other subjects of interest desired by the Contractor, Architect, Owner's Authorized Representative(s), Manufacturer's Representatives, and other participants.
- B. Refer to Division 1, Section 01300 for submittals required prior to the pre-construction conference.
- C. Coordinate all operations with the Owner's Authorized Representative during the construction period.
- D. Submit to the Owner's Authorized Representative for approval, a schedule of Values for the Work to be performed; schedule of values shall include project and building name, when the Work is to begin, and estimated duration of the Work. The Schedule of Values is to be provided to the Owner's Authorized Representative in accordance with OUS Supplemental General Condition SG-3.
- E. Submit to the Owner's Authorized Representative for approval, a schedule for the Work to be performed; schedule shall include project and building name, when the Work is to begin, and estimated duration of the Work. The Schedule is to be provided to the Owner's Authorized Representative in accordance with OUS Supplemental General Condition SG-5. The schedule shall be specific as to which portion of the Work is taking place on a particular day.
- F. Prior to start of any work, Contractor shall provide at the pre-construction meeting an emergency responsible person/contact list on a 24-hour, "7 day a week" basis for any emergency issue that may arise in connection with this project. Contractor must reissue the list any time the responsible person(s) changes. Issue to Owner's Authorized Representative. See Project Information Sheet provided herein.
- G. Parking will not be provided on the premises. See Section 01500 Temporary Facilities.
- H. Schedule elevator usage with the Owner's Representative a minimum of 72 hours in advance so as not to inconvenience the public.

1.02 IDENTIFICATION OF OWNER'S AUTHORIZED REPRESENTATIVE

- A. The Owner's Project Manager and the Owner's Field Construction Manager (Jointly the Owner's Authorized Representative or his designee) will be appointed by the Owner and identified at the Pre-construction meeting. The Owner's Authorized Representative in conjunction with the Architect will provide coordination during construction and on-site observation. See Project Information Sheet provided herein.

1.03 IDENTIFICATION OF ARCHITECT

- A. The Owner has contracted with (Architect) to prepare construction documents and assist in Owner's Authorized Representative in the coordination of the construction project. See Project Information Sheet provided herein.

1.04 LISTING OF SUB-CONTRACTORS

- A. Provide to the Owner's Authorized Representative at the pre-construction conference three (3) copies of list of sub-contractors anticipated to perform work on the project. Provide on the list of sub-contractor's: subcontractor's name, contact person, mailing address and telephone number. Substitution shall be permitted only with the approval of the Owner's Authorized Representative.

1.05 CONTRACTOR EMERGENCY CONTACT INFORMATION

- A. Provide to the Owner's Authorized Representative at the pre-construction conference Contractor Emergency Contact telephone numbers. See Project Information Sheet provided herein.

1.06 SAFETY AND EMERGENCY PROCEDURES

- A. The Contractor shall be responsible for maintaining a safe job site at all time, until the Owner takes possession. The Contractor shall comply with all safety regulations, and for enforcing compliance with all safety regulations and procedures by all workers, sub-contractors and visitors on the site.
- B. Refer to Division 1, Section 01500 for minimal temporary facilities required for job site safety. The Contractor shall provide procedures and additional temporary facilities as required.
- C. The Contractor shall maintain indoor air quality and noise control standards specified in Division 1, Section 01734.
- D. The Contractor shall complete and submit the Owner's Authorized Representative, at the pre-construction conference the "Construction Project Safety Form" provided herein.

1.07 UNFORESEEN HAZARDOUS MATERIAL

- A. **Asbestos:** The Owner has exercised due diligence in the identification and removal of asbestos containing materials from the work area. Prior to each phase of construction the Contractor shall confirm the non-existence of asbestos containing materials in the work area prior to proceeding. If the Contractor identifies materials suspected of containing asbestos, he shall immediately stop work in that area of the job site and proceed in accordance with Division 1, Section 01732, Item 3.01(F).
- B. **Lead Paint:** The Owner has exercised due diligence in the identification and removal of lead paint from the work area. Prior to each phase of construction the Contractor shall confirm the non-existence of materials coated with lead based paint in the work area prior to proceeding, as required in accordance with OSHA Directive CPL 2-2.58. If lead based paint materials are suspected, the contractor shall immediately notify the Owner's Authorized Representative and proceed in accordance with OSHA Standards and Directives. If required an adjustment in the Contract Sum and Contract Time will be made through Execution of a Contract Change Order in Accordance with OUS General Conditions for Public Improvement Contracts Section D.1.3(c).

1.08 PERMITS & FEES

- A. **Portland State University is enrolled in the city of Portland's Facilities Permit Program. See OUS Standard General Conditions and Supplementary General Conditions.**

- B. The Owner shall provide Building, Electrical, Mechanical and Plumbing permits for buildings in accordance with OUS Supplemental Condition SG-2. If the Contractor needs to block a portion of the right-of-way, the Contractor must secure the proper permits from the City of Portland and shall give all requisite notices to public authorities. The Contractor shall be responsible for all violations of the law for any cause in connection with the Work or caused by obstructing streets or sidewalks.
- C. The Contractor shall provide proper notice to all governing jurisdictions including but not limited to the Oregon Department of Environmental Quality prior to beginning work.
- D. Contractor shall pay for and document Oregon Bureau of Labor and Industries fees as required by Bureau of Labor & Industry.

1.09 KEY REQUESTS

- A. Keys will be provided to the Contractor as required for access to buildings and work areas. There is a deposit of \$100.00 required for each key given to the Contractor. Contractor shall fill out Contractor’s key request form and deliver for approval to Project Manager a minimum of 48 hours in advance. This deposit will be refunded upon return of the key(s.) Keys will not be provided to sub-contractors, nor will Facilities open locked doors for Contractor’s employees or sub-contractors. Contractor shall provide and coordinate all such requirements.

1.10 PROGRESS MEETINGS

- A. The contractor shall schedule for the contractor’s Project Manager and Field Superintendent to attend weekly Progress Meetings with the Architect and the Owner’s Authorized Representative. The contractor shall coordinate and assure the attendance of sub-contractors as required by the agenda and the Owner’s Authorized Representative.
- B. Weekly Progress Meetings shall be held on days and times to be determined, following the pre-construction conference and continuing through substantial completion and until final completion. The Owner’s Authorized Representative may require additional on-site ‘tail-gate’ meetings as necessary to resolve construction related issues and facilitate continued progress.
- C. Progress meetings shall be held at:
 - PSU, Office of Facilities
 - 202 University Services Building
 - 617 SW Montgomery
- D. The progress meeting minutes serve as the official communication between all parties involved in the Project. The Contractor shall:
 - 1. Prepare agendas.
 - 2. Record minutes and include decisions.
 - 3. Record attendance
 - 4. Distribute minutes to attendees within three (3) calendar days after meetings.
- E. Minimum agenda shall include:
 - 1. Review and approve minutes of previous meetings.
 - 2. Review work progress and work schedule since previous meeting.
 - 3. Discuss field observations, problems, clarifications and information required.
 - 4. Review delivery schedules, identify problems that could impede planned progress.

5. Review proposed changes in construction or procedures.
6. Delivery and discussion of submittals.
7. Submittal of progress payment requests for review.
8. Other items as may be required.

1.11 REQUESTS FOR CLARIFICATIONS AND INFORMATION

- A. Throughout the course of work, the Contractor may require clarifications or additional information from the Architect or Owner's Authorized Representative. This information may include but not be limited to the following:
1. Clarifications whether specific work is within the scope of an item of work and no Contract adjustment is anticipated.
 2. Clarifications or interpretations of information or directions provided in the Contract Documents, for which no Contract adjustment is anticipated.
 3. Clarifications or directions as a result of unforeseen conditions, which may or may not result in adjustments to the Contract Sum or days allowed for contract completion.
 4. Additional details or information needed for construction, which were not originally included in the contract documents, which may or may not result in adjustments to the Contract Sum or days allowed for contract completion.
- B. The contractor's field superintendent shall be the principle generator of requests for clarification and information (RFI's) as a result of field operations and conditions.
- C. Three copies of requests for clarifications and information (RFI) shall be typed and submitted in accordance with the communication process described in Section 01300.
- D. All RFI's shall be sequentially numbered and include the following information:
1. Project item information as specified in Section 01300, Item 1.05.
 2. Reason for request, and clarification and information requested.
 3. Work impacted by request for clarification or information.
 4. Drawings or sketches as necessary.
 5. Contractors recommendations as appropriate.
 6. Signature and date by contractor's authorized representative.
- E. If the contractor anticipates that a change in the scope of work may be necessary in conjunction with a request for clarification or information, he may submit with the request a proposal to perform additional work as a Contract Change Order as specified herein. No changes in work shall commence without an approved RFI response, Construction Directive or Executed Contract Change Order.
- F. All RFI Responses will be by the Architect through and with the approval of the Owner's Authorized Representative.
- G. Response time to process RFI's shall be seven (7) calendar days from the date received by the Architect, to allow reasonable time for researching the question and preparing a response. If, due to unavoidable circumstances, information is needed immediately, coordinate with the Owner's Authorized Representative who will attempt to expedite a response by FAX or e-mail. When responses are expedited, an RFI must still be submitted as a confirmation of the communication prior to submitting for progress payment for the related work.
- H. A log and copies of all RFI's shall be maintained in the jobsite office, for review or reference by the Contractor, Architect and Owner's Authorized Representative.

1.12 CONSTRUCTION DIRECTIVES

- A. Construction Directives may be initiated by the Owner's Authorized Representative, or the Architect on approval of the Owner's Authorized representative, and provides interpretations of the contract documents or orders minor changes in the work, which may require changes in the Contract Sum or Contract Time, which would be subsequently executed through a Construction Change Order. Interpretation of the Contract documents shall be in accordance with OUS General conditions for Public Improvement Contracts Section A.3, and as amended by the OUS Supplemental General Conditions. Construction Directives are not Construction Change Orders. If the Contractor believes the work described in a Construction Directive requires a change in Contract Sum or Contract Time, he shall submit a proposal to perform additional work as a Construction Change Order as specified herein. Do not proceed with Construction Order work until a proposal for Change Order work has been submitted and directed to proceed by the Owner's Authorized Representative. Proceeding without authorization waives the Contractor's claim for additional Contract Sum or Contract Time.
- B. Construction Directives shall be executed using the attached Construction Directive form.

1.13 CONSTRUCTION CHANGE ORDERS

- A. Contract Bid award is based on the Base Bid. Additional work may be authorized by amending the Contract based upon Unit Prices provided in the Bid Form, the Contractor's Schedule of Values, or other Contractor Proposals approved by the Owner's Authorized Representative, and in accordance with Section D of the OUS General Conditions for Public Improvement Contracts.
- B. A Construction Change Order is a written order issued after the execution of a contract, which authorizes and directs a change in scope of work and an adjustment in the Contract Sum, Contract Time or both.
- C. A Contract Change Order request can be initiated by the Owner's Authorized Representative through a proposal request to the Contractor, or by the Contractor through submittal of a proposal request in conjunction with a RFI response or Construction Directive.
- D. The Contractor's proposal for Contract Change Order Work shall include the following:
1. Project item information as specified in Section 01300, Item 1.05.
 2. Reason for request
 3. Itemized statement of required materials and equipment, including adjustments to adjacent and dependent work.
 4. Itemized statement of required labor, including adjustments to adjacent and dependent work.
 5. Total Contract Sum adjustment required for the Change in Work.
 6. Total Contract Time adjustment required for the Change in Work.
 7. Additional Documentation as required to support the request.
 8. Signature and date by contractor's authorized representative.
- E. Construction Change Order work shall be reviewed by the Architect and the Owner's Authorized Representative and executed in accordance with OUS General Conditions for Public Improvement Contracts Section D, and as amended herein.
- F. If a fair and reasonable Contract Change Order adjustment cannot be agreed upon, the Owner's Authorized Representative may in writing direct the Contractor to proceed with the Change in Work on a 'Time and Materials' basis in accordance with OUS General Conditions for Public Improvement Contracts.

END OF SECTION

PORTLAND STATE UNIVERSITY
OFFICE OF FACILITIES
PROJECT INFORMATION

Project Name: _____ **Project No:** _____

Project Description: _____

Project Address: _____ **Work Start Date:** _____

Project Manager: _____ **Phone:** _____ **Fax:** _____

Project Site Construction Manager: _____ **Phone:** _____

Design Consultant: _____ **Phone:** _____

Address: _____

E-Mail: _____ **FAX:** _____

Bid Opening Date: _____ **Contract Bid Price:** _____

Contract Execution Date: _____ **Pre-Const. Meeting:** _____

Notice to Proceed Date: _____ **Contract Calendar Days:** _____

Final Contract Completion Date: _____ **Liquidated Damages:** NA

Contractor Name: _____ **Office Phone:** _____

Project Manager: _____ **Cell:** _____ **Pager:** _____

Contractor Office Address: _____

E-Mail: _____ **Office FAX:** _____

On Site Construction Office Address: _____ **Site Phone:** _____

Site E-Mail: _____ **Site FAX:** _____

Site Superintendent: _____ **Cell:** _____ **Pager:** _____

Contractor's Emergency & Weekend Phone:

1. _____
2. _____
3. _____

PORTLAND STATE UNIVERSITY
OFFICE OF FACILITIES
CONSTRUCTION PROJECT SAFETY FORM INSTRUCTIONS

The purpose of the Construction Project Safety Form is to allow contractors to plan the construction or remodeling project in such a way as to prevent injuries and protect the environment. **This form will need to be filled out by the Contractor and provided to the Owner's Authorized Representative at the preconstruction conference.**

The information provided on the form will be reviewed at the preconstruction conference.

All projects must be planned with safety consideration for people who will be in contact with the area; in particular, sight, hearing, or mobility impaired people who are not covered under OSHA regulations but are covered under general liability issues.

PSU requires that all contractors and subcontractors come to the job trained in all Occupational Safety and Health ACT (OSHA) Standards applicable to their work process. This information is outlined in the OR-OSHA document "Occupational Hazards Common to Construction & Remodeling Activities." This document can be obtained free of charge by contacting the OR-OSHA Resource Center at 1-800-922-2689 or on-line at www.OTOSHA.org.

All construction and remodeling activities regardless of size and/or scope must be fenced, barricaded, or otherwise protected (isolated) to restrict entrance and to ensure the safety of those in the general area. **All building materials and equipment need to be placed within the isolation enclosure.** Any open trenches outside the isolated space will need to be fenced or covered with approved cover (contact the Owner's Authorized Representative for specifics).

REQUIRED PROJECT ISOLATION AND BARRICADING OPEN TRENCHES FOR OUTSIDE CONSTRUCTION SITES

Construction projects that involve building a facility, any exterior remodel, any excavation, or demolition, at a minimum, will install the following perimeter isolation:

*A six foot chain-link fence, with controlled access points, extending in all directions around the excavation or building site such that no area of the construction is accessible to pedestrians or unauthorized personnel or vehicles. **Note: At the University's option, other barricading plans may be accepted. These may apply to projects such as road resurfacing, parking lot striping, exterior building water proofing, etc. Typical temporary construction fencing shall be covered with opaque material to prevent seeing inside the fencing. Construction fencing shall be placed on the interior side of the opaque material.***

Also see Section 01600 (Contractor Staging)

Indoor projects which will create dust (cutting sheetrock, sanding, sawing etc.) are subject to the following:

1. Areas where existing doors can provide isolation will be labeled "Construction Area Authorized Personnel Only."
2. All other areas will be isolated by a solid barrier. The minimum barrier allowed is 4 mil poly sheeting.

Any excavation across or adjacent to sidewalks or pathways which must be left open overnight, must be identified with working, blinking, construction lights in addition to being covered.

The contractor will provide all trench covering and fencing material, PSU will not provide any materials.

PORTLAND STATE UNIVERSITY
OFFICE OF FACILITIES
CONSTRUCTION PROJECT SAFETY FORM

Complete and deliver with the Project Information sheet to the Owner’s Authorized Representative at the Pre-Construction Conference.

Meeting Date: _____ Time: _____ Location: _____

Project: _____ Job #: _____

Contractor: _____ Start: _____ Completion: _____

Contractor Foreman: _____

PSU Project Mgr: _____

Emergency Fire/Medical.Security #: 911 Non-Emergency Campus Safety (503) 725-4407

Confined Space to be accessed? Y or N Location: _____
If yes, review confined space program with PSU Project Manager

Welding or hot work to be done? Y or N If yes, describe extinguisher, and fire watch, plan:

MSDS copies to be on the job site and copies available to PSU Project Manager.

Lead paint involved? Y or N Contact PSU Health and Safety Supervisor (503) 725-8458

Describe hazard mitigation plan: _____

Asbestos involved? Y or N If yes, Contact PSU Health and Safety Supervisor (503) 725-8458

Hazard Waste Plan developed? Y or N Containers: _____
_____ Storage Loc: _____

In the event of suspected hazardous materials or spill contact PSU Health and Safety Supervisor (503) 725-8458 or Cell # (503) 888-0189.

Describe hazmat spill plan: _____

Will there be any open trenches or holes? Y or N Describe plan to barricade: _____

Internal combustion engines? Y or N If yes, is CO monitoring required? Y N

Other air contaminates? Y or N If yes, describe: _____

Building air intake & return air locations: _____

(No chemical compounds to be used near functioning intake or return air locations.)

Material deliver or parking creating hazard? Y or N If yes, describe minimization plan: _____

No vehicle is allowed to park on sidewalk entrances/exits to steam tunnel (metal hatch cover).

Dust created? Y or N If yes, describe control plan: _____

Noise sources? List: _____

Describe noise control methods: _____

Crane to be used? Y or N If yes, describe plan: _____

(Loads will not be moved over or suspended above pedestrian occupied areas)

Exterior chute to be used? Y or N If yes describe plan: _____

Construction area to be fenced? Y or N Type & location: _____

Fence to be locked? Y or N Job Trailer on site? Y or N To be locked? Y or N All contractor lock keys to Security Services dispatch and PSU Project Manager

Building exitways to be blocked or restricted at any time? Y or N If yes, describe ADA alternate routes and overall egress plan: _____

Will project create interior hazards to building occupants? Y or N If yes, describe hazards and minimization plan: _____

Lock changes planned? Y or N If yes, describe location and responsible party: _____

PORTLAND STATE UNIVERSITY
OFFICE OF FACILITIES
REQUEST FOR INFORMATION

Project: _____ RFI No.: _____

Contractor: _____ Date submitted: _____

Subcontractor: _____ Date info req'd: _____

Supplier: _____

Provide all information required by Specification Division I Section 01040. Attach additional sheets as required.

Request:

Contractor _____ Date _____

Response:

Architect _____ Date _____

Acknowledgement by Owner's Rep. _____ Date _____

PORTLAND STATE UNIVERSITY
OFFICE OF FACILITIES
CONSTRUCTION DIRECTIVE

Project: _____ Directive No.: _____

Contractor: _____ Date submitted: _____

Subcontractor: _____ Date info req'd: _____

Supplier: _____

You are hereby directed to execute promptly this Directive which interprets the Contract Documents or orders minor changes in the work. If you consider that a change in Contract Sum or Contract Time is required, submit an itemized change order proposal as required by Specification Division I Section 01040. If your proposal is in order, this Directive will be superseded by a Change Order.

Description:

Architect: _____ Date: _____

Owner's Authorized Rep: _____ Date: _____

SECTION 01045 - CUTTING AND PATCHING**PART 1 – GENERAL**

1.01 DESCRIPTION

- A. Work of this Section includes administrative and procedural requirements for cutting and patching.

1.02 RELATED WORK IN OTHER SECTIONS

- A. Additional information regarding cutting and patching requirements may be found in the follows:
 - 1. OUS General Conditions
 - 2. Other Sections of these specifications.
 - 3. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division I Specification Sections, apply to this Section.

1.03 QUALITY ASSURANCE:

- A. The Contractor shall perform all cutting and patching in conformance with OUS General Conditions for Public Improvements Section F.3 and as specified herein.
- B. Requirements for Structural Work: Do not cut and patch structural elements in a manner that would change their load-carrying capacity or load-deflection ratio. The Owner's Authorized Representative shall pre-approve all field modifications.
- C. Operational Limitations: Do not cut and patch operating elements or related components in a manner that would result in reducing their capacity to perform as intended. Do not cut and patch operating elements or related components in a manner that would result in increased maintenance or decreased operation life or safety.
- D. Visual Requirements: Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in the Architect's opinion, reduce the building's aesthetic qualities. Do not cut and patch construction in a manner that would result in visual evidence of cutting and patching. The contractor shall remove and replace construction cut and patched in a visually unsatisfactory manner at no expense to the owner.

PART 2- PRODUCTS

2.1 GENERAL REQUIREMENTS:

- A. Use materials identical to existing materials. For exposed surfaces, use materials that visually match existing adjacent surfaces to the fullest extent possible if identical materials are unavailable or cannot be used. Use materials whose installed performance will equal or surpass that of existing materials.

PART 3- EXECUTION

3.1 INSPECTION:

- A. Examine surfaces to be cut and patched and conditions under which cutting and patching is to be performed before cutting. If unsafe or unsatisfactory conditions are encountered, take corrective action before proceeding.

3.2 PREPARATION:

- A. Temporary Support: Provide temporary support of work to be cut.
- B. Protection: Protect existing construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of the Project that might be exposed during cutting and patching operations.
- C. Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas.
- D. Avoid cutting existing pipe, conduit, or ductwork serving the building but scheduled to be removed or relocated until provisions have been made to bypass them.

3.3 PERFORMANCE:

- A. General: Employ skilled workmen to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time and complete without delay.
- B. Cutting:
 - 1. Cut existing construction to provide for installation of other components or performance of other construction activities and the subsequent fitting and patching required to restore surfaces to their original condition.
 - 2. Cut existing construction using methods least likely to damage elements retained or adjoining construction.
 - 3. In general, where cutting, use hand or small power tools designed for sawing or grinding, not hammering and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
 - 4. To avoid marring existing finished surfaces, cut or drill from the exposed or finished side into concealed surfaces.
 - 5. Cut through concrete and masonry using a cutting machine, such as a Carborundum saw or a diamond-core drill.
 - 6. Comply with requirements of applicable Division 2 Sections where cutting and patching requires excavating and backfilling.
 - 7. Where services are required to be removed, relocated, or abandoned, by-pass utility services, such as pipe or conduit, before cutting. Cut-off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal the remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter.
- C. Patching:
 - 1. Patch with durable seams that are as invisible as possible. Comply with specified tolerances.
 - 2. Where feasible, inspect and test patched areas to demonstrate integrity of the installation.
 - 3. Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
 - 4. Where removing walls or partitions extends one finished area into another, patch and repair floor and wall surfaces in the new space. Provide an even surface of uniform color and appearance.

5. Where patching occurs in a smooth painted surface, extend final paint coat over entire unbroken surface containing the patch after the area has received primer and second coat.
 6. Patch, repair, or rehang existing ceilings as necessary to provide an even-plane surface of uniform appearance.
- D. Cleaning:
1. Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar items. Thoroughly clean piping, conduit, and similar features before applying paint or other finishing materials. Restore damaged pipe covering to its original condition.

END OF SECTION

SECTION 01300 - SUBMITTALS**PART 1 – GENERAL**

1.01 DESCRIPTION:

- A. The requirements specified in this Section relate to Submittal materials, Requests for Information and Requests for Clarification by all Contractors, Sub-contractors and Suppliers performing Work under these Contract Documents and includes:
1. Submittal Procedures
 2. Submittals Schedule
 3. Proposed Products List
 4. Shop Drawings
 5. Product Data
 6. Samples
 7. Manufacturer's Instructions
 8. Manufacturer's Operations & Maintenance Manuals
 9. Manufacturer's Certificates

1.02 RELATED WORK IN OTHER SECTIONS:

- A. Additional submittal requirements may be provided as follows:
1. Instructions to Bidders
 2. OUS General Conditions
 3. Supplemental General Conditions
 4. Other Sections of these specifications.

1.03 All Submittals, Shop Drawings, Product Data and Samples shall be in accordance with OUS General Conditions for Public Improvement Contracts Section B.18 as amended by the Supplemental General Conditions and as specified herein.

1.04 Transmit one (1) electronic copy of each submittal with sequentially numbered forms to Owner's Representative. Re-submittals shall have original number and alphabetic prefix.

1.05 Identify Project, Contractor, Subcontractor and supplier; pertinent drawing sheet and detail number(s), and specification numbers, as appropriate.

1.06 Review of the submittals by the Architect and Owner's Authorized Representative shall not relieve the Contractor of its obligations as specified in OUS General Conditions for Public Improvement Contracts Section B.18.

1.07 The General Contractor shall sign certifying that review, verification of products required, field dimensions, adjacent construction work and coordination of information, is in accordance with the work of the Contract Documents.

1.08 Provide space for review approval by Architect and the Owner's Authorized Representative, as specified herein.

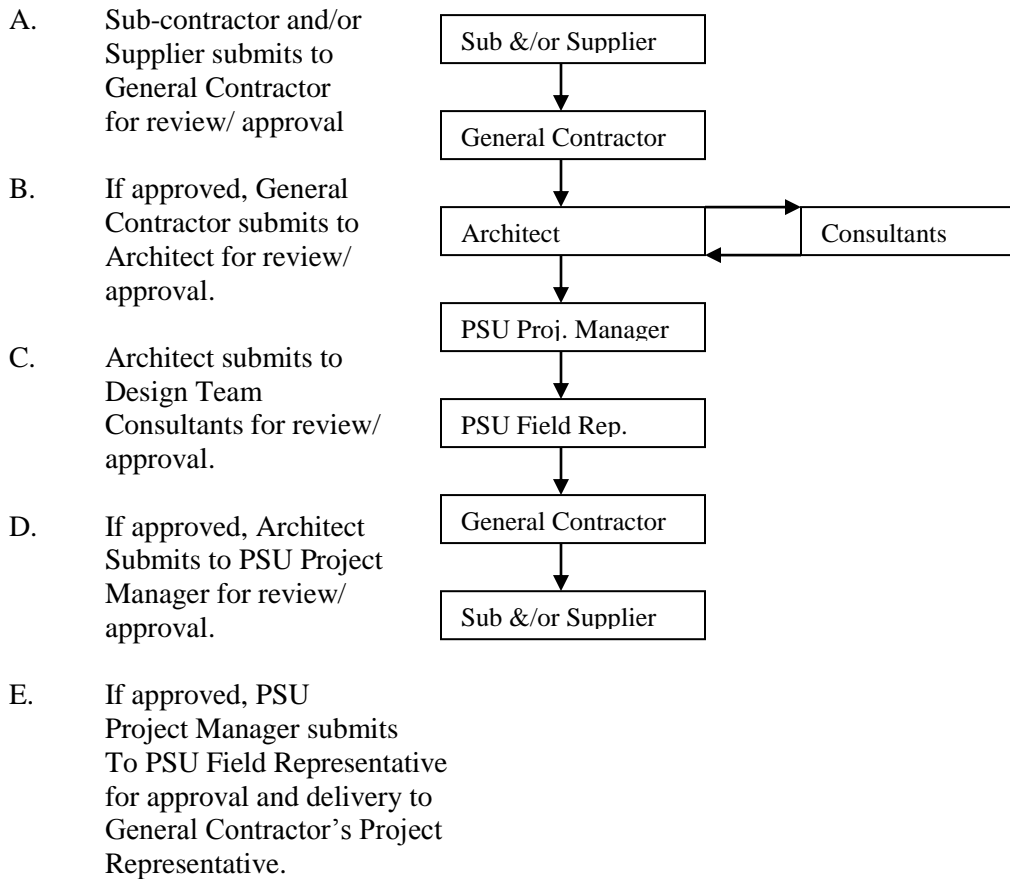
1.09 Schedule submittals to expedite Project; deliver to Architect and Owner's Authorized Representative as directed herein and coordinate submission of related items.

PART 2 – SUBSEQUENT TO THE AWARD OF THE CONTRACT

- 2.01 Seventy-two (72) hours prior to the pre-construction conference and in all cases prior to the commencement of work, the Contractor shall submit the following to the Owner's Authorized Representative:
- A. Certificate of Insurance as required.
 - B. Signed Public Improvement Agreement.
 - C. One (1) original copy of Performance & Payment Bonds.
 - D. Schedule of Values.
 - E. Project Construction Schedule.
 - F. Submittal List and Schedule of Submittals, identifying long lead items.
 - G. Contractor Emergency Contact Information.
- 2.02 Prepare Schedule of Submittals in chronological order by date of required submittal approval. Indicate the following:
- A. Category of submittal.
 - B. Name of sub-contractor or supplier.
 - C. Generic Description of Work covered.
 - D. Related Specification Section Number.
 - E. Activity or event number on the project construction schedule.
 - F. Proposed submittal date for first submittal.
 - G. Date material required for installation.
 - H. Re-submittal dates and final release or approval by Architect and Owner's Authorized Representative.

PART 3 – DURING CONSTRUCTION

3.01 The general Submittal Review Procedure is illustrated in the following diagram.



3.02 Allow fourteen (14) calendar days for submittal review by Architect and Owner's Authorized Representative. Allow (3) additional calendar days for mechanical and electrical reviews. The General Contractor shall be responsible for timely the submittal of materials approvals in order to satisfy required delivery dates and maintain the construction schedule.

3.03 ACTION BY ARCHITECT AND OWNER'S REPRESENTATIVE

- A. Except for submittals for the record or information, where action and return is required, the Architect will review each submittal, mark to indicate action taken, and return promptly through and with approval of the Owner's Authorized Representative. All unacceptable or rejected submittals shall be immediately corrected and resubmitted for review.
 - 1. Compliance with specified characteristics is the Contractor's responsibility.
- B. Action Stamp: The Architect will stamp each submittal with a uniform action stamp. The Architect will mark the stamp appropriately to indicate the action taken, as follows:
 - 1. Final Unrestricted Release: When the Architect marks a submittal "No Exceptions Taken," the Work covered by the submittal may proceed provided it complies with requirements of the Contract Documents.
 - 2. Final-But-Restricted Release: When the Architect marks a submittal "Make Corrections Noted," the Work covered by the submittal may proceed provided it complies with notations or corrections on the submittal and requirements of the Contract Documents.

3. Returned for Resubmittal: When the Architect marks a submittal "Revise and Resubmit," do not proceed with Work covered by the submittal, including purchasing, fabrication, delivery, or other activity. Revise or prepare a new submittal according to the notations; resubmit without delay. Repeat if necessary to obtain different action mark.
4. Unsolicited Submittals: The Architect will return unsolicited submittals to the sender without action.

3.04 The Owner's Representative may request additional information during the course of the project to monitor material and equipment deliveries as well as coordinate work and materials by others. The General Contractor may be required to submit and periodically update a Material Delivery Summary indicating material order dates, purchase order numbers, expected delivery dates and actual delivery dates.

3.05 SHOP DRAWINGS

- A. Submit newly prepared information drawn accurately to scale. Highlight, encircle, or otherwise indicate deviations from the Contract Documents. Do not reproduce Contract Documents as the basis of Shop Drawings.
- B. Shop Drawings include fabrication and installation Drawings, setting diagrams, schedules, patterns, templates and similar Drawings. Include the following information:
 1. Dimensions.
 2. Identification of products and materials included by sheet and detail number.
 3. Compliance with specified standards.
 4. Notation of coordination requirements.
 5. Notation of dimensions established by field measurement.
 6. Sheet Size: Except for templates, patterns and similar full-size Drawings, submit Shop Drawings on sheets at least **8-1/2 by 11 inches** but no larger than **30 by 42 inches**.
 7. Do not use Shop Drawings without an appropriate final stamp indicating action taken.
- C. Subsequent to Substantial Completion and prior to Final Pay Request, Submit five (5) copies of As Built documentation of all shop drawings to the Architect for inclusion in Project Record Documents. See OUS General Conditions for Public Improvement Contracts Section K and Division 1 Section 01780 for Project Closeout requirements.

3.06 PRODUCT DATA

- A. Collect Product Data into a single submittal for each element of construction or system. Product Data includes printed information, such as manufacturer's installation instructions, catalog cuts, standard color charts, roughing-in diagrams and templates, standard wiring diagrams, and performance curves.
 1. Mark each copy to show applicable choices and options. Where printed Product Data includes information on several products that are not required, mark copies to indicate the applicable information. Include the following information:
 - a. Manufacturer's printed recommendations.
 - b. Compliance with trade association standards.
 - c. Compliance with recognized testing agency standards.
 - d. Notation of dimensions verified by field measurement.
 - e. Notation of coordination requirements.

2. Do not submit Product Data until compliance with requirements of the Contract Documents has been confirmed.
3. Submittals: Submit 6 copies of each required submittal; submit 2 additional copies where review is required by Architect's consultants. Up to four copies will be retained by Architect and Owner, plus copies by Architect's consultant, the remaining copies will be returned marked with action taken and corrections or modifications required.
4. Distribution: Furnish copies of final submittal to installers, subcontractors, suppliers, manufacturers, fabricators, and others required for performance of construction activities.
 - a. Do not proceed with installation until a copy of Product Data is in the Installer's possession.
 - b. Do not permit use of unmarked copies of Product Data in connection with construction.

3.07 SAMPLES

- A. Submit full-size, fully fabricated Samples cured and finished as specified and physically identical with the material or product proposed. Samples include partial sections of manufactured or fabricated components, cuts or containers of materials, color range sets, and swatches showing color, texture, and pattern.
 1. Mount or display Samples in the manner to facilitate review of qualities indicated. Prepare Samples to match the Architect's sample. Include the following:
 - a. Specification Section number and reference.
 - b. Product name or name of the manufacturer.
 - c. Compliance with recognized standards.
 2. Submit Samples for review of size, kind, color, pattern, and texture. Submit Samples for a final check of these characteristics with other elements and a comparison of these characteristics between the final submittal and the actual component as delivered and installed.
 - a. Where variation in color, pattern, texture, or other characteristic is inherent in the material or product represented, submit at least 3 multiple units that show approximate limits of the variations.
 - b. Samples not incorporated into the Work, or otherwise designated as the Owner's property, are the property of the Contractor and shall be removed from the site prior to Substantial Completion.
 3. Submittals: Except for Samples illustrating assembly details, workmanship, fabrication techniques, connections, operation, and similar characteristics, submit three sets. The Architect will return two sets marked with the action taken.
 4. Maintain sets of Samples, as returned, at the Project Site, for quality comparisons throughout the course of construction.
 - a. Unless noncompliance with Contract Document provisions is observed, the submittal may serve as the final submittal.
 - b. Sample sets may be used to obtain final acceptance of the construction associated with each set.
 - c. Distribution of Samples: Prepare and distribute additional sets to subcontractors, manufacturers, fabricators, suppliers, installers, and others as required for performance of the Work.

3.08 QUALITY ASSURANCE SUBMITTALS

- A. Submit quality-control submittals, including design data, certifications, manufacturer's instructions, manufacturer's field reports, and other quality-control submittals as required under other Sections of the Specifications.
- B. Certifications: Where other Sections of the Specifications require certification that a product, material, or installation complies with specified requirements, submit a notarized certification from the manufacturer certifying compliance with specified requirements.
 - 1. Signature: Certification shall be signed by an officer of the manufacturer or other individual authorized to sign documents on behalf of the company.
- C. Inspection and Test Reports: Requirements for submittal of inspection and test reports from independent testing agencies are specified in Division 1 Section "Quality Control."

3.09 MANUFACTURER'S INSTRUCTIONS

- A. When specified in individual Specification Sections, submit manufacturer's printed instructions for delivery, storage, assembly, start-up, testing, adjusting and finishing.
- B. Submit any conflicts between the manufacturer's instructions and the Contract Documents for clarification by the Architect and Owner's Authorized Representative.

3.10 MANUFACTURER'S CERTIFICATE

- A. When specified in individual Specification Sections, submit manufacturer's certificate for review, in quantities specified.
- B. Indicate material or product conforms to or exceeds specific requirements. Submit supporting reference data, affidavits, and certificates as appropriate.
- C. Certificates may be recent or previous test results on materials or products, but must be acceptable to the Architect and the Owner's Authorized Representative.

- PRODUCTS (Not Applicable)

- EXECUTION (Not Applicable)

END OF SECTION

SECTION 01400 - QUALITY REQUIREMENTS**PART 1 – GENERAL**

1.01 DESCRIPTION

- A. The requirements specified in this Section relate to general quality control of the Project and supplement the quality control requirements specified in the OUS General Conditions for Public Improvement Contracts and other Sections of these Specifications. The requirements of this Section relate to all work performed by all Contractors and Sub-contractors performing work under these Contract Documents and include:
1. References and standards.
 2. Quality assurance submittals.
 3. Mock-ups.
 4. Control of installation.
 5. Tolerances.
 6. Testing and inspection services.
 7. Manufacturers' field services.

1.02 RELATED SECTIONS

- A. Additional requirements related to Quality Requirements may be provided as follows:
1. OUS General Conditions
 2. Other Sections of the specifications.

1.03 REFERENCES

- A. ASTM C 1021 -Standard Practice for Laboratories Engaged in Testing of Building Sealants; 1997.
- B. ASTM C 1077 -Standard Practice for Laboratories Testing Concrete and Concrete Aggregates for Use in Construction and Criteria for Laboratory Evaluation; 2000.
- C. ASTM C 1093 -Standard Practice for Accreditation of Testing Agencies for Unit Masonry; 1995.
- D. ASTM D 3740 -Standard Practice for Minimum Requirements for Agencies Engaged in the Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction; 1999c.
- E. ASTM E 329 -Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction; 2000b.
- F. ASTM E 543 – Standard Practice for Agencies Performing Nondestructive Testing; 1999.
- G. ASTM E 548 – Standard Guide for General Criteria used for Evaluating Laboratory Competence; 1994.

1.04 SUBMITTALS

- A. Testing Agency Qualifications:
1. Prior to start of Work, submit agency name, address, and telephone number, and names of full time registered Engineer and responsible officer.

2. Submit copy of report of laboratory facilities inspection made by Materials Reference Laboratory of National Bureau of Standards during most recent inspection, with memorandum of remedies of any deficiencies reported by the inspection.
- B. Design Data: Submit for Architect's knowledge as contract administrator or for the Owner, for information for the limited purpose of assessing conformance with information given and the design concept expressed in the contract documents.
- C. Test Reports: After each test/inspection, promptly submit two copies of the report to the Contractor and additional copies to the Architect and Owner's Authorized Representative for processing through the procedure specified in Section 01300. All test reports shall include the following information:
1. Date issued.
 2. Project title and number.
 3. Name of inspector.
 4. Date and time of sampling or inspection.
 5. Identification of product and specifications section.
 6. Location In the Project.
 7. Type of test/inspection.
 8. Date of test/inspection.
 9. Results of test/inspection.
 10. Conformance with Contract Documents.
 11. When requested by Architect, provide interpretation of results.
- D. Certificates: When specified in individual specification sections, submit certification by the manufacturer and Contractor or installation/application subcontractor to Architect and Owner's Authorized Representative, in accordance with the procedure specified in Section 01300. All certificates shall include the following information:
1. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
 2. Certificates may be recent or previous test results on material or product, but must be acceptable to the Architect and Owner.
- E. Manufacturer's Instructions: When specified in individual specification sections, submit printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, for the Owner's information. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.
- F. Manufacturer's Field Reports: Submit reports for review by Architect and Owner's Authorized Representative.
1. Submit report in duplicate within 30 days of observation to Architect for information.
 2. Submit for information for the limited purpose of assessing conformance with information given and the design concept expressed in the contract documents.
- G. Erection Drawings: Submit drawings for review and approval by Architect and Owner's Authorized Representative, in accordance with the procedure specified in Section 01300.

1. Submit information for the limited purpose of assessing quality control, and conformance with the design concept and contract documents.

1.05 REFERENCES AND STANDARDS

- A. For products and workmanship specified by reference to a document or documents not included in the Project Manual, also referred to as reference standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard of date of issue current on date of Contract Documents, except where a specific date is established by applicable code.
- C. Obtain copies of standards where required by product specification sections.
- D. Maintain copy at project site during submittals, planning, and progress of the specific work, until Substantial Completion.
- E. Should specified reference standards conflict with Contract Documents, request clarification from Architect before proceeding.

1.06 TESTING AND INSPECTION AGENCIES

- A. Unless otherwise directed in writing by the Owner's Authorized Representative, the Contractor shall make arrangements for all required testing and inspections in accordance with OUS General Conditions for Public Improvement Contracts Section B.7.
- B. Employment of agency in no way relieves Contractor of obligation to perform Work in accordance with requirements of Contract Documents.
- C. Employed Agency shall comply with the following criteria:
 1. Testing agency: Comply with requirements of ASTM E 329, ASTM E 548, ASTM E 543, .ASTM C 1021, ASTM C 1077, and ASTM C 1093.
 2. Inspection agency: Comply with requirements of ASTM 03740, ASTM E329, and ASTM E548.
 3. Laboratory: Authorized to operate in State in which Project is located.
 4. Laboratory Staff: Maintain a full time registered Engineer on staff to review services.
 5. Testing Equipment: Calibrated at reasonable intervals with devices of an accuracy traceable to either National Bureau of Standards or accepted values of natural physical constants.

PART 2- PRODUCTS

NOT USED

PART 3- EXECUTION

3.01 CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Architect before proceeding.
- D. Comply with specified standards as minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Have Work performed by persons qualified to produce required and specified quality.
- F. Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
- G. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, and disfigurement.

3.02 MOCK-UPS

- A. When required by other Sections of these specifications or the Architect provide mock-ups for review of conformance with quality, performance and design intent.
- B. Review of mock-ups will be performed under provisions identified in this section and identified in the respective product specification sections.
- C. Assemble and erect specified items with specified attachment and anchorage devices, flashings, seals, and finishes.
- D. Accepted mock-ups shall be a comparison standard for the remaining Work.
- E. Where mock-up has been accepted by Architect and is specified in product specification sections to be removed, remove mock-up and clear area when directed to do so.

3.03 TOLERANCES

- A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from Architect before proceeding.
- C. Adjust products to appropriate dimensions; position before securing products in place.

3.04 TESTING AND INSPECTION

- A. See individual specification sections for testing required.
- B. Testing Agency Duties:

1. Test samples of mixes submitted by Contractor.
 2. Provide qualified personnel at site. Cooperate with Architect and Contractor in performance of services.
 3. Perform specified sampling and testing of products in accordance with specified standards.
 4. Ascertain compliance of materials and mixes with requirements of Contract Documents.
 5. Promptly notify Architect and Contractor of observed irregularities or non-conformance of Work or products.
 6. Perform additional tests and inspections required by Architect or Owner's Authorized Representative.
 7. Submit reports of all tests/inspections specified.
- C. Limits on Testing/Inspection Agency Authority:
1. Agency may not release, revoke, alter, or enlarge on requirements of the Contract Documents.
 2. Agency may not approve or accept any portion of the Work.
 3. Agency may not assume any duties of Contractor.
 4. Agency has no authority to stop the Work.
- D. Contractor Responsibilities:
1. Deliver to agency at designated location, adequate samples of materials proposed to be used which require testing, along with proposed mix designs.
 2. Cooperate with laboratory personnel, and provide access to the Work and to manufacturers' facilities.
 3. Provide incidental labor and facilities:
 4. To provide access to Work to be tested/inspected.
 5. To obtain and handle samples at the site or at source of Products to be tested/inspected.
 6. To facilitate tests/inspections.
 7. To provide storage and curing of test samples.
 8. Notify Architect and laboratory 24 hours prior to expected time for operations requiring testing/inspection services.
 9. Employ services of an independent qualified testing laboratory and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
 10. Arrange with Owner's agency and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
- E. Re-testing required because of non-conformance to specified requirements shall be performed by the same agency on instructions by Architect. Payment for re-testing will be charged to the Contractor by deducting testing charges from the Contract Price.

3.05 MANUFACTURERS' FIELD SERVICES

- A. When specified in individual specification sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, as applicable, and to initiate instructions when necessary.
- B. Submit qualifications of observer to Architect and Owner's Authorized Representative 30 days in advance of required observations.
1. Observer subject to approval of Architect.
 2. Observer subject to approval of Owner.

- C. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

3.06 DEFECT ASSESSMENT

- A. Immediately replace Work or portions of the Work not conforming to the Contract Documents at no additional cost to the Owner.

END OF SECTION

SECTION 01500 - TEMPORARY FACILITIES AND CONTROLS

PART 1 – GENERAL

1.01 DESCRIPTION:

A. The requirements specified in this Section relate to Temporary Facilities, Controls, Utilities and procedures required by all Sub-contractors through the General Contractor performing work under these Contract Documents and includes:

1. General Requirements for Temporary Facilities and Controls.
2. Temporary Ventilation.
3. Temporary Sanitary Facilities.
4. Temporary Fire Protection and Detection.
5. Temporary Construction.
6. Temporary Enclosures.
7. Temporary Controls.
8. Project Identification.
9. Progress Cleaning
10. Removal of Utilities, Facilities and Controls

1.02 RELATED WORK IN OTHER SECTIONS:

A. Additional requirements related Temporary Facilities and Controls may be provided as follows:

1. OUS General Conditions
2. Supplemental General Conditions
3. Other Sections of these specifications.

1.03 GENERAL TEMPORARY FACILITIES AND CONTROL REQUIREMENTS

A. This section specifies requirements for temporary services and facilities, including such items as temporary utility services, temporary construction and support facilities, temporary controls, traffic regulations, project security and protection.

B. Cost or usage charges for temporary services or facilities are NOT chargeable to Owner, and will NOT be considered as basis for claim for change orders.

C. Temporary utility services required for use at the Project Site include but are not limited to the following:

1. Water service and distribution.
2. Temporary electric power and lighting.
3. Telephone, Fax and e-mail service.

D. Temporary construction and support facilities required for Project include but are not limited to the following:

1. Temporary heat.
2. Temporary ventilation.

3. Sanitary facilities.
 4. Waste disposal service.
 5. Construction aids and miscellaneous general services and facilities.
 6. Temporary enclosures.
 7. Project identification, bulletin boards and signs.
 8. Field office.
 9. Parking
- E. Security and protection facilities and services required for Project include but are not limited to the following:
1. Temporary fire protection.
 2. Barricades, warning signs and lights.
 3. Environmental protection.
- F. Comply with requirements of local laws and regulations as well as Owner's requirements governing construction, and local industry standards, in installation and maintenance of temporary services and facilities, including but not limited to the following:
1. Building codes, including local requirements for permits, testing and inspection.
 2. Health and safety regulations.
 3. Utility company regulations and recommendations for temporary services.
 4. Police and Fire Department rules and recommendations.
 5. Environmental Protection Agency regulations and requirements.
 6. Hazardous Materials Safety Regulations.
- G. Comply with requirements of NFPA Code 241, "Standards for Safeguarding Building Construction and Demolition Operations" and ANSI -A 10 Series standards for "safety Requirements for Construction and Demolition" and AGC/ASA/ASC Joint Guideline #5, "Temporary Job Utility and Services". Refer to "Guidelines for Bid Conditions for Temporary Job Utilities and Services" as prepared jointly by AGC and ASC for industry recommendations
- H. Inspect and test each service before placing temporary utilities in use. Arrange for required inspections and tests by governing authorities, and obtain required certifications and permits for use.
- I. During progress of Work, submit copies of reports and permits required by governing authorities, or necessary for installation and efficient operation of temporary services and facilities.
- J. Provide each temporary service and facility ready for use at each location when service or facility is first needed to avoid delay in performance of Work. Maintain or expand as required and modify temporary services and facilities as needed throughout progress of Work. Do not remove until services or facilities are no longer needed, or are replaced by authorized use of completed permanent facilities.
- K. Operate temporary services and facilities in safe and efficient manner. Do not overload temporary services or facilities, and do not permit them to interfere with progress of Work. Should services of independent engineer be required to survey existing or temporary utilities, it shall be at no cost to Owner. Do not allow unsanitary conditions, public nuisances or hazardous conditions to develop or persist at the Site.

- L. Do not permit disruption of existing services, freezing of pipes, flooding or contamination of water sources.
- M. Maintain temporary facilities in such manner as to prevent discomfort to users. Take necessary fire protection measures. Maintain temporary support facilities in sanitary manner so as to avoid health problems and other deleterious effects.
- N. Maintain Site security and protection measures in safe, lawful and publicly acceptable manner. Take necessary measures to prevent site erosion, as applicable. At no time is Site to be without protective fence enclosure(s), as required to protect general public.

1.04 TEMPORARY UTILITIES

- A. Coordinate with the Owner's Authorized Representative and make connections to existing services to provide temporary services to the Project. Connections to the service shall be the responsibility of the Contractor.
- B. Coordinate with the Owner's Authorized Representative for acceptable time for service interruptions, where necessary to make connections for temporary services.
- C. Do not interrupt any utility service. Seventy-two (72) hours prior request and approval from the Owner's Authorized Representative is required to enable the Owner to shut down any utility required for the work. Contractor's employees shall **not** shut down utilities.

1.05 TEMPORARY WATER SERVICE

- A. Provide temporary water service and distribution piping of sizes and pressures adequate for construction purposes throughout the construction period and until permanent service is in use, including but not limited to following uses:
 - 1. Construction processes.
 - 2. Fire protection, as appropriate.
 - 3. Drinking water.
 - 4. Cleaning.
- B. Where water use is authorized by Owner's Authorized Representative, connect to Owner's metered source, usage will be paid by Owner. Contractor shall exercise water conservation measures, provide hoses with threaded connection and provide temporary pipe insulation to prevent freezing. Owner's Authorized Representative reserves the right to require the Contract to furnish and install a temporary flow meter during construction and pay for water use, if contractor does not exercise satisfactory water conservation measures.

1.06 TEMPORARY ELECTRICITY

- A. Provide weather proof, grounded temporary electric power service and distribution system of sufficient size, capacity and power characteristics to accommodate performance of Work during construction period.
- B. Install service and grounding in compliance with National Electric Code (NFPA 70). Include necessary meters, transformers, overload protected disconnect and main distribution switch gear.

- C. Provide metal conduit, tubing or armored cable for protection of temporary power wiring where exposed to possible damage during construction operations.
- D. Temporary service electrical wiring will be limited to 110-120 volt, 20-amp rating, and wiring of lighting circuits may be non-metallic sheathed cable in areas where located overhead and exposed for surveillance, where permitted by code. Do not wire temporary lighting with plain, exposed (insulated) electrical conductors. Provide metal enclosures or boxes for wiring devices.
- E. For power hand tools and task lighting, provide temporary 4-gang outlets at each floor level, spaced so that 100-foot extension cord can reach each area of Work. Provide separate 110 120 volt, 20 amp circuit for each 4-gang outlet (4 outlets per circuit).

1.07 TEMPORARY LIGHTING

- A. Wherever overhead floor or roof deck has been completed, install temporary lighting adequate to provide sufficient illumination for safe Work and traffic conditions in every area of Work. Take precautions to limit glare or direct illumination into areas occupied after dark.
- B. Provide and maintain lighting for construction operations to achieve minimum lighting level of 2 watt/sq. ft.
- C. Provide and maintain 1 watt/sq. ft. lighting to staging and storage areas during periods of non-construction after dark for security purposes.
- D. Provide and maintain 0.25 watt/sq. ft. lighting to interior work areas during periods of non-construction after dark for security purposes.
- E. Provide branch wiring from power source to distribution boxes with lighting conductors, pigtails, and lamps as required.
- F. Maintain lighting and provide routine repairs.

1.08 TEMPORARY TELEPHONE, FAX AND E-MAIL

- A. The Owner will provide connection line(s) for temporary telephone, facsimile (FAX) machine and electronic mail service to the job site field office location. Telephone service will be local access limited. Coordinate location and setup with the Owner's Authorized Representative.
- B. The Contractor shall provide temporary on site telephone equipment, facsimile (Fax) machine and electronic mail access system on dedicated lines at field office. See Section 01300, Project Administration for off site emergency contact requirements.
- C. Maintain temporary telephone, facsimile and e-mail service from start of Work through Final Completion.

1.09 TEMPORARY HEAT

- A. Provide and pay for heat devices as required to maintain specified conditions for construction operations.

1.10 TEMPORARY VENTILATION

- A. Ventilate enclosed areas to assist cure of materials, to dissipate humidity, and to prevent accumulation of dust, fumes, vapors, or gases. See Section 01734, Indoor Air Quality for addition temporary ventilation requirements.

1.11 TEMPORARY SANITARY FACILITIES

- A. The Contractor and subcontractors may use Owner designated restroom facilities located on the premises. The Contractor shall be responsible for maintaining the designated restroom facilities in a clean and sanitary condition or the privilege may be revoked. Coordinate restroom use with the Owner's Authorized Representative.
- B. Do not discharge liquid wastes into sewers or drainage facilities, containing excessive amounts of soil, construction debris, chemicals, oils and similar contaminants that might clog sewers or pollute waterways. The contractor shall bear the cost of any damages to the sewer system, caused directly or indirectly by his crews or subcontractors.

1.12 WASTE DISPOSAL SERVICE

- A. If existing sewers or drainage facilities cannot be lawfully used for discharge of liquid waste, provide containers to remove and dispose of waste off Site in a lawful manner. See Section 01732, Waste Management
- B. Provide solid waste disposal and recycling facilities for the removal of construction related materials, trash and debris, in accordance with Section 01732. No on-site area is available for a 'roll-off' dumpster location. Coordinate with the City of Portland and the Owner's Authorized Representative the 'hooding' of parking meters and the use of public right-of-way for rubbish disposal as required.
- C. Do not dispose of hazardous materials in a manner that could allow the materials to enter landfills, waterways or other unapproved facilities. The Contractor shall comply with the hazardous material provisions of OUS General Conditions for Public Improvements Section F, and Division 1 Section 1732.

1.13 CONSTRUCTION AIDS & GENERAL SERVICE FACILITIES

- A. Construction Aids:
 - 1. Design, construct and maintain construction aids and miscellaneous general services facilities as needed to accommodate performance of Work. Construction aids and miscellaneous general services and facilities include, but are not limited to the following:
 - 1) Temporary stairs and ladders.
 - 2) Guardrails and barriers.
 - 3) Walkways.
 - 2. Provide temporary stairs where ladders are not adequate for proper, safe or efficient performance of Work.
 - 3. Install and maintain temporary walkways around work and to field offices, toilets and other similar areas. Construct walkways of gravel or duckboard units.

4. Provide lifting devices necessary for the proper and efficient movement of materials; provide operating personnel for equipment as required. Provide for use of all hoisting equipment on the project during “off hours” as required to prevent impeding the project schedule.

B. Pollution Control:

1. Provide general protection facilities, operate temporary facilities, conduct construction activities, and enforce strict discipline for personnel on Site by methods which comply with environmental regulations, and that minimize possibility that air, water and subsoil may be contaminated or polluted, or that other undesirable effects may occur from performance of Work.

A. Noise Control:

1. Contractor shall provide and maintain adequate and effective mufflers, sound barriers and controls for all construction equipment so that noise from this equipment can be controlled to satisfaction of Owner. Coordinate with Owner’s Authorized Representative when construction work requires use of air hammers or other objectionable noisy equipment. Comply with all laws and regulations applicable the noise pollution abatement and workplace noise. See Section 01734.
2. Rotohammering, grinding, drilling or other excessively noisy operations shall be coordinated with Owner’s Authorized Representative and scheduled to avoid impacting building occupants. Jack hammering shall not be allowed at existing building interiors.

B. Dust Control:

1. All streets, roads or detours used for hauling materials shall be oil dust treated as required to prevent dust, or continually watered to prevent dust. Dust prevention measures, both indoors and outdoors shall be continuous until Final Acceptance by Owner.
2. Provide interior dust control measures, such as temporary partitions, taping of air spaces at doors, maintenance of filters and protection of ducts, etc., as required to control dust. Coordinate to prevent accidental activation of particulate-sensing fire detection system as described under requirements for Hot Work Permit.

A. Erosion and Sediment Control:

1. Follow city approved master erosion control plan, when applicable. Maintain copy on site.

1.14 TEMPORARY ENCLOSURES

A. Security:

1. The Contractor shall be responsible for any and all protections required during performance of the work, and shall be responsible for any and all damages as specified in OUS General Conditions for Public Improvement Contracts Section G1.1. 2. The Owner will not be responsible for protection of materials or equipment from vandalism or theft. Security is the responsibility of the Contractor.

- B. Provide security and facilities to protect Work, existing facilities, and Owner's operations from unauthorized entry, vandalism or theft.

- C. Maintain a security program continuously throughout Project, until Owner occupancy or Owner acceptance precludes, need for security program.
- D. Barriers:
1. Comply with recognized standards and code requirements for erection of substantially adequate barriers where needed to prevent accidents and losses. Paint with appropriate colors, graphics and warning signs to inform construction personnel and public of hazard of concern. Provide lighting and flashing signals as required.
 2. Provide barriers to prevent unauthorized entry to construction areas to allow for Owner's use of site, and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
 3. Provide barricades and covered walkways required by governing authorities for public rights-of-way and for public access to existing building.
 4. Protect non-owned vehicular traffic, stored materials, site and structures from damage.
- E. Fencing:
1. Where fencing is required, install general enclosure fence with suitable lock for gates. Locate where indicated on Drawings or as required to substantially complete enclosure around Site or staging/construction operations. Install in a manner that will prevent unauthorized persons from easily entering Site. Except when otherwise directed, provide open-mesh, chain-link fencing with posts substantially set in ground, or in moveable concrete blocks.
 2. Within five days of Commencement of Work, Contractor shall provide fencing plan for approval by Owner. Plan shall indicate existing fencing to remain, new fencing required and type, location and sequencing of temporary barriers or fencing required for fencing outside primary Site.
- F. Protection of Installed Work:
1. Protect installed Work and provide special protection where specified in individual j Specification Sections.
 2. Provide temporary and removable protection for installed Products. Control activity in immediate work area to minimize damage.
 3. Protect finished floors, stairs, and other surfaces from traffic, dirt, wear, damage, or movement of heavy objects, by protecting with durable sheet materials.
 4. Prohibit traffic or storage upon waterproofed or roofed surfaces. If traffic or activity is necessary, obtain recommendations for protection from waterproofing or roofing material manufacturer.

1.15 PROJECT IDENTIFICATION

- A. Project Identification Signage:
1. Project Identification Signage will be furnished by Owner and installed by Contractor. Coordinate signage placement with the Owner's Authorized Representative.
 2. Project Identification Signage shall be installed by the Contractor within five (5) days of delivery by the Owner and shall be removed by the Contractor following notice of Substantial Completion and prior to Final Completion. Upon removal Project Identification Signage shall become the property of the contractor.

3. Project Identification Sign will consist of two signs, 4'x8' =32 sq ft area, 3/4" marine plywood mounted. Contractor to provide 4"x4" post or other materials and means to mount sign with bottom of sign 4 feet above ground.

B. Project Informational Signs:

1. Contractor shall provide temporary directional signs to direct traffic into and within site. Relocate as Work progress requires.

1.16 FIELD OFFICE

- A. Provide field office area, and storage and staging locations within the defined scope of work area and in a location approved by the Owner's Authorized Representative. Provide temporary lighting, heated and ventilation as specified herein.
- B. Provide plan table, notice boards and other furnishings as require for Contractor's daily operations and as required by the Owner's Authorized Representative.
- C. Provide on-site office equipment as specified herein.
- D. Relocate field office area, and storage and staging location as required to not impede work. At completion of Work, remove buildings, utility service and debris. Restore area to prior condition.

1.17 TRAFFIC REGULATION AND PARKING

A. Traffic Control:

1. Comply with all rules and regulations of Owner, City, State and county authorities regarding closing of public streets to use by public traffic, including pedestrians. No road shall be closed to public except by expressed by permission by Owner and City. Control obstructions and hazards with approved signs, barricades and lights where necessary to protect safety of public. Convenience of general public adjacent to Project, protection of persons and property, and access of emergency vehicles are of prime importance and shall be provided for in satisfactory manner.

B. Flagging Services:

1. Contractor shall provide trained flaggers and barricade hazardous operations during construction activities requiring the use of street areas, as directed by the Owner's Authorized representative. Equip flaggers and guards on duty with approved red work apparel and stop/slow paddle kept clean and in good condition.
2. Utilize traffic control cones, drums, flares and lights which are approved by the city of Portland Bureau of Transportation. Use flares and lights during hours of low visibility to delineate traffic lanes and guide traffic.

C. Temporary Use of Roads:

1. Provide detours necessary for unimpeded traffic flow.
2. Provide and maintain unobstructed access to fire hydrants.
3. Maintain emergency vehicle top access to the premises.

D. Construction Related Parking Control:

1. Contractor, sub-contractor and employee parking will not be provided on the premises. The purchase of hoods for parking meters from the city of Portland is suggested.
2. Coordinate all construction deliveries with the Owner's Authorized Representative. Purchase and obtain a temporary parking permit from the Portland State University office of Transportation and Parking twenty-four (24) hours prior to anticipated delivery parking need. Temporary construction related parking shall be limited to an assigned staging area as approved in writing by the Owner's Authorized Representative. designated for Contractor's use.
3. The Contractor shall be responsible for all contractor and sub-contractor parking citations by the City of Portland and the Portland State University office of Transportation and Parking. All citations must be paid prior to submission of Notice of Final Completion and Request for Final Payment.

1.18 TEMPORARY FIRE PROTECTION

- A. Until fire protection needs may be fulfilled by permanent facilities, install and maintain temporary fire protection facilities of types needed to adequately protect against reasonably predictable and controllable fire losses.
 1. Provide equipment of adequate capacity to extinguish minor fires in combustible material on the Premises during the construction period.
 2. Comply with applicable recommendations of NFPA Standard 10 "Standard for Portable Fire Extinguishers".
 3. Maintain equipment in working condition with current inspection certificate attached to each.
 4. Locate fire extinguishers where they are most convenient, visible and effective for their intended purpose, but provide no less than one extinguisher on each floor or in each general Work area, at or near each usable stairwell.
 5. Store combustible materials in containers in recognized fire-safe areas.
- B. Develop and supervise overall fire prevention and first-aid fire protection program for personnel at Project Site.
 1. Review needs with local fire department officials and establish procedures to be followed.
 2. Smoking is prohibited on the premises. Contractor's personnel are to abide by all rules and regulations regarding smoking and all other fire prevention regulations in force where the Work is to be performed. Smoking is not permitted in structures on the PSU campus.
 3. Post warning and information and enforce strict discipline.
 4. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire protection facilities, stairways and other access routes for fighting fires.
 5. Provide supervision of welding operations, combustion type temporary heating units, and similar sources of Ignition for fire.
 6. Contractor shall ensure that contractor's employees are familiar with Owner's fire procedures and location of fire hydrants and extinguishers in adjacent parts of building adjacent to the construction area.

1.19 PROGRESS CLEANING

- A. Dirt and debris of all nature caused by execution of Work shall be removed from the Site at end of each work day. Contractor shall be responsible for disposal of all scraps and materials that are relative to this Project.

- B. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, prior to enclosing space.
- C. Hose all paved areas staged with construction material and generally prepare area of Work for occupancy with no further clean-up required by Owner.
- D. Clean all spilled dirt, gravel or other foreign material caused by construction operations from all streets and roads at conclusion of each day's operations. Cleaning of large areas shall be by grader and front-end loader supplemented by washing with water power brushing and hand labor.
- E. Broom and vacuum clean interior areas prior to start of surface finishing, and continue cleaning to eliminate dust.
- F. Remove waste materials, debris, and rubbish from Site daily and dispose off-site.

1.20 REMOVAL OF UTILITIES, FACILITIES AND CONTROLS

- A. Remove temporary above grade of buried utilities, equipment, facilities, materials, prior to Substantial Completion inspection.
- B. Remove underground installations to a minimum depth of two (2) feet. Grade site as indicated. C. Clean and repair damage caused by installation or use of temporary work.
- C. Restore existing facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

END OF SECTION

SECTION 01550 - CONTRACTOR PARKING**PART I - GENERAL**

1.01 DESCRIPTION

- A. All parking costs and expenses incurred by any contractor in the course of doing business on Owner's property are the sole responsibility of such contractor. There is no free parking on the Owner's property. Parking rates for the City of Portland are posted at the parking entrances or on parking meters. Vehicles without permits may be towed away at the expense of the vehicle's owner. Parking is not allowed on any Owner's roadway unless so indicated. The Contractor's authorized representative can obtain parking permits for its employees from the Portland State University Transportation & Parking Services Office, Academic & Student Recreation Center, 1812 SW 6th Avenue (503.725.6245) at prevailing rates. All costs for parking permits, parking in University parking lots and ramps, and any fines incurred by any contractor shall be the responsibility of the contractor.
- B. Contractor shall not park in any area not designated for vehicle parking. It will be the responsibility of such contractor to repair and/or reimburse Owner for any damage to Owner's property caused by contractor's vehicle.
- C. Vehicles to be parked on the Owner's property shall be governed by Owner's Transportation & Parking Services Office.

1.02 RELATED SECTIONS

- A. Additional requirements related to Quality Requirements may be provided as follows:
 - 1. OUS General Conditions
 - 3. Other Sections of the specifications.

END OF SECTION

SECTION 01565 - TREE AND PLANT PROTECTION

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Work of this section includes preservation and protection of existing trees, shrubs, and lawn to remain.

1.2 GENERAL WORK CONSTRAINTS

- A. Unless indicated otherwise on the documents all existing trees, shrubs, and lawn shall remain and be protected.
- B. No work shall occur within the area inside the protective fencing.

1.3 COMPENSATION FOR DAMAGE TO EXISTING TREES

- A. The Contractor is responsible for compensating the Owner for any and all damage to trees, shrubs, and lawn.
- B. Compensation action and amounts shall be as directed and calculated by a certified Arborist selected by the Owner.

PART 2 PRODUCTS

2.1 TREE PROTECTION AND WORK LIMIT FENCING

- A. Protective Fencing: 6 foot tall temporary chain link fencing with temporary concrete post bases.

PART 3 EXECUTION

3.1 INSTALLATION

- A. Provide protective fencing at the limits for construction as indicated on the landscape drawings and as approved in the Field by the Owner.
- B. Prior to beginning construction, tour the site with the Owner and outline the location where protective fencing shall be installed.
- C. Fencing shall be installed plumb in locations identified in the field by the Owner.
- D. Fencing used to define the edge of construction, where it coincides with the location approved by the Owner for plant protection fence, is acceptable for protection fencing.

3.2 MAINTENANCE

- A. Maintain all protective fencing plumb, tight, at full height, and where located in the field by District. Replace damaged fencing with new materials as needed.

3.3 REMOVAL

- A. Remove protective fencing just prior to the site review for Substantial Completion.

END OF SECTION

SECTION 01600 - CONTRACTOR STAGING**PART 1 - GENERAL****1.01 BUILDING ENTRY/ROUTES**

- A. Contractor shall schedule all necessary material stocking, demolition and trash removal through building corridors and elevators during non-peak hours or as approved by the PSU (or "Owner") Project Manager. All materials will be brought into the building through the loading dock or approved entry and transported using the Owner's assigned elevator.
- B. The loading dock or entry is only to be used for loading and unloading. The loading dock or entry will not be used for parking. Vehicles left unattended will be towed at the expense of the Contractor.

1.02 PARKING

- A. Unless stated in a Contract, all parking will be at the expense of the Contractor. All vehicles parked on Owner's property must have a parking permit. The Contractor must arrange and secure for all temporary parking permits. Due to limited space, only work vehicles will be allowed at the worksite, and these may be enclosed within the Contractor's assigned fenced work area. Contractor shall make every effort to carpool to the worksite when possible. It is the Contractor's responsibility to secure all parking permits or pay the appropriate meter.

1.03 STAGING/LAY DOWN AREA

- A. During each phase of Construction, areas required for staging must be submitted to the Owner at least three (3) weeks in advance of the requirement. The date _____ when the area will be reusable by Owner must be included.
- B. During construction, the Contractor shall provide all security for its materials, offices, staging and construction parking areas, etc. Owner shall have no responsibility for any of these items. Contractor shall also be responsible for maintaining a safe construction area on Owner's property and offsite as well, including, without limitation, keeping all public and private roadways and parking areas clean, safe and functioning. The Contractor shall only be obligated to clean up those portions of public or private roadways and parking which have been affected by Contractor's activities.
 - 1. Use of lay down area is for the staging and storing of construction related equipment or material for Contractor construction activities only as related to PSU projects.
 - 2. Contractor is responsible for making sure the lay down area complies with all local building and fire codes and regulations and all Owner's safety codes and requirements.
 - 3. Contractor is responsible for keeping the grounds surrounding the lay down area safe and clean of construction materials, litter, trash, and scrap materials. Continuous housekeeping is required including daily removal of combustible waste and storage of combustible waste in approved metal containers and trash bins with metal lids. Outdoor tool and equipment power cords shall be removed nightly. Clean-up and sweeping to be done on a daily basis at the completion of a work shift.
 - 4. Contractor is responsible for their own trash management, including removal of trash from campus. Contractor shall comply with recycling guidelines specified in the Contract Documents.

5. Work & safety rules specified in the Contract Documents apply to lay down areas. Construction Personal Protective Equipment is required in the lay down area.
6. Owner will not be held liable for any loss or damage to any contractor structures or equipment in the lay down area.
7. There is NO SMOKING in the lay down area or inside structures or shipping containers in the lay down area. No smoking signs shall be posted at these locations.
8. Contractor is responsible for keeping all fire and emergency access lanes surrounding the lay down area open at all times. Fire lane parking is subject to immediate tow at Contractor's expense. Fire hydrants must be accessible at all times.
9. Contractor's portable toilets must be located inside the designated lay down area and maintained to PSU's satisfaction at all times.
10. Contractors will not be permitted to store any type of construction material on top of their shipping containers or structures for safety reasons. No combustible materials will be permitted to be stored under a storage trailer.
11. Contractor shall return the lay down area in the same or better condition than when initially used. Payment and/or fees may be withheld until repairs by the Contractor have been completed to PSU's satisfaction.
12. If outside staging of material is required in unpaved areas, Owner is not responsible for mud, dirt, snow, rain, ice and/or rust on materials.
13. Materials stored in staging area(s) must be protected from the elements and from damage or degradation as required in contract documents.
14. Typical temporary construction fencing shall be covered with opaque material to prevent seeing inside the fencing. Construction fencing shall be placed on the interior side of the opaque material.
15. The lay down area shall be made as small as possible and configured to minimize impact to the daily operations of the campus. Contractor to use lay down area for minimal amount of material inventory as required to provide an efficient construction process.

END OF SECTION

SECTION 01630 - PRODUCT REQUIREMENTS AND SUBSTITUTIONS**PART 1- GENERAL****1.01 DESCRIPTION**

- A. The requirements specified in this section relate to general product requirements substitutions by the Contractor, Sub-contractors and Suppliers performing Work under these Contract Documents and includes:
1. Contractor's Responsibilities
 2. Product Options
 3. Substitution Requests during the Bidding Process
 4. Substitution Requests after the Award of Contract
 5. Substitutions not permitted
 6. Product Delivery, Storage & Handling
 7. Product Installation

1.02 RELATED WORK IN OTHER SECTIONS

- A. Additional Product Option and Substitution Request Information may be provided as follows:
1. OUS General Conditions
 2. Other Sections of these specifications.

1.03 DEFINITIONS

- A. "Products" are materials, machinery, components, equipment, fixtures and other systems incorporated into the Project, regardless of whether they were purchased for the Project or taken from the Contractor's previously purchased inventory. It does not include machinery and equipment used in preparation, fabrication, conveying and erection of the Work.
- B. "Materials" are products that must be substantially cut, shaped, worked, mixed, finished, refined or otherwise fabricated, processed or installed to form units of Work.
- C. "Substitutions" includes proposed changes in products, materials, equipment, and methods of construction required by the Contract Documents.

1.04 REQUESTS FOR SUBSTITUTIONS

- A. Requests for substitution of products in place of those specified shall be in accordance with the Public Improvement Agreement, OUS General Conditions, with Supplemental Conditions, and as specified herein. The Contractor assumes responsibility for the requirements as set forth herein. Any cost or time impact shall be at the Contractors expense.

1.05 CONTRACTOR'S RESPONSIBILITIES

- A. In requesting substitution, the Contractor shall comply with OUS General Conditions for Public Improvement Contracts, This includes but is not limited to the following:
1. Investigate proposed products and determine that they are equal or superior in all respects to products specified.

2. Provide same guarantee for accepted substitutions as for products specified.
3. Coordinate installation of accepted substitutions into the Work, making such changes as may be required for the Work to be complete in all respects and within original time constraints.
4. Waive all claims for additional costs related to substitutions, which consequently become apparent.

PART 2 - PRODUCTS

2.01 PRODUCT OPTIONS

- A. Contractor's Options in selecting products is limited by the requirements of the Contract Documents and governing regulations. They are not controlled by industry traditions or procedures experienced by the Contractor on previous construction projects. Where products or manufactures are specified by name or manufacturer, they shall be assumed accompanied by the term, "or approved equal". Comply with the Contract Document requirements for Substitutions and submittals to obtain review from Architect and Owner's Authorized Representative for use of substitute products.

PART 3 - EXECUTION

3.01 SUBSTITUTION REQUESTS DURING THE BIDDING PROCESS

- A. Substitution requests shall meet the following criteria for review by the Architect and Owner's Authorized Representative:
 1. Substitutions shall be requested using the Substitution Request Form provided herein after this section.
 2. Complete Substitution Request Form and submit one (1) electronic copy of each request for substitution to proposals@pdx.edu.
 3. Itemize comparison of proposed substitution with product or method specified.
 4. Complete data on each material and system for this project only, substantiating compliance of proposed substitution with the Contract Documents.
 5. Complete evidence including test numbers and supporting reports indicating compliance with referenced standards.
 6. A statement from the Manufacturer(s) of the proposed substitution materials stating that any and all warranties required by the contract documents for the originally specified materials can and will be provided for the substitution materials, and that required warranties shall be issued upon successful completion of the Work.
- B. Substitutions shall be requested prior to the Deadline for Request for Change and Protests, and accepted by Addendum prior to the date and time bid materials are due at the PSU Office of Facilities.

3.02 SUBSTITUTION REQUESTS AFTER AWARD OF CONTRACT

- A. Substitutions will normally not be considered after date of Contract, except when required due to unforeseen circumstances. Within a period of thirty (30) days after date of Contract, the Owner may, at its option, consider formal written requests for substitution of products in place of those specified, when submitted in accordance with the requirements stipulated herein. Substitution

requests shall meet the following criteria for review by the Architect and Owner's Authorized Representative:

1. Submit one (1) electronic copy of each request for substitution using the submittal process specified in Division 1, Section 01300, Item 3.01.
 2. Substitutions shall be requested using the Substitution Request Form provided herein.
- B. To receive consideration, one or more of the following conditions must be documented in any such request:
1. The substitution is required for compliance with final interpretation of code requirements or insurance regulations.
 2. The substitution is required due to unavailability of a specified product, through no fault of the Contractor.
 3. The substitution is required because subsequent information disclosed the inability of the specified product to perform properly or to fit in the designated space.
 4. The substitution is required because it has become clearly evident, in the judgment of the Owner, that a substitute would be substantially in the best interest of the Owner in terms of cost, time, or other considerations.
- B. For products specified only by referenced standards, provide products by any Manufacturer meeting standards specified.
- C. For products specified by naming one or more products, provide any product named. If certain conditional requirements are stipulated, each product must comply with these requirements. Requests for approval of substitutions are subject to meeting requirements stipulated above.
- D. For products specified by naming a product to match existing products or systems, provide product of the same name. There is no option and no substitution is allowed.
- E. For each substitution that is accepted, the Contractor shall coordinate the work of all other trades and modify surrounding conditions as required to complete the work to the satisfaction of the Owners Authorized Representative at no additional cost to the Owner.

3.03 SUBSTITUTIONS NOT PERMITTED

- A. Submitted without first requesting approval thereof in accordance with requirements of this Section.
- B. Acceptance will require substantial revision of the Contract Documents, except as allowed by Paragraph 3.02 above.

3.04 PRODUCT DELIVERY, STORAGE, AND HANDLING

- A. Deliver, store, and handle products according to the manufacturer's recommendations, using means and methods that will prevent damage, deterioration, and loss, including theft.
 1. Schedule delivery to minimize long-term storage at the site and to prevent overcrowding of construction spaces.

2. Coordinate delivery with installation time to assure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and- other losses.
3. Deliver, handle and store products in accordance with the manufacturer's recommendations, using means and methods that will prevent damage, deterioration and loss. Control delivery schedules to ensure timely delivery for incorporation into the Work, while minimizing long-term storage at the site and preventing overcrowding of the construction area.
4. Deliver products to the site in an undamaged condition in the manufacturer's original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
5. Promptly inspect shipments to assure that products comply with requirements, quantities are correct and products are undamaged.
6. Store products subject to damage by the elements above ground, under cover in a weather tight enclosure, with ventilation adequate to prevent condensation. Maintain temperature and humidity within range required by manufacturer's instructions.

3.05 PRODUCT INSTALLATION

- A. Comply with manufacturer's instructions and recommendations for installation of products in the applications indicated. Anchor each product securely in place, accurately located and aligned with other Work.
- B. Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.

END OF SECTION

SUBSTITUTION REQUEST

*The Construction Specifications Institute
Northwest Region*

TO: _____

PROJECT: _____

SPECIFIED ITEM: _____

Section No.	Page	Paragraph	Description

PROPOSED SUBSTITUTION: _____

Attached data includes product description, specifications, drawings, photographs, performance and test data adequate for evaluation of request including identifying applicable portions.

Attached data also includes description of changes to Contract Documents that proposed substitution requires for proper installation.

Undersigned certifies that the following items, unless modified by attachments, are correct:

1. Proposed substitution does not affect dimensions shown on Drawings.
2. Undersigned pays for changes to building design, including engineering design, detailing and construction costs caused by proposed substitution.
3. Proposed substitution has no adverse effect on other trades, construction schedule, or specified warranty requirements.
4. Maintenance and service parts are available locally or are readily obtainable for proposed substitution.

Undersigned further certifies that function, appearance, and quality of proposed substitution are equivalent or superior to specified item.

Undersigned agrees that, if this page is reproduced, terms and conditions for substitutions found in Bidding Documents apply to this proposed substitution.

Submitted by

Name (Print)

Signature

Firm Name

Address

City, State, Zip

Date

Telephone

Fax

General Contractor (if after award of Contract)

For use by A/E:	
<input type="checkbox"/> Approved	<input type="checkbox"/> Approved as Noted
<input type="checkbox"/> Not Approved	<input type="checkbox"/> Received Too Late
_____ By	
_____ Date	
_____ Remarks	

Attachments

SECTION 01732 - WASTE MANAGEMENT**PART 1- GENERAL**

1.01 PROJECT GOALS

- A. The Owner requires that this project generate the least amount of waste and trash possible.
- B. This project has been designed to comply with SEED (State Energy Efficient Design) criteria. The Contractor, sub-contractors and suppliers shall work with the design team and Owner's Authorized Representative to achieve as sustainable of a project as possible from initial control of the site through final completion.

1.02 RELATED WORK IN OTHER SECTIONS

- A. Additional waste management requirements may be found in the following:
 - 1. OUS General Conditions
 - 2. Other Sections of these specifications.

1.03 DEFINITIONS

- A. Clean: Untreated and unpainted; not contaminated with oils, solvents, caulk, or the like.
- B. Construction and Demolition Waste: Solid wastes typically including building materials, packaging, trash, debris, and rubble resulting from construction, remodeling, repair and demolition operations.
- C. Hazardous: Exhibiting the characteristics of hazardous substances, i.e., ignitibility, corrosivity, toxicity or reactivity.
- D. Non-hazardous: Exhibiting none of the characteristics of hazardous substances, i.e., ignitibility, corrosivity, toxicity, or reactivity.
- E. Nontoxic: Neither immediately poisonous to humans nor poisonous after a long period of exposure.
- F. Recyclable: The ability of a product or material to be recovered at the end of its life cycle and remanufactured into a new product for reuse by others.
- G. Recycle: To remove a waste material from the project site to another site for remanufacture into a new product for reuse by others.
- H. Recycling: The process of sorting, cleansing, treating and reconstituting solid waste and other discarded materials for the purpose of using the altered form. Recycling does not include burning, incinerating, or thermally destroying waste.
- I. Return: To give back reusable items or unused products to vendors for credit.
- J. Reuse: To reuse a construction waste material in some manner on the project site.

- K. Salvage: To remove a waste material from the project site to another site for resale or reuse by others.
- L. Sediment: Soil and other debris that has been eroded and transported by storm or well production run-off water.
- M. Source Separation: The act of keeping different types of waste materials separate beginning from the first time they become waste.
- N. Toxic: Poisonous to humans either immediately or after a long period of exposure.
- O. Trash: Any product or material unable to be reused, returned, recycled, or salvaged.
- P. Waste: Extra material or material that has reached the end of its useful life in its intended use. Waste includes salvageable, returnable, recyclable, and reusable material.

1.4 WASTE MANAGEMENT REQUIREMENTS

- A. The contractor shall familiarize himself with the relevant requirements, provide the necessary documentation and instruct all sub-contractors and suppliers regarding energy efficiency, air quality, demolition, recycling, waste management and final cleaning.
- B. Employ processes that ensure the generation of as little waste as possible due to error, poor planning, breakage, mishandling, contamination, or other factors.
- C. Minimize trash/waste disposal in landfills; reuse, salvage, or recycle as much waste as economically feasible.
- D. Methods of trash/waste disposal that are not acceptable are:
 - 1. Burning on the project site.
 - 2. Burying on the project site.
 - 3. Dumping or burying on other property, public or private.
 - 4. Other illegal dumping or burying.
- E. Regulatory Requirements: Contractor is responsible for knowing and complying with regulatory requirements, including but not limited to Federal, State and local requirements, pertaining to legal disposal of all construction and demolition waste materials.
 - 1. The city of Portland requires all building projects with a permit value of \$50,000 or more to separate and recycle certain materials from the job site. The contractor shall be responsible for assuring recycling at the job site and for completing the pre-construction recycling plan form.

PART 2- PRODUCTS

- 2.01 Contractor shall submit periodic Waste Disposal Reports; all landfill disposal, incineration, recycling, salvage, and reuse must be reported regardless of to whom the cost or savings accrues. See Division 1 Section 01300 for submittal procedures.

- 2.02 Submit Waste Disposal Reports with each application for progress payment, with details of quantities of trash and waste, means of disposal or reuse, and costs; show both totals to date and since last report. Failure to submit Report will delay payment. Prepare Waste Disposal Reports as follows:
- A. Submit Report on a form acceptable to Owner.
 - B. Landfill Disposal: Include the following information:
 - 1. Identification of material.
 - 2. Amount, in tons or cubic yards, of trash/waste material from the project disposed of in landfills.
 - 3. State the identity of landfills, total amount of tipping fees paid to landfill, and total disposal cost.
 - 4. Include manifests, weight tickets, receipts, and invoices as evidence of quantity and cost.
 - C. Incinerator Disposal: Include the following information:
 - 1. Identification of material.
 - 2. Amount, in tons or cubic yards, of trash/waste material from the project delivered to incinerators.
 - 3. State the identity of incinerators, total amount of fees paid to incinerator, and total disposal cost.
 - 4. Included manifest, weight tickets, receipts, and invoices as evidence of quantity and cost.
 - D. Recycled and Salvaged Materials: Include the following information for each:
 - 1. Identification of material, including those retrieved by installer for use on other projects.
 - 2. Amount, in tons or cubic yards, date removed from the project site, and receiving party.
 - 3. Transportation cost, amount paid or received for the material, and the net total cost or savings of salvage or recycling each material.
 - 4. Include manifests, weight tickets, receipts, and invoices as evidence of quantity and cost.
 - 5. Certification by receiving party that materials will not be disposed of in landfills or by incineration.
 - E. Material Reused on Project: Include the following information for each:
 - 1. Identification of material and how it was used in the project.
 - 2. Amount, in tons or cubic yards.
 - 3. Include weight tickets as evidence of quantity.
 - F. Other Disposal Methods: Include information similar to that described above, as appropriate to disposal method.

PART 3- EXECUTION

3.01 WASTE MANAGEMENT PLAN IMPLEMENTATION

- A. Designate an on-site person or persons responsible for instructing workers and overseeing documenting results of the Waste Management Plan.
- B. Communication: Distribute copies of the Waste Management Plan to job site foreman, each subcontractor, Architect, and Owner's Authorized Representative.

- C. Instruction: Provide on-site instruction of appropriate separation, handling, and recycling, salvage, reuse, and return methods to be used by all parties at the appropriate stages of the project.
- D. Meetings: Discuss trash/waste management goals and issues at project meetings.
1. Pre-bid meeting
 2. Pre-construction meeting
 3. Regular job-site meetings.
- E. Facilities: Provide specific facilities for separation and storage of materials for recycling, salvage, reuse, return, and trash disposal, for use by all contractors and installers.
1. Provide containers as required.
 2. Provide adequate space for pick-up and delivery and convenience to contractors.
 3. Keep recycling and trash/waste bin areas neat and clean and clearly marked in order to avoid contamination of materials.
- F. Hazardous Materials: If, during the course of the Work, the Contractor observes or suspects the existence of Hazardous Materials in the structure or components within the defined scope of work area, the Contractor shall immediately stop Work in the immediate area and notify the Owner's Authorized Representative, who will, under separate contract, facilitate the remove of the hazardous material. The Contractor will be required to schedule ten (10) days of slack or "down" time for the removal of potential unforeseen materials. Any delay caused by asbestos abatement that lasts less than ten (10) days shall not constitute a delay as defined in Section D.2 of the OUS General Conditions for Public Improvement Contracts and shall not result in any additional compensation to the contractor. If removal of the material takes more than ten (10) days, the Contractor shall be entitled to an extension of the completion date for the Work equal to the number of days required for removal, plus reimbursement for Contractor's cost of the Work for only those days in excess of ten (10).
1. Hazardous Material abatement in the defined scope of work area was performed in July 2008. A copy of the Asbestos Abatement Inspection Report shall be provided to the contractor prior to beginning work and shall be maintained on the job site throughout the course of work.
- G. Recycling: Separate, store, protect, and handle at the site identified recyclable waste products in order to prevent contamination of materials and to maximize recyclability of identified materials. Arrange for timely pickups from the site or deliveries to recycling facility in order to prevent contamination of recyclable materials.
- H. Reuse of Materials On-Site: Set aside, sort, and protect separated products in preparation for reuse.
- I. Salvage: Set aside, sort, and protect products to be salvaged for reuse off-site.

END OF SECTION

SECTION 01734 - INDOOR AIR QUALITY**PART 1- GENERAL**

1.01 PROJECT GOALS

- A. The owner and building tenants will occupy adjacent areas of the premises during the entire period of construction. The Contractor shall maintain indoor air quality of occupied spaces throughout the construction period to permit normal operations and upon substantial completion provide premises and building systems that meet minimal indoor air quality standards as described herein.
- B. Dust and Airborne Particulates: Prevent dust and other particulates from entering HVAC ducts and equipment, and from migrating into occupied spaces.
 - 1. Cleaning of existing ductwork to remain is not contemplated under this contract. Verify the condition of existing ducts and equipment prior to starting work.
 - 2. The Contractor shall bear the cost of duct and equipment cleaning required due to failure to protect ducts and equipment from construction dust.
 - 3. The Contractor shall coordinate with the Owner's Authorized Representative and provide adequate barriers, taping, ventilation and filters to prevent dust, fumes, odors, vapors or other agents from impacting normal operations in adjacent occupied spaces. Failure to do so may result in suspension of Work at the Contractors expense.
 - 4. Procedures and products have been specified to minimize indoor air pollutants:
 - A) Furnish Products meeting or exceeding the specifications.
 - B) Avoid construction practices that could result in contamination of installed products leading to indoor air pollution.

1.02 RELATED WORK IN OTHER SECTIONS

- A. Additional information related to Indoor Air Quality management requirements, temporary facilities required and Owner's remedies for non-compliance may be found in the following:
 - 1. OUS General Conditions
 - 2. Other Sections of these specifications.

1.03 REFERENCES

- A. ASHRE 62 – Ventilation For Acceptable Indoor Air Quality; 1999 and Addenda.
- B. ASHRAE Std. 129 – Measuring Air-Change Effectiveness; 1997.
- C. Oregon Administrative Rules Sections; 437-002—0081, 437-002-0107, 437-002-0382.
- D. Oregon Administrative Rules Section 437-003-0027.

1.04 DEFINITIONS

- A. Absorptive Materials: Gypsum board, acoustical ceiling tile and panels, carpet and carpet tile, fabrics, fibrous insulation, and other similar products.

- B. Contaminates: Gases, vapors, smoke, airborne mold and mildew, and other regulated pollutants including but not limited to construction related noise.
- C. Particulates: Dust, dirt and other airborne solid matter.
- D. Wet Work: Concrete, plaster, coatings, adhesives and other products that emit water vapor or volatile organic compounds during the installation, drying, or curing processes.

PART 2- PRODUCTS

NOT USED

PART 3- EXECUTION

3.1 CONSTRUCTION PROCEDURES

- A. Prevent the absorption of moisture and humidity by absorptive materials by:
 - 1. Sequencing the delivery of such materials so that they are not present in the building until wet work is completed and dry.
 - 2. Delivering and storing such materials in fully sealed moisture-impermeable packaging.
 - 3. Provide sufficient ventilation for drying of wet work without impacting delivery schedules.
- B. Begin temporary construction heating and ventilation as soon as the work limits are substantially enclosed.
- C. If extremely dusty or dirty work must be performed, coordinate the temporary shut down of HVAC systems with the Owner's Authorized Representative. The Owner's Authorized Representative may require work by the Contractor outside of normal business hours (8:00 AM through 5:00 PM) if HVAC systems serving occupied areas are required to be shut down for extended periods.
- D. When working in a portion of an occupied building, provide barriers necessary to prevent movement of air from the construction area to occupied areas.
- E. HVAC equipment and ductwork SHALL NOT be used for ventilation during construction:
 - 1. Provide minimum temporary ventilation equivalent to 1.5 air changes per hour. Increase as required for wet work.
 - 2. Exhaust directly to outside. The Owner's Authorized Representative shall approve the Contractors exhaust venting plan including; equipment, routing and outlet prior to installation.
 - 3. Seal HVAC air inlets and outlets immediately after duct installations.
- F. Do not store construction materials or waste in mechanical rooms, electrical rooms or exit ways. Coordinate all materials storage with the Owner's Authorized Representative.

- G. Prior to use of return air ductworks without intake filters, remove dust and debris generated by construction activities.
 - 1. Inspect duct intakes, return air grills, and terminal units for dust.
 - 2. Clean plenum spaces, including top sides of lay-in ceilings, outsides of ducts, tops of pipes and conduits.
 - 3. Clean tops of doors and frames.
 - 4. Clean mechanical and electrical rooms where work is performed, including the tops of pipes, ducts, conduits, equipment and supports.
 - 5. Clean return plenums of air handling units.
 - 6. Remove intake filters last, after all cleaning operations are complete.
- H. Do not perform dusty or dirty work after starting use of return air ducts without intake filters.
- I. Use other relevant recommendations of SMACNA IAQ Guidelines for Occupied Buildings Under Construction to avoid unnecessary contaminants due to the construction process.
- J. Perform Air Contaminant Testing as specified herein.

3.02 AIR CONTAMINANT TESTING:

- A. Perform air contaminate testing before starting construction, as a baseline for evaluating post-occupancy test results, as specified herein.
- B. Perform air contaminate testing prior to submitting for substantial completion.
- C. Do not start air contaminant testing until:
 - 1. All other construction operations are substantially complete.
 - 2. HVAC systems have been tested adjusted, and balanced for proper operation.
 - 3. New HVAC unit air filters have been installed.
- D. Collect the following indoor air samples from representative spaces of the work areas:
 - 1. Collect samples while windows and exterior doors are closed, HVAC system is in normal operation and the building premises are unoccupied.
 - 2. Collect samples in each space served by the new air handling system.
 - 3. Collect air samples between a height of 48 inches and 72 inches above finished floor.
 - 4. Collect samples from same locations on three separate days and average the results of the three samples.
- E. Submit a report analyze the air samples and compare them against the pre-construction baseline (See Section 01300 for submittal procedure).
- F. Air Contamination Concentrations and Limits shall be as set forth in the Oregon Administrative Rules and as follows (the most restrictive shall apply):

1. Carbon Monoxide: Measure in ppm, in relation to outside air, at air intake; not more than outside air.
2. Airborne Mold and Mildew: Measure in relation to outside air, at air intake, but in no case less than 48 inches above finish grade; not more than outside air.
3. Formaldehyde: Measure in micrograms per cubic meter in relation to outside air, at air intake; Not more than 20 micrograms per cubic meter higher than outside air.
4. Total Volatile Organic Compounds (TVOC): Measure in micrograms per cubic meter, in relation to outside air, at air intake; Not more than 200 micrograms per cubic meter higher than outside air.
5. Total Particulate Matter: Measure in micrograms per cubic meter, in relation to air, at air intake, not more than 20 micrograms per cubic meter higher than outside air.

3.03 VENTILATION EFFECTIVENESS TESTING:

- A. Perform ventilation effectiveness testing prior to substantial completion.
- B. Do not begin ventilation effectiveness testing until:
 1. HVAC systems have been tested adjusted, and balanced for proper operation.
 2. Air contamination testing has been completed satisfactorily.
 3. New HVAC unit air filter have been installed.
- C. Test each air handler zone in accordance with ASHRAE 129.
- D. If calculated air change effectiveness for a particular zone is less than 0.9 due to inadequate balancing of the system, adjust and retest at no additional cost to the Owner.

END OF SECTION

SECTION 01780 - CONTRACT CLOSEOUT**PART 1 - GENERAL**

1.01 DESCRIPTION:

- A. The requirements specified in this Section relate to all Contractors individually performing Work under these Contract Documents and include:
1. Final Cleaning
 2. System Start-up, Testing & Adjusting
 3. Operations & Maintenance Manuals
 4. Warranties & Bonds
 5. Training
 6. Spare Parts & Extra Quantities
 7. Project Record Documents
 8. Final Review and Payment
- B. Project closeout is a term used to describe certain collective project requirements, indicating Work under this Contract that is fulfilled near the end of the Contract time in preparation for Final Completion, as well as Final Payment to the Contractor.
- C. Special requirements for individual units of work may be included in appropriate Specification Sections of this Project Manual.

1.02 RELATED WORK IN OTHER SECTIONS

- A. Additional Contract closeout requirements may be provided as follows:
1. OUS General Conditions
 2. Supplementary General Conditions
 3. Section 01300, Submittals
 4. Other Sections of these Specifications

PART 2 - PREREQUISITES TO SUBSTANTIAL COMPLETION

2.01 GENERAL DESCRIPTION:

- A. Substantial Completion shall be defined per OUS General Conditions for Public Improvement Contracts Section A.1, and Notification of Substantial Completion by the Contractor to the Owner shall be through the Architect as specified in Section K.4 of the same and as supplemented by OUS Supplemental General Condition SG-6. See Division 1, Section 01300 for general Submittal Review Procedure.
- B. Submit Certificate of Substantial Completion with accompanying 'punchlist' and date for punchlist completion to the Architect once the Contract Documents have been reviewed, Work has been inspected and all prerequisites to substantial competition have been addressed.
- C. Prior to signing the Certificate of Substantial Completion, the Architect will perform one Substantial Completion review of the Work. The Contractor shall pay the cost of additional Substantial Completion reviews of the Work.

2.02 FINAL CLEANING

- A. Perform final cleaning of all items of Work prior to Substantial Completion review of the Work. Employ professional cleaners for final cleaning. Clean each surface or unit of work to condition expected from normal commercial building cleaning and maintenance program. Comply with all manufacturer's recommendations. Complete the following prior to requesting Architect's review of the Work for Substantial Completion certification:
1. Clean interior and exterior glass and surfaces exposed to view; remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces.
 2. Vacuum all carpeted, fabric and other soft surfaces.
 3. Clean all Contractor and Owner provided equipment and fixtures.
 4. Clean or replace all filters of operating equipment.
 5. Clean debris from roofs, gutters, downspouts and drainage systems impacted by the Work.
 6. Clean the Project Site and adjacent areas impacted by the Work, including landscaped and parking areas, or rubbish, litter and other foreign substances. Sweep paved areas to broom clean condition. Remove stains, spills and other foreign deposits. Rake grounds that are neither paved nor planted to smooth, even-textured surface.
 7. Re-clean areas and equipment prior to inspection for Final Completion, if dirtied in completion of punchlist work.
- B. Unless otherwise directed by the Architect or Owner's Authorized Representative, remove temporary protective devices and facilities, which were installed during the course of the Work to protect previously completed work from the remainder of the construction to be completed, or to protect the public.
- C. Comply with all safety standards and governing regulations for cleaning and dispose of waste materials in accordance with Division 1, Section 01732 and the OUS General Conditions for Public Improvement Contracts.

2.03 SYSTEM START-UP, TESTING & ADJUSTING

- A. The project has been designed to comply with SEED (State Energy Efficient Design) criteria. Coordinate with the Owner's Authorized Representative the system start-up, testing, adjusting and balancing to comply with the Owner's Commissioning requirements.
- B. The Contractor shall coordinate the scheduling for the start-up and testing of various equipment and systems provided by the Contractor and Owner with the Owner's authorized representative.
- C. Notify the Owner's Authorized Representative and the Architect a minimum of fourteen (14) calendar days prior to the start-up or testing of each item.
- D. The Contractor shall submit to the Owner's Authorized Representative for review and approval, a minimum of fourteen (14) calendar days prior to the start-up or testing, five (5) copies of the following:
1. A paragraph-by-paragraph program of the Contractor's proposed testing procedure, developed to demonstrate compliance with the contract documents.
 2. Check off sheets for the review of each item of equipment and system.
 3. Each program and check off sheet shall provide the following information:
 - 1) Project information required by Division 1, Section 01300, Item 1.05.
 - 2) Product information required by Division 1, Section 01300, Item 3.06.
 - 3) Other information as required the fully describe the item.
 - 4) Provide spaces for testing "Review" sign off by Owner's Authorized Representatives and the Architect's Authorized Representative

- E. Verify that each piece of equipment or system has been checked for proper connection of services, lubrication, drive rotation, belt tension, control sequencing or other conditions that could cause damage.
- F. Verify that tests, meter readings and specified electrical characteristics agree with those required by equipment or system manufacturers.
- G. Verify that wiring, piping and support components for equipment are complete and tested.
- H. Execute start-up under the supervision of the Owner's Authorized Representative(s), the responsible manufacturer's representative, Contractor's personnel in accordance with the manufacture's recommendations.
- I. Submit five (5) copies of all Installation, Adjustment and Balancing and Testing Reports for each piece of equipment and system in accordance with the Submittal Review Procedures, specified in Division 1, Section 01300, Item 3.01.
- J. Operating equipment and systems shall be tested in the presence of the Owner's Authorized Representatives and the Architect's Authorized Representative to demonstrate compliance with the Contract Documents and the manufacturer's recommendations:
 - 1. Testing shall be conducted under operating conditions as specified by the Owner's Authorized Representatives and the Architect's Authorized Representative.
 - 2. Copies of all test reports shall be included in the Project Record Documents.
- K. All elements of systems shall be tested to demonstrate that total systems satisfy all requirements of the Contract Documents. Test each piece of equipment for proper operation, followed by each subsystem, followed by entire system, followed by interfaces with other major systems.
- L. The Contractor shall provide all materials and equipment required for equipment and system testing.
- M. The Contractor shall perform the following minimal tests and additional tests as required by the Owner's Authorized Representative:
 - 1. System shall be checked for proper installation, and shall be adjusted and calibrated to verify that it is ready to function as specified.
 - 2. All system elements shall be checked to verify that they have been properly installed and that all connections have been made correctly.
 - 3. All discrete elements and sub-systems shall be adjusted and balanced and shall be checked for proper operation.

2.04 OPERATIONS & MAINTENANCE MANUALS

- A. The Contractor shall Operations and Maintenance Manuals for review and project record documentation in accordance with OUS General Conditions for public Improvement Contract Section K.2, in accordance with the Submittal Review Procedures, specified in Division 1, Section 01300, Item 3.01.
- B. Include Operation and Maintenance instructions complete with technical information, required warranties & bonds and name, address and phone number of the Contractor(s) and Manufacturer(s) of each material and product. Bind in separate three-ring binders. Label similar to Project Documents binder with dividers by Specification section and supplier.

2.05 WARRANTIES & BONDS

- A. Provide all warranties and bonds specified in other Sections of this project manual.
- B. Include all required warranties and bonds in the Operations and Maintenance Manuals in accordance with Item 2.04 herein.
- C. List Subcontractor, supplier and manufacturer, with address and telephone number of responsible principles.
- D. Verify that documents are in proper form, contain all information, and are notarized as applicable.
- E. Co-execute documents as required.

2.06 TRAINING

- A. The Contractor shall coordinate with the Owner's Authorized Representative training sessions for all equipment and systems in accordance with OUS General Conditions for public Improvement Contract Section K.5.

2.07 SPARE PARTS & EXTRA QUANTITIES

- A. The Contractor shall provide spare parts and extra quantities in accordance with OUS General Conditions for public Improvement Contract Section K.6.
- B. The Contractor shall submit in accordance with Division 1 Section 01300 Item 3.01, five (5) copies of the following:
 - 1. Check off sheets for the review of each item of material or product for which extra quantities are required.
 - 2. Each check off sheet shall provide the following information:
 - 1) Project information required by Division 1, Section 01300, Item 1.05.
 - 2) Product information required by Division 1, Section 01300, Item 3.06.
 - 3) Amount of extra parts or quantity required.
 - 4) Provide spaces for testing "Review" sign off by Owner's Authorized Representatives and the Architect's Authorized Representative.
- C. Coordinate delivery to the Owner with the Owner's Authorized Representative and submit receipts of delivery corresponding to spare parts and extra quantities check off sheet.

2.08 PROJECT RECORD DOCUMENTS

- A. Submit three (3) copies of the Project Record Documents for review in accordance with Division 1 Section 01300 Item 3.01. The Project Record Documents shall be organized to include the following information:
 - 1. Title and date of Project, Owner's Project Number
 - 2. Table of Contents
 - 3. Specifications
 - 4. As-Built Drawings (blueprints or photocopies)
 - 5. Inspection Reports, as applicable
 - 6. Warranty(ies), as applicable
 - 7. Operations and Maintenance Instructions

8. Approved and stamped Shop Drawings, Product Data and Samples (Provide 1 set of reproducible copies for Owner's file, in Microsoft Word or AutoCAD 2000 electronic formats, or on 3 MIL thick double sided and toothed Mylar.)
 - B. Bind each copy of the Project Record Documents in a black, hard cover, three-ring binder with each Section clearly indexed with tabbed divider pages.
 - C. The project team list shall include the address and phone number of the Owner, Architect, Contractor, inspectors, subcontractors, and the materials manufacturers.
 - D. Legibly mark each Specification Section to indicate actual as-built conditions. The as-built Specifications shall clearly indicate changes in the Work made by Addendum(a) and/or Change Order(s), actual materials used, and actual Manufacturer(s) used.
 - E. Legibly mark the drawings to indicate actual "as-built conditions." The drawings shall clearly indicate changes in the Work made by Addendum(a) and/or Change Order(s). The Owner shall employ the Architect to modify CAD documents into a "recorded as-built" base for Owner's usage, based on information provided by Contractor.
 - F. Include inspection reports and Architect's field reports, if applicable.
 - G. Include a copy of required Warranty(ies) clearly marked to identify the Owner's responsibilities under the terms of the Warranty(ies).
- 1.03 Make corrections to all Project Record Documents and resubmit as part of Final Completion Review.
- 1.04 RECORD DOCUMENTS
 - A. Contact the Owner's Authorized Representative for a sample of acceptable Record Documents if needed.

PART 3 - PREREQUISITES TO FINAL COMPLETION AND PAYMENT

- 3.01. The Contractor shall comply with all terms of OUS General Conditions for Public Improvement Contract Sections E.6 and I.1, unless otherwise amended herein, prior to filing Notice of Final Completion or requesting Final Payment.
- 3.02 The Contractor shall return all keys requested for access to buildings and work areas and obtain a deposit refund, as specified in Division 1, Section 01040, Item 1.09.
- 3.02. The Contractor shall notify all Subcontractors in writing of incomplete and/or incorrect items and the anticipated filing of Final Completion. Notify far enough in advance of the completion date that the Work can be completed on schedule. Said Work shall be immediately corrected.
- 3.03. Submit to the Owner's Authorized Representative Lien Releases in accordance with OUS General Conditions for Public Improvement Contract Section K.8.
- 3.04. The Contractor shall provide the Owner with an unconditional Certificate of Occupancy from the local building officials, in accordance with OUS General Conditions for Public Improvement Contract Section K.8.
- 3.05. Notify the Architect in writing that all items are complete and ready for Final Completion review and that the Work product is fully usable.

- 3.06. Submit three (3) copies of all record documents for Final Completion review at this time.
- 3.07. The Architect will review all documents. The Architect will review all Work that has been certified as complete to the best knowledge of the Contractor. The Architect will also list all remaining incomplete punchlist Work and assign a probable value and time to complete such uncompleted Work.
- 3.08. The Architect will review the Work for conformance. Time is of an essence on this project. If the Work is found to be in nonconformance, the Architect will notify the Owner of the nonconforming items and probable value and time for completion. Nonconforming items will require retainage of monies to ensure that the Contractor will complete all Work within the time established by the Public Improvement Agreement and as amended by executed Change Orders.
- 3.09. The Contractor shall make the required corrections to the Work expeditiously. Sufficient retainage monies will be held to pay for uncompleted Work, should the Contractor fail to perform. A letter will be addressed to the Contractor noting the project status and the monies available for a partial-final payment upon receipt of billing.
- 3.10. When Contract closeout procedures are completed and all Punchlist deficiencies have been corrected, final acceptance by the Owner will be documented. The Contractor will receive written notice of acceptance of the Work and notification that final payment may be billed and released. Note that final wage rate submittal and documentation of all BOLI fees are required prior to final payment.
- 3.11. The Contractor shall be responsible for all parking citations received in relation with the project from the City of Portland and the Portland State University office of Transportation and Parking. All citations must be paid prior to submission of notice of Final Completion and Request for final Payment.
- 3.12. All warranties shall commence and become effective in accordance with Section I of the OUS General Conditions for Public Improvement Contracts and as modified by OUS Supplemental General Condition SG-6.

PART 4 - PRODUCTS

NOT USED

PART 5 - EXECUTION

NOT USED

END OF SECTION

APPENDIX 5.8 – PERFORMANCE BOND

**OREGON UNIVERSITY SYSTEM
STANDARD PUBLIC IMPROVEMENT CONTRACT**

PERFORMANCE BOND

Bond No. _____

Solicitation _____

Project Name: Parking Availability Counting and Monitoring System

_____ (Surety #1)	Bond Amount No. 1:	\$ _____
_____ (Surety #2)*	Bond Amount No. 2:*	\$ _____
<i>* If using multiple sureties</i>	Total Penal Sum of Bond:	\$ _____

We, _____ as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the State of Oregon, acting by and through the State Board of Higher Education, on behalf of the OUS (OUS), the sum of (Total Penal Sum of Bond) _____ (Provided, that we the Sureties bind ourselves in such sum “jointly and severally” as well as “severally” only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

WHEREAS, the Principal has entered into a contract with the OUS, the plans, specifications, terms and conditions of which are contained in the above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called “Contract”); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety:

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the OUS, and _____ (name of institution and any other Owner agency), and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all

respects perform said contract according to law, then this obligation is to be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond, nor shall the State of Oregon or the OUS, be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapters 279C and 351, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES.

Dated this _____ day of _____, 20__.

PRINCIPAL: _____

By _____

Signature

Official Capacity

Attest: _____

Corporation Secretary

SURETY: _____

[Add signatures for each surety if using multiple bonds]

BY ATTORNEY-IN-FACT:

[Power-of-Attorney must accompany each surety bond]

Name

Signature

Address

City

State

Zip

Phone

Fax

Payment information will be reported to the IRS under the name and taxpayer ID # provided above. Information not matching IRS records could subject Contractor to 31 percent backup withholding.

******* END OF BID *******

APPENDIX 5.9 – PAYMENT BOND

**OREGON UNIVERSITY SYSTEM
STANDARD PUBLIC IMPROVEMENT CONTRACT**

PAYMENT BOND

Bond No. _____
Solicitation _____
Project Name Parking Availability Counting and Monitoring System

_____(Surety #1) Bond Amount No. 1: \$ _____
_____(Surety #2)* Bond Amount No. 2:* \$ _____
* *If using multiple sureties* Total Penal Sum of Bond: \$ _____

We, _____, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the State of Oregon, acting by and through the State Board of Higher education, on behalf of the Oregon University System (OUS), the sum of (Total Penal Sum of Bond)

_____ (Provided, that we the Sureties bind ourselves in such sum “jointly and severally” as well as “severally” only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

WHEREAS, the Principal has entered into a contract with the OUS, the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Payment Bond by reference, whether or not attached to the contract (all hereafter called “Contract”); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety:

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the OUS and

_____ (name of institution and any other Owner agency), and members thereof, its officers, employees and agents, against any claim for direct or indirect damages of

every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against the State on account of any labor or materials furnished; and shall do all things required of the Principal by the laws of this State, then this obligation shall be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond, nor shall the State of Oregon, or the OUS be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapters 279C and 351, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this _____ day of _____, 20__.

PRINCIPAL: _____

By _____

Signature

Official Capacity

Attest: _____

Corporation Secretary

SURETY: _____

[Add signatures for each if using multiple bonds]

BY ATTORNEY-IN-FACT:

[Power-of-Attorney must accompany each bond]

Name

Signature

Address

City

State

Zip

Phone

Fax