

Request for Proposals

For

CM/GC Services



**UNIVERSITY
OF OREGON**

For the

**Allan Price Science Commons and Research
Library Remodel and Expansion**

Project

#50-14-14

Department of Campus Planning, Design & Construction
1276 University of Oregon
Eugene OR 97403-1276

March 17, 2014

I. INTRODUCTION

The Oregon State Board of Higher Education (OSBHE), on behalf of the University of Oregon (University), is seeking proposals from qualified Construction Manager/General Contractor (CM/GC) firms (Proposers) for the construction of the Allan Price Science Commons and Research Library Remodel and Expansion (the "Project") at the University of Oregon in Eugene, Oregon. Currently the Science Library occupies a total area of approximately 28,900 sq.ft. of subterranean space beneath the plaza level of Onyx Green, including areas in adjacent buildings Onyx Bridge and Cascade Hall. The Project generally consists of an extensive remodel of this existing space, along with a modest expansion projected to be 3,000 - 3,500 sq.ft. The Science Library and plaza were initially constructed as part of the Klamath Hall construction, completed in 1967. The Science Library expanded into the basement of Cascade Hall, with its construction completion in 1990. Program elements include 50% reduction in the current print collection; double the total seating capacity from approximately 250 to 520 seats, including space/seating for food service; commons area; individual and group study areas; tutoring and advising space; technology infused and flexible instructional rooms; and digital technology lab. In accordance with Oregon Administrative Rule (OAR) 580-063-0020 and 0300, the OSBHE will use the request for proposals (RFP) competitive procurement process to select and enter into a CM/GC Contract with a CM/GC firm.

The University intends to enter into a CM/GC Contract with the selected CM/GC firm that will initially include Preconstruction Phase Services only, for the scope of Work. There are provisions for adding Construction Phase Services through acceptance of Early Work packages and/or a Guaranteed Maximum Price (GMP) by contract amendment. The amendment(s) will include Construction Phase Services through completion of the Work.

The University will evaluate each Proposer's capabilities with respect to the evaluation criteria set forth in Section VIII. Information will be obtained from various sources including information in Proposals and discussions with clients of Proposers and other sources. In order to more fully understand the finalists' relative qualifications, the University, at its sole discretion may select two (2) or more finalists to be interviewed by the selection committee. When selected, the CM/GC will function as part of a team composed of the University, CM/GC and the Architect.

This RFP does not commit the University to enter into any agreement, to pay any expenses incurred in preparation or delivery of any response to this request, or to procure or contract for any supplies, goods or services. The

University reserves the right to accept or reject any or all Proposal(s) not in compliance with the RFP or if it is in the public interest to do so.

II. PROJECT SCOPE, BUDGET, AND SCHEDULE

The University is currently in contract negotiations with Opsis Architecture for the design of the Project. The Project's optimal schedule calls for 12 months of Pre-Construction services, with trade contractor bidding and construction beginning during the winter of 2014-2015 and an approximate 12 month construction period with construction complete in winter of 2016.

The Project will likely include selective structural demolition, extensive remodel to the interior space, building systems replacements or enhancements, a modest building expansion at the plaza level, and site improvements. The Project is targeted to begin the design process in mid-January 2014.

The total estimated project cost is \$16,750,000. The estimated direct construction cost is \$11 million. The Project is fully funded through gifts and bonds to be issued by the State of Oregon.

The proposed GMP range for the project is between \$11,000,000 and \$13,000,000. A detailed schedule for the Project has not yet been developed. The Project does not yet have an executed contract with the Architects, and a fully developed schedule will require the input of the Architect as well as the selected CM/GC.

The selected firm must be ready to commit key personnel to the Project immediately following selection. It is anticipated that Preconstruction Phase Services will begin immediately upon execution of the contract and that the CM/GC will have significant involvement in the Project throughout the design process. The start of construction will be determined by the Project team during the Preconstruction Phase with the potential for bidding the Project in multiple packages in order to provide the Project with the most cost effective and efficient start possible.

For the most up to date information on the progress of the Project refer to the Campus Planning and Real Estate website. Additionally, pre-design work to date is as follows:

The UO engaged design and planning consultants to create two studies:

- Vision Statement, University of Oregon Science Library, Shepley Bulfinch, May 2011 (Appendix H)

- Conceptual Design Study, Allan Price Science Commons & Research Library, PIVOT Architects, June 2013 (Appendix I)

UO Project User Group:

- Project Description: Allan Price Science Commons & Research Library Remodel & Expansion, Draft November 2013 (Appendix J)

These documents are available at:

http://darkwing.uoregon.edu/~uplan/projects/Project%20Sums%20for%20Web/PriceScienceCommons/PriceSciCommons_proj.htm

III. FORM OF AGREEMENT

The University will use the *Oregon University System CM/GC Contract* (Sample Contract), attached as Appendix A, and *Oregon University System General Conditions for the Public Improvement Contracts, July 1, 2012 Edition* (OUS General Conditions), attached as Appendix B, as the basis for the final agreement (CM/GC Contract). The OUS General Conditions are modified by the Supplemental General Conditions, if any, attached to this RFP as Appendix C. The OUS General Conditions and any Supplemental General Conditions will apply to the work of all subcontractors and to the work of the CM/GC to the extent that they do not conflict with the CM/GC Contract.

It is the intention of the University to enter into a CM/GC Contract with the selected CM/GC that is substantially similar to the attached Sample Contract. The initial scope of the CM/GC Contract will be limited to Preconstruction Phase Services for all of the work described in Part I above. These services will include a review of each of the schematic design, design development, and construction documents, incorporating constructability reviews, value engineering, and estimating, as described in Part IV below. The CM/GC will submit a final construction cost estimate at the end of each phase for review and approval by the University and will work with the University and the Architect to reconcile any discrepancies. The reconciled estimate will constitute a price acceptable to the CM/GC as a GMP for the Work.

Acceptance or rejection of the final construction documents phase construction cost estimate will constitute completion of Preconstruction Phase Services. If Construction Phase Services are added to the CM/GC Contract through authorization of Early Work or acceptance of a GMP, an amendment to the GM/GC Contract will be executed. If an amendment is executed, a 100% payment bond and a 100% performance bond for the completion of the Work under an Early Work Amendment, or GMP Amendment, as applicable will be required. See Appendices F and G for sample bond forms.

If the University chooses not to continue the CM/GC Contract beyond the completion of Preconstruction Phase Services, the CM/GC's compensation will be limited to the Preconstruction Phase Services maximum not-to-exceed fee stated in the CM/GC Contract.

The CM/GC and all subcontractors shall comply with ORS 279C.800 through 279C.870. The Bureau of Labor and Industries (BOLI) Prevailing Wage Rates that will apply to the Contract shall be those in effect at the time the first Early Work Amendment is executed, or if there is no Early Work Amendment, then those prevailing wage rates in effect at the time the GMP Amendment is executed. Once established, the prevailing wage rates will then be in effect for the remainder of the CM/GC Contract. The prevailing wage rates that will apply will be those set forth in the then current version of the following BOLI booklet, together with any amendments to that booklet: **“PREVAILING WAGE RATES for Public Works Contracts in Oregon.”**

See Article 3.2.5 of the sample CM/GC Contract for further information about wage rate compliance, and the OUS General Conditions, Sections C.1 and C.2 regarding wage rate compliance and payroll certification, and Section G.2.3 regarding requirements for a public works bond.

IV. SCOPE OF PRECONSTRUCTION PHASE SERVICES

Preconstruction Phase Services will be provided under the terms contained in the CM/GC Contract, and paid for on a cost-reimbursement basis with an established maximum not-to-exceed limit. It is anticipated that the specific scope of Preconstruction Phase Services will be negotiated prior to signing the CM/GC Contract, based on the Proposer's input as well as the University's requirements. The selected CM/GC shall perform the following Preconstruction Phase Services:

1. Refer to Appendix A (Oregon University System CM/GC Contract), Article 3.1 for the full scope of Preconstruction Services required under this contract.

V. SCOPE OF CONSTRUCTION PHASE SERVICES

If the CM/GC Contract is amended to include Construction Phase Services, those services will generally be provided under the terms of the CM/GC Contract (Appendix A), OUS General Conditions (Appendix B) and Supplemental General Conditions (Appendix C).

The University will require the successful CM/GC to make subcontracting efforts on behalf of minority-owned, women-owned, and emerging small businesses in compliance with OAR 580-061-0030 and -0035. Similarly, the University encourages the involvement of minority-owned and women-owned businesses.

VI. SELECTION PROCEDURE AND TIMETABLE

Under this RFP, the selection procedure is intended to evaluate the capabilities of interested CM/GC firms to provide services to the University for this Project. Proposals will be evaluated by the selection committee in accordance with the criteria listed in this RFP. The CM/GC will be selected based on the overall merit of its proposal, using the criteria described in Section VIII and the information obtained from references, interviews (if any), and any other reliable source.

Timetable for the RFP process:

March 17, 2014	RFP Advertisement
March 20, 2014 3:00 PM	Pre-Proposal conference Meet on the south side of Onyx Bridge in the Onyx Green where the meeting will begin. From there you will be guided down to the Science Library for a tour.
April 3, 2014 2:00 PM	Proposal submittal deadline
April 10, 2014	Proposal Review Complete
April 11, 2014	Notification of Short List Interviewees
April 24, 2014	Interview of finalists
April 25, 2014	CM/GC selection/notification

VII. SUBMITTAL AND INTERVIEW INFORMATION

If the selection committee elects to interview finalists, those interviews are planned to be held on April 24, 2014 at the University of Oregon. All finalists will be notified no later than April 17, 2014 of the exact times and places of their interviews.

The format of the interview will be left up to the proposing firm; however, you will be supplied with a list of topics that must be incorporated into your presentation and questions by the selection committee should be anticipated. Interviews will not typically exceed one hour. Members of the Proposer's proposed on-site project management team must be present at the interview. Each Proposer must notify Owner no less than two days prior to its interview of any audio/visual or presentation support materials that may be required.

Seven (7) printed copies and one (1) electronic copy of the Proposal must be received by the University of Oregon Department of Campus Planning, Design & Construction by 2pm, April 3, 2014.

If submitted by mail, send to:

Department of Campus Planning, Design & Construction
1276 University of Oregon
Eugene, OR 97403-1276

If delivered by messenger or other delivery service:

Department of Campus Planning, Design & Construction
University of Oregon
1295 Franklin Boulevard
Eugene, OR 97403

No responses received after the proposal submittal deadline will be considered.

ALL QUESTIONS AND CONTACTS WITH THE UNIVERSITY REGARDING THIS RFP SHOULD BE ADDRESSED VIA E-MAIL TO:

Fred Tepfer, Project Planning Manager
Department of Campus Planning, Design & Construction
1276 University of Oregon
Eugene OR 97403-1276
E-mail ftepfer@uoregon.edu

VIII. INSTRUCTIONS TO PROPOSERS AND CRITERIA

A. Proposals must:

1. Follow the format outlined below and have proposal signed by an officer or principal with the authority to contractually bind the firm.
2. The document must contain a name, phone number and E-mail address for a contact person at the proposing company that can address issues with the proposal, needs to receive scoring feedback on the proposals and can be contacted under the circumstance that your firm is chosen to interview. This information may be included in the content of the cover letter.
3. Be contained in a document not to exceed fourteen (14) single-sided or seven (7) double sided pages including whatever pictures, charts, graphs, tables, and text the firm deems appropriate to be part of the review of the firm's qualifications. A separate transmittal letter, front and back covers, Table of Contents, and blank section/numerical dividers will not be counted in the page limit. Resumés of key individuals proposed to be involved in this Project are also exempted from this limit as long as they do not contain information required as part of the scoring criteria for this RFP. Page size is limited to 8-1/2 x 11 inches, with basic text information no smaller than 11-point type. The Proposer must follow the format defined below. The Proposer may however combine sections together on a single page if desired to provide for a more efficient use of the page limitation. The combined sections need to be clearly defined so the reviewers can easily find the information.
4. The scoring breakdown for the proposals is as follows:

Item 1 - Company History & Performance Indicators:	10 Points
Item 2 - Project Staffing:	20 Points
Item 3 - Preconstruction Phase:	20 Points (Contains sub-section scoring)
Item 4 - Construction Phase & GC Staffing Fee:	10 Points
Item 5 - Project Insight:	25 Points
Item 6 - MWESB Participation:	15 Points

Item 7 - CM/GC Fee Percentage:	15 Points
Item 8 - BIM:	10 Points
Item 9 - References:	Non scored section
Total Available:	125 Points

Scores will be based upon the quality of the information provided in response to Section VIII, B. below.

- B. The following questions constitute the criteria for the selection committee to evaluate Proposals, as specified in Section IX, below. **Please respond to each question using this format.**

1. Company History & Performance Indicators (Maximum 10 points)

Describe proposing company's history, including;

- a) CCB License Number (Required)
- b) Ownership structure of the company.
- c) Year the Company was formed.
- d) The region served by the Company.
- e) Total bonding capacity of the Company.
- f) Current available bonding capacity.
- g) Annual dollar value of projects proposing company has constructed for each of the last 5 years. Break out each year's work value into the three following categories; CM/GC format; Design/Build format; and General Contractor format.

Provide the following performance indicators;

- h) Current Experience Modification Rate.
- i) Insurance Rates that will be assessed for this Project. (Stated in cost per \$1,000 of contract value based upon an \$11 million or greater GMP.)
 - General Liability used as a comparator; per General Conditions G.3.4.1 this is part of the CM/GC fee. (Stated in cost per \$1,000 of contract value based upon an \$11 million or greater GMP.)
 - Builders Risk (Stated in cost per \$1,000 of contract value based upon an \$11 million or greater GMP for a 14 month period.)
 - Worker's Compensation rate for management staff. (Stated as a percentage of the labor rate.)

- j) Bonding Rate that will be assessed for this Project. (Stated in cost per \$1,000 of contract value based upon an \$11 million or greater GMP.)

2. *Project Staffing - Personnel and Experience (Maximum 20 points for this section.)*

Provide the following Staffing information;

- a) Provide a list of names and roles of key personnel that Proposer will commit to the Preconstruction and Construction Phases of this Project.
- b) Demonstrate why Proposer thinks they are the most qualified personnel for this Project.
- c) Provide a list of projects with similar characteristics to this Project that were staffed by the individuals listed above and describe the roles that the above those individuals played in the Preconstruction and Construction Phases of this work.
- d) Describe why this staffing proposal represents an appropriately sized and skilled staff for the delivery of this Project.

3. *Preconstruction Phase (Maximum 20 points for this section)*

Preconstruction Methodology (Maximum of 10 points for this sub-section.);

The University is bringing the CM/GC on board very early in design process in order to incorporate your professional contracting knowledge and expertise into the design and decision making processes throughout this Project. Provide the three most important roles that your firm will have in each design phase listed below. Provide an example of how your leadership in each of these roles will provide a value added service on **this** Project.

- a) Schematic Design (Example format that should be incorporated into each of the 3 design phases listed)
 - *Role 1 with Example.*
 - *Role 2 with Example*
 - *Role 3 with Example*
- b) Design Development
- c) Construction Documents

Preconstruction Fee (Maximum of 10 points for this sub-section.);

Submit a reimbursable maximum not to exceed Preconstruction Fee for this Project. This fee must reflect the activities required in Section IV of this RFP. This fee will be paid on a cost reimbursement basis and must be submitted as a maximum not to exceed number. At the point in which the initial contract is executed the duration of the Preconstruction Phase Services will be identified and the fees will be calculated based upon that duration. If a modification in the duration of the Preconstruction Phase occurs the Preconstruction Fee will be modified by a proportional amount based upon the proposed Preconstruction Fee. It is assumed that the design phase of the Project will last approximately 14 months from the date the CM/GC contract will be executed.

Preconstruction Scoring Methodology;

The Pre-Construction fee shall be scored based upon a deviation from the median cost proposed by the field of proposers.

Philosophy: The Project requires your firm to perform a given required amount of work as described in the Sample Contract, for the duration of time described in the RFP. It is our philosophy that the Pre-Construction fee should be an accurate reflection of the effort required to perform those services. This scoring methodology will reward the firm that hits the sweet spot in the middle of the group of responsive proposers.

Example Outcome with 5 Proposers;

Proposed Costs for Pre-Construction Services: \$45,000; \$50,000; \$60,000; \$62,000; \$77,000.

Median Cost: \$60,000

Point Distribution: 10 point total available

\$45,000 - 7.6 points
\$50,000 - 8.4 points
\$60,000 - 10 points
\$62,000 - 9.6 points
\$77,000 - 7.2 points

4. Construction Phase General Conditions Staffing Fee (Maximum 10 points for this section.)

Submit a monthly cost reimbursable maximum not to exceed fee for the portion of the Costs of General Conditions Work associated with staffing the site during the Construction Phase of this Project. This fee must cover line items 1, 3-5, 9, 11- 13 of the Direct Costs/General Conditions Work Costs Matrix attached as Appendix D. Due to variability in the project funding& MWESB participation approach, the remaining line items associated with staffing in Appendix D will be negotiated during the development of an Early Work Amendment or GMP Amendment. This fee must reflect the activities required in section V of this RFP, the General Conditions attached as Appendix B, the Supplemental General Conditions attached as Appendix C. This fee shall be submitted as a MONTHLY maximum not-to-exceed fee. At the time an Early Work Amendment or GMP Amendment is executed, this General Conditions Work fee will be multiplied by the number of months anticipated for the completion of the work in the Early Work Amendment or GMP Amendment, as applicable, and it will be included as a portion of the General Conditions Work cost identified in that Amendment.

General Conditions Staffing Scoring Methodology;

The General Conditions fee shall be scored based upon a deviation from the median cost proposed by the field of proposers.

Philosophy: The Project requires your firm to perform a given required amount of work as described in the Sample Contract, for the monthly time duration described in the RFP. It is our philosophy that the General Conditions fee should be an accurate reflection of the effort required to perform those services. This scoring methodology will reward the firm that hits the sweet spot in the middle of the group of responsive proposers.

Example Outcome with 5 Proposers;

Proposed Costs for Pre-Construction Services: \$35,000; \$37,000;
\$40,000; \$41,000; \$72,000.

Median Cost: \$40,000

Point Distribution: 10 point total available

\$55,000 – 8.8 points

\$37,000 – 9.3 points

\$40,000 – 10 points

\$41,000 – 9.8 points

\$72,000 – 2 points

5. *Project Insight & Experience (Maximum 25 points.)*

The constrained construction site of the Science Library and Onyx Green will be a challenge and major element of the Project scope. Access to the Project site is restrictive, the existing plaza structure is limited in load capacity, adjacent buildings must remain operational throughout construction and a major circulation path through Onyx Green will be interrupted.

- A.) Provide an example(s) of a construction project your firm completed successfully with a similar constrained site. Describe specific measures taken to mitigate such challenges.
- B.) Provide an example(s) of a project with similar challenges where your firm successfully contributed to the design towards a better product. Describe specific contributions.

6. *Minority, Women Owned and Emerging Small Business (MWESB) Participation Strategy (Maximum 15 points.)*

It is the expectation of the Owner, that the CM/GC will develop a respectful, effective and thoughtful approach to the recruitment & participation of MWESB contractors to perform work on this Project as well as providing timely feedback to those that are not awarded work.

- a) What about your business practices and approach to sub-contracting will position your firm to outperform others in the successful recruitment, participation and post-bid feedback associated with MWESB contractors on this Project.
- b) Describe your process of developing bid packages. How does this approach promote the ability of MWESB contractors to successfully bid on work?
- c) Provide two examples of projects that have had very successful MWESB participation. Provide statistics associated with the total construction value vs. the value contracted with MWESB subcontractors and the total number of subcontractors vs. the number of MWESB subcontractors. Breakdown the statistics between MBE, WBE and ESB

companies on the projects. Describe how you were successful in achieving this level of participation.

- d) Describe the approach you will take on the Allan Price Science Commons and Research Library Remodel and Expansion Project to ensure a respectful, effective and thoughtful process is integrated into the construction of the Project?

7. CM/GC Fee (Maximum 15 points.)

Provide your firm's CM/GC Fee as a percentage of the Estimated Cost of the Work for this Project. This fee, to be determined based on this percentage, must cover, at a minimum, the Construction Management elements and Costs Excluded from Cost of the Work, as specified in the CM/GC Contract and specifically identified in the *Owner's Direct Costs/ GC Work Costs Matrix* at Appendix D ("Matrix"). This matrix is not an all-inclusive representation of the costs that could be incurred on the Project but is representative of the costs and will create a framework for categorizing costs. Items identified in the Matrix as applicable to the CM/GC Fee will not be reimbursed as General Conditions Work ("GC Work"). GC Work means (i) that portion of the Work required to support construction operations that is not included within overhead or general expense but is called out as GC Work as identified in the Matrix, and (ii) any other specific categories of Work approved in writing by the University's Authorized Representative as forming a part of the GC Work. See the attached Sample CM/GC Contract for details.

The Matrix is included in the RFP as guidance to Proposers in developing the CM/GC Fee percentage (cost proposal) and understanding which items will be considered a direct cost of the work or General Conditions Work costs and which items are not cost reimbursable, but which must be recovered through the CM/GC Fee. After Contract award and prior to construction work being performed under an Early Work Amendment or the GMP Amendment, the maximum not-to-exceed amount for General Conditions Work items and for direct construction costs will be established and set forth in the applicable Amendment.

CM/GC Fee Scoring Methodology;

The firm with the most competitive fee will be awarded the maximum number of points available. Other proposers will receive a score that is

calculated by dividing the most competitive fee by their fee and multiplying the result by the total score available.

Scoring Example;

Most Competitive Fee (2.25% for example) will score 15 points. Other fees proposed and resulting scores:

<u>Proposed Fee:</u>	<u>Score:</u>
2.45%	13.8 points
2.50%	13.5 points
2.6%	13 points
3.0%	11.3 points

8. BIM (Maximum 10 points):

The University has participated in many projects where “BIM” has been utilized in the design and construction processes, with various levels of success. Our intention is to begin the “BIM” process and clash detection prior to the start of construction. The COBie (Construction Operations Building Information Exchange) approach will be utilized on this project to improve the design, construction and eventual operations of our building.

Describe how your firm would approach BIM on this project by answering the following questions.

- a) Does your organization have a specific definition/goal of BIM? If so, please provide details.
- b) How is your firm organized to support your BIM definition? Specifically, what jobs, functions and resources are typically utilized in a BIM implementation plan?
- c) Advise the means and methods you would suggest utilizing to foster and develop a collaborative team environment among the project stakeholders?
- d) Is there a need for external trade involvement during pre-construction? If so, please describe.
- e) Please advise your suggested timing, design software and data exchange procedures to be used during implementation. Be sure to include suggested LOD (level of detail) for information exchanges.
- f) Please provide (three) specific examples of lessons learned on previous BIM projects.

9. *References (Non scored section.)*

Provide the names, addresses, and phone numbers of three "Owners," three "Architects", three "Subcontractors," and three "Certified MWESB Subcontractors" to be used as references for this Project. These references should be from projects that have some type of relevance to the Project identified in this solicitation, particularly to CM/GC projects. Include references for projects that represent the work performed by the personnel (see item 2 above) being proposed for this Project. Please verify that the individuals identified as references had direct involvement with the referenced projects, are available, and that the phone numbers are current. The University may check with these references and/or may check with other references associated with past work of your firm. (This section will not be scored separately, but the information obtained from reference checks will be used in and may affect the evaluation of the scored criteria. References will be contacted after the initial ranking of Proposals, in preparation for interviewing Proposers.)

IX. PROPOSAL EVALUATION

If the selection committee chooses to interview finalists, at least the two top ranked firms will be interviewed. Scores from the Proposals will not be carried through to the interview process. Interviews will not be numerically scored. The interviews will receive ordinal ranks. The selection committee will consist of members that are familiar with the design and construction process, as well as those who are not.

The selection committee will evaluate each Proposal on its overall merit, based on responses to the questions identified in Article VIII. CM/GC selection will be based upon information gained during the interview, if any, and information gained from clients and other sources.

X. REQUESTS FOR CHANGE AND PROTESTS

A. Requests for Change or Protests:

A Proposer may submit a written request for a change or protest of particular solicitation provisions, specifications or conditions (including comments on any specifications that a firm believes limits competition) to Fred Tepfer at the above e-mail address no later than 4:00 PM on March 25, 2014. A request for change or protest must include the reasons for the request or protest and any proposed changes to the solicitation provisions

and specifications and conditions. Any issue that could have been raised by filing a written request for a change or protest of particular solicitation provisions will not be grounds for a selection protest.

Any change or modification to the specifications or the procurement process will be in the form of an addendum to the RFP. No information received in any manner different than as described herein shall serve to change the RFP in any way, regardless of the source of the information.

B. Selection Protests

Any Proposer who claims to have been adversely affected or aggrieved by the selection of a competing Proposer will have five calendar days after notification of award to submit a written protest of the selection to the Associate Vice Chancellor for Administration, 1600 Millrace Drive, Suite 307, University of Oregon, Eugene, Oregon 97403, as provided by OAR 580-061-0145. This written notification must be received by 5:00 P.M. PST within the identified five-calendar-day period. Selection protests will be answered directly with the protesting proposer. Selection protests must comply with and will be addressed pursuant to OAR 580-061-0145.

XI. PROPRIETARY INFORMATION

The University will retain this RFP and one copy of each original response received, together with copies of all documents pertaining to the award of a contract. These documents will be made a part of a file or record, which will be open to public inspection after responder selection and award, is announced. If a response contains any information that is considered a trade secret under ORS 192.501(2), mark each sheet of such information with the following legend: **"This data constitutes a trade secret under ORS 192.501(2), and must not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."**

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only "unless the public interest requires disclosure in the particular instance". Therefore, non-disclosure of documents or any portion of a document submitted as part of a response may depend upon official or judicial determination made pursuant to the Public Records Law.

In order to facilitate public inspection of the non-confidential portion of the response, material designated as confidential must accompany the response, but be readily separable from it. Prices, makes, model or

catalog numbers of items offered, scheduled delivery dates, and terms of payment will be publicly available regardless of any designation to the contrary. Any response marked as a trade secret in its entirety will be considered non-responsive and will be rejected.

By providing a submittal to this RFP, the proposer grants the University of Oregon a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license for the rights to copy, distribute, display, prepare derivative works of and transmit the response for the purpose of conducting this procurement and to fulfill obligations under Oregon Public Records Laws.

XII. INSURANCE

The successful Proposer shall provide the insurance coverage as required by the CM/GC Contract and OUS General Conditions.

XIII. EQUAL EMPLOYMENT COMPLIANCE; SEXUAL HARASSMENT

By submitting a proposal, the applicant certifies conformance to the applicable federal, state and local laws, acts, executive orders, statutes, administrative rules, regulations, ordinances and related court rulings concerning Affirmative Action toward Equal Employment Opportunities. All information and reports required by the Federal, Oregon State or local Governments having responsibility for the enforcement of the foregoing shall be supplied to UO upon request for purposes of investigation to ascertain compliance with the foregoing.

UO is committed to increasing opportunities for Emerging Small Businesses and Minority and Women Owned Businesses, and UO strongly encourages its contractors to use these businesses in providing services and materials for UO contracts and projects.

Pursuant to OAR 580-061-0030, by submitting a proposal, the proposer certifies that the proposer has not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts.

Pursuant to OAR 580-061-0040, proposers are hereby notified that the Oregon State Board of Higher Education has adopted policies applicable to consultants and contractors that prohibit sexual harassment and that proposers and their employees and agents, and subcontractors and their

employees and agents, are required to adhere to UO's policies prohibiting sexual harassment in their interactions with members of UO's community.

XIV. FINANCIAL RESPONSIBILITY

UO reserves the right to investigate and evaluate, at any time prior to award and execution of the contract, a submitting firm's financial responsibility to perform the anticipated contract. Submission of a Proposal shall constitute approval for UO to obtain any credit report information UO deems necessary to conduct the evaluation. UO shall notify the firms, in writing, of any other documentation required, which may include, but need not be limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio; including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity and credit information, etc. Failure to promptly provide this information shall result in rejection of the Proposal.

UO may postpone the award or execution of a contract in order to complete its investigation and evaluation. Failure of a Proposer to demonstrate financial responsibility shall render it non-responsible and shall constitute grounds for Proposal rejection.

XV. TAX CERTIFICATION

By submission of our qualifications the signatory certifies under penalty of perjury that the signatory is authorized to act on behalf of the Proposer and that the Proposer is, to the best of the signatory'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 ORS 403.200 to 403.250 and ORS Chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

XII. ENCLOSURES

The following appendices are included in this RFP:

- Appendix A: Oregon University System CM/GC Contract
- Appendix B: Oregon University System General Conditions for Public Improvement Contracts
- Appendix C: Supplemental General Conditions
- Appendix D: Construction Costs/General Conditions Matrix

Request for Proposals

Science Commons Project at the University of Oregon; Project #50-14-14

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Appendix E: Reserved
Appendix F: Sample Performance Bond
Appendix G: Sample Payment Bond

Following Appendix Information Available as Reference Only:
Please Refer to:

http://darkwing.uoregon.edu/~uplan/projects/Project%20Sums%20for%20Web/PriceScienceCommons/PriceSciCommons_proj.htm

Appendix H: May 2011 Vision Statement
Appendix I: June 2013 Conceptual Design Study
Appendix J: November 2013 Draft Project Description

END OF RFP

APPENDIX A

OREGON UNIVERSITY SYSTEM CM/GC CONTRACT

THE CONTRACT IS BETWEEN:

OWNER: The State of Oregon, acting by and through the Oregon State Board of Higher Education (OSBHE) on behalf of the University of Oregon

And

**CONSTRUCTION MANAGER/
GENERAL CONTRACTOR**
(Referred to as Contractor in the OUS General Conditions and herein referred to as "the CM/GC".):

(Company/Firm Name)
(Company/Firm Address)

The Project is: Allan Price Science Commons and Research Library Remodel and Expansion
UO Project #50-14-14

The Architect is: Opsis Architecture LLP
920 NW 17th Ave
Portland, OR 97209

The Owner's Authorized Representative is: Denise Stewart, 541-346-2280
dstewart@uoregon.edu

The Owner's Authorized MEPF Representative is: Jeff Madsen, 541-346-2256
jmadsen@uoregon.edu

The Owner's Target GMP Range: \$11 to \$13 Million

Date

Oregon University System

CM/GC Contract

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The Owner and CM/GC agree as set forth below:

ARTICLE 1
DEFINITIONS

Except as expressly defined or modified below or elsewhere in this agreement ("CM/GC Contract"), all capitalized terms shall have the meanings set forth in Section A of the Oregon University System General Conditions for Public Improvement Contracts, July 1, 2012 attached as Exhibit A hereto (the "OUS General Conditions"). The terms below are expressly defined as follows:

- 1.1** Affiliate: Affiliate shall mean any subsidiary of CM/GC, and any other entity in which CM/GC has a financial interest or which has a financial interest in CM/GC (including without limitation parent companies, related businesses under the same holding company, or any other business controlled by, under common control with, or which controls CM/GC).
- 1.2** Allowances: Allowances shall mean the allowance amounts shown in the GMP Supporting Documents, together with such further allowances as may be developed by the parties as the Project progresses.
- 1.3** Amendment: Amendment shall mean a written modification of the Contract (including without limitation any agreed change to the GMP), identified as an Amendment, and executed by CM/GC, the Owner's Authorized Representative, and, where required, approved in writing on behalf of Owner by the Oregon Department of Justice ("DOJ").
- 1.4** Business Days: Business Days shall mean every day except Saturday, Sunday, and legal holidays recognized for employees of the State of Oregon.
- 1.5** Change Order: Change Order shall mean a written modification of the Contract under Section D.1 of the OUS General Conditions (including without limitation any agreed change to GMP), identified as a Change Order and executed by the Owner's Authorized Representative, CM/GC, where applicable, provided, however, that a Change Order shall not be effective to modify any price or Contract value stated in the Contract, including any Early Work Price, the Contract Sum or the GMP, unless and until the Change Order is included in an executed Amendment.
- 1.6** CM/GC Field Work: CM/GC Field Work shall mean customary layout, clean up, supervision, and portions of the Work of a minor nature and not feasibly part of the subcontracted work due to: exclusions by the Subcontractor not resolved through the process described in Article 11.3.3, undeveloped design owing to deviations in Work performed or materials delivered by Subcontractors or suppliers that do not represent defective or nonconforming work, a breach or failure to perform by the Subcontractor or supplier, complexity of coordination of the Work, and other similar

reasons typically providing cause for “pick-up” or GC Work under industry standards; provided, however, that (i) the CM/GC has reasonably determined that doing such portion of the Work itself is in the best interests of Owner, (ii) such Work is identified as CM/GC Field Work in monthly billings and (iii) CM/GC receives prior approval of Owner’s Authorized Representative as to the scope of such CM/GC Field Work.

- 1.7** CM Services: CM Services shall have the meaning given in Article 3.3 below.
- 1.8** Construction Documents: Construction Documents shall have the meaning given in the State of Oregon Professional Services Agreement with the Architect for this Project.
- 1.9** Construction Phase: The Construction Phase shall mean the period commencing on the Owner's execution of a GMP Amendment or Early Work Amendment, together with the earlier of (i) issuance by Owner of a Notice to Proceed with any on-site construction or (ii) execution of a subcontract or issuance of a purchase order for materials or equipment required for the Work.
- 1.10** Construction Phase Services: Construction Phase Services shall mean all of the Work other than the Preconstruction Phase Services.
- 1.11** Contract Documents: Contract Documents shall have the meaning given in Section A of the OUS General Conditions, as supplemented by Article 2.1 below.
- 1.12** Costs for General Conditions Work: Costs for General Conditions Work shall mean those sums paid on a cost reimbursable maximum not-to-exceed price basis as described in Article 8.8 and as identified in Exhibit C, Direct Costs/General Conditions Work Costs Matrix.
- 1.13** Design Development Documents: Design Development Documents shall have the meaning given in the State of Oregon Professional Services Agreement with the Architect for this Project.
- 1.14** Early Work: Early Work shall mean Construction Phase Services authorized by Amendment that the parties agree should be performed in advance of establishment of the GMP. Permissible Early Work shall be limited to: early procurement of materials and supplies; early release of bid or proposal packages for site development and related activities; and any other advance work related to critical components of the Project for which performance prior to establishment of the GMP will materially affect the critical path schedule of the Project.
- 1.15** Early Work Amendment: Early Work Amendment shall mean an Amendment to this CM/GC Contract executed by and between the parties to authorize Early Work.
- 1.16** General Conditions Work: General Conditions Work (“GC Work”) shall mean (i) that portion of the Work required to support construction operations that is not

included within overhead or general expense but is called out as GC Work in Exhibit C, and (ii) any other specific categories of Work approved in writing by the Owner's Authorized Representative as forming a part of the GC Work.

- 1.17** Guaranteed Maximum Price (GMP): GMP shall mean the Guaranteed Maximum Price of the Contract, as stated in dollars within the GMP Amendment, as determined in accordance with Article 6, and as it may be adjusted from time to time pursuant to the provisions of this CM/GC Contract.
- 1.18** GMP Amendment: GMP Amendment shall mean an Amendment to the Contract, issued in the form of Exhibit B and executed by and between the parties, to establish the GMP and identify the GMP Supporting Documents for Construction Phase Services.
- 1.19** GMP Supporting Documents: GMP Supporting Documents shall mean the documents referenced in the GMP Amendment as the basis for establishing the GMP. The GMP Supporting Documents shall expressly identify the Plans and Specifications, assumptions, qualifications, exclusions, conditions, allowances, unit prices, and alternates that form the basis for the GMP.
- 1.20** Preconstruction Phase: The Preconstruction Phase shall mean the period commencing on the date of this CM/GC Contract and ending upon commencement of the Construction Phase; provided that if the Owner and CM/GC agree, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases shall proceed concurrently, subject to the terms and conditions of the Contract Documents.
- 1.21** Preconstruction Phase Services: Preconstruction Phase Services shall mean all services described in Article 3.1, and any similar services described in the Request for Proposals, including such similar services as are described in the CM/GC's RFP proposal to the extent they are accepted by Owner, but excluding any Early Work. Early Work shall be considered part of Construction Phase Services.
- 1.22** Schematic Design Documents: Schematic Design Documents shall have the meaning given in the State of Oregon Professional Services Agreement with the Architect for this Project.
- 1.23** Scope Change: Scope Change shall mean only (i) changed site conditions not reasonably inferable from information available to CM/GC at the time of execution of the GMP Amendment, and (ii) significant Work modifications (including additions, substitutions, and deletions), application of Allowances, and selection of alternates, all as approved by the Owner under the Contract beyond that identified or inferable from the GMP Supporting Documents (but in the case of Allowance items, the GMP will increase only if the cost to Owner of the Allowance items exceeds the total amount of the Allowances).

ARTICLE 2
CONTRACT DOCUMENTS

- 2.1** Contract Documents: For valuable consideration as stated below, Owner and the CM/GC agree to the terms of the Contract that are set forth in the Contract Documents. For purposes of this Project, the Contract Document identified as "OUS Public Improvement Agreement Contract in the OUS General Conditions shall mean this CM/GC Contract. The CM/GC Contract shall include all exhibits attached hereto, which by this reference are incorporated herein.
- 2.2** Effective Date: The Contract shall become effective on the first date on which every party has signed this CM/GC Contract and Owner has received all necessary approvals.
- 2.3** The Contract; Order of Precedence: This CM/GC Contract, including all exhibits identified herein and by this reference incorporated in and made a part of this CM/GC Contract, together with the other Contract Documents, form the entire agreement between the parties. Except as expressly otherwise provided herein, the order of precedence of the Contract Documents is established in Section A.3 of the OUS General Conditions, if there are inconsistent or conflicting terms among the Contract Documents.

ARTICLE 3
WORK OF THE CONTRACT

- 3.1** Preconstruction Phase Services: The CM/GC agrees to provide all of the Preconstruction Phase Services described below on an ongoing basis in support of, and in conformance with, the time frames described in the Request for Proposals. Commencement of the Construction Phase shall not excuse CM/GC from completion of the Preconstruction Phase Services, if such services have not been fully performed at commencement of the Construction Phase. Preconstruction Phase Services shall include CM Services performed during the Preconstruction Phase.
- 3.1.1** The CM/GC shall provide a preliminary evaluation of the Owner's program and budget requirements, each in terms of the other.
- 3.1.2** The CM/GC shall work within the University Campus Plan to incorporate processes, patterns and frameworks established for development and the University Sustainability Plan to incorporate defined strategies during the construction process. Some of these items include: recycling of demolished or waste materials, storm water runoff containment, tree protection, energy conservation, and life cycle costs.
- 3.1.3** In addition to other meetings described in this Article, participating in weekly conference calls with the Project group that will vary from approximately 1-2 hours;

attending design meetings that will be scheduled for approximately 1 full day every three weeks; attending periodic meetings with the City of Eugene, or other jurisdictional entities as required by the Project (should not exceed more than 3 hours of meeting time monthly, on average); participating in various meetings supportive of design effort with additional consultants and Owner as necessary to successfully develop Project requirements (should not exceed more than 12 hours of meeting time monthly, on average).

3.1.4 The CM/GC shall provide the following services relating to design and preconstruction tasks:

- (a) The CM/GC shall consult with, advise, assist, and provide recommendations to the Owner and the design team on all aspects of the planning and design of the Work.
- (b) The CM/GC shall consult with the Owner and Architect and Owner's Authorized Representative regarding site use and improvements, and the selection of materials, building systems and equipment.
- (c) The CM/GC shall provide MEP Systems verification and feedback as part of the development of the Project. CM/GC feedback and/or review comments shall be tracked and distributed to Owner and Architect at each review phase for Owner and Architect response. The CM/GC will be required to engage associated expertise on the preconstruction team. This expertise shall engage in issues such as constructability, coordination, system selection verification and cost issues associated with the design and installation of MEP systems as part of the Project. The commitment of this expertise is only to be engaged during the Preconstruction Phase of the Project. This expertise can be in the form of trade contractors that are brought onto the CM/GC's Preconstruction team or they can be trade specialists within the CM/GC's organization.
- (d) The CM/GC shall provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets and possible economies. CM/GC recommendations and/or review comments shall be tracked and distributed to Owner and Architect at each review phase for Owner and Architect response.
- (e) The CM/GC shall review in-progress design documents, including the documents generally described in the industry as Schematic Development Documents, Design Development Documents, and Construction Documents and provide input and advice on construction feasibility, alternative materials, availability and budget feasibility. CM/GC shall review these completed Schematic Development Documents, Design Development

Documents, and Construction Documents and timely suggest modifications to improve completeness and clarity. CM/GC suggestions and/or review comments shall be tracked and distributed to Owner and Architect at each review phase for Owner and Architect response.

- (f) The CM/GC shall provide, through in-house expertise or by trade specialists, BIM services and clash detection during pre-construction. BIM services provided during this preconstruction phase shall be in support of the design team and building design process, and as a pre-cursor to development of final shop drawings. As part of these services, the CM/GC shall provide input in the development of a BIM Execution Plan (BEP) with members of the design team and Owner. The BIM model shall be developed and updated to a level of detail (LOD) consistent with the development of the Revit model supplied by the Architect and as detailed in the BEP. The BIM model will be updated throughout the design process and be used to provide input for constructability, scheduling and estimating, and in the coordination and conflict resolution process. The BIM model will be reviewed for compliance with the BEP and COBie standards at each applicable design phase by the Owner's Authorized MEPF Representative. The BIM model will utilize a version of Navisworks not older than 2013, shall be continually updated, comply with current COBie standards, and used as the basis for construction period activities. The approved Navisworks BIM model described above and all associated documentation reflecting the completed design will be delivered to the Owner at the conclusion of this phase.

3.1.5 The CM/GC shall provide the following services related to the Project schedule:

- (a) The CM/GC shall prepare, and periodically update, a preliminary Project schedule for the Architect's and Owner's Authorized Representative's review and the Owner's Authorized Representative's approval.
- (b) The CM/GC shall analyze construction sequencing in order to be cost effective, to create the least amount of disruption for students, faculty, and staff in adjacent buildings, and to allow adjacent facilities to remain in operation throughout the course of construction. In addition to preparing a construction schedule, this Project shall require a site staging and logistics plan that incorporates issues such as temporary fire access and egress routes from existing buildings.
- (c) The CM/GC shall coordinate and integrate the preliminary Project schedule with the services and activities of the Owner, Architect, and CM/GC. As design proceeds, CM/GC shall update the preliminary Project schedule to indicate proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, submittal of a GMP proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead time procurement, and Owner's occupancy requirements showing portions of the Project having occupancy priority, provided that the date(s) of Substantial Completion shall not be

modified without Owner's prior written approval. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the CM/GC shall make appropriate recommendations to the Owner's Authorized Representative and Architect

- (d) The CM/GC shall continuously monitor the Project schedule and recommend adjustments in the development of design documents for construction bid packages to ensure completion of the Project in the most expeditious manner possible.

3.1.6 The CM/GC shall make recommendations to Architect and Owner's Authorized Representative regarding the phased issuance of Plans and Specifications to facilitate phased construction of the Work, if such phased construction is appropriate for the Project, taking into consideration such factors as economics, time of performance, availability of labor and materials, and provisions for temporary facilities.

3.1.7 The CM/GC shall provide the following services relating to cost estimating:

- (a) CM/GC shall prepare a construction cost estimate at each of the following documentation milestones: 100% schematic design, 50% & 100% design development & 50% construction documents.
- (b) The CM/GC will reconcile estimates with an independent estimator hired by the Owner. If the CM/GC is required to develop additional estimates beyond the reconciliation and value engineering requirements, additional reimbursement will be negotiated with the Owner. The CM/GC will provide information to the University on the method of estimating that they incorporate into their process so it can be coordinated with the independent estimator prior to the start of estimating processes.
- (c) The CM/GC shall update and refine these estimates during subsequent phases in order to reflect the costs associated with changes to scope that are developed during design meetings.
- (d) If any estimate submitted to the Owner exceeds previously approved estimates or the Owner's budget, the CM/GC shall make appropriate cost saving recommendations to the Architect and Owner's Authorized Representative as well as actively participate in value engineering and scope modification work sessions at the end of schematic design and design development as well as provide a formal value-engineering studies anticipated to be held at 50% Design Development and 50% Construction Documents completion.
- (e) CM/GC shall notify the Owner and the design team immediately if any construction cost estimate appears to be exceeding the construction budget

- (f) Within each estimate the CM/GC shall itemize the CM/GC's Contingency to identify the amount of risk that the CM/GC would carry into the GMP at that stage of the Project due to the quality and completeness of the construction documents used to generate the estimate. This number shall be carried so that a GMP Amendment can be signed at any point during the Preconstruction Phase of the Project without a modification to the construction estimate.
- (g) The CM/GC otherwise shall work with the Architect and Owner to develop a GMP within the Target GMP Range and within Owner's schedule.

3.1.8 The CM/GC shall perform the following services relating to Subcontractors and suppliers:

- (a) Minority Owned, Women Owned and Emerging Small Business participation by subcontractors is an expectation of the Owner on this project. Documentation as required in Section E2.9 of the General Conditions shall be completed and turned into the Owner by the described timelines. Failure to submit this information will result in the Owner holding payment on any payment application that has been submitted at that time. The CM/GC will work with the Owner to develop an effective and comprehensive approach to the solicitation of MWESB subcontractors and suppliers.
- (b) The CM/GC shall seek to develop Subcontractor and supplier interest in the Project, consistent with applicable legal requirements, and shall furnish to the Owner's Authorized Representative and Architect for their information a list of possible Subcontractors and suppliers, including suppliers who may furnish materials or equipment fabricated to a special design, from whom competitive bids, quotes, or proposals (collectively, "Offers") will be requested for each principal portion of the Work. Submission of such list is for information and discussion purposes only and not for prequalification. The receipt of such list shall not require the Owner, Owner's Authorized Representative or Architect to investigate the qualifications of proposed Subcontractors and suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed Subcontractor, supplier, or method of procurement.
- (c) The CM/GC shall provide input to the Owner and the design team regarding current construction market bidding climate, status of key subcontract markets, and other local economic conditions. CM/GC shall determine the division of work to facilitate bidding and award of trade contracts, considering such factors as bidding climate, improving or accelerating construction completion, minimizing trade jurisdictional disputes, and related issues. CM/GC shall advise Owner on subcontracting opportunities for minority/women/ESB firms.

- (d) The CM/GC shall work with the University to develop bidding procedures and criteria to incorporate gifts-in-kind donation opportunities for Subcontractors during the bid process. These gifts-in-kind donations may include donations of materials, labor, services or combinations thereof to be incorporated into the Project as well as the incorporation of additional gifts of materials from secondary sources into developed bid packages for Subcontractors.
- (e) The CM/GC shall ensure Subcontractors supplying content to be incorporated into the BIM model comply with the LOD standards set in the BEP, and that associated data follows current COBie standards. Subcontractors should utilize vendor supplied Revit families with associated detail whenever available. The CM/GC is ultimately responsible for delivery of a fully coordinated BIM model to the Owner.

3.1.9 The CM/GC shall recommend to the Owner's Authorized Representative and Architect a schedule for procurement of long-lead time items which will constitute part of the Work as required to meet the Project schedule, which shall be procured by the CM/GC upon execution of either a GMP Amendment or Early Work Amendment covering such procurement, and approval of such schedule by the Owner's Authorized Representative. The CM/GC shall expedite the delivery of long-lead time items.

3.1.10 The CM/GC shall work with the Owner in identifying critical elements of the Work that may require special procurement processes, such as prequalification of Offerors or alternative contracting methods.

3.1.11 The CM/GC shall Work with the Owner and the design team to maximize compliance with the Oregon Model of Sustainable Development (<http://uplan.uoregon.edu/subjects/Sustainability/OMSD/OMSDHomepage.htm>), related LEED certification status and the established energy efficiency requirements in the Project.

3.1.12 The CM/GC shall work with the Owner and the design team to facilitate changes to the Project necessary to allow incorporation of works of art from the Project's 1% for Art program into the design and construction of the building. Owner's cost of the art objects is not included in the Cost of the Work or the GMP, but CM/GC's costs relating to facilitating changes to accommodate the handling and installation of the art are part of the Cost of the Work and are included in the GMP.

3.2 Construction Phase Services:

3.2.1 Minority Owned, Women Owned and Emerging Small Business participation by subcontractors is an expectation of the Owner on this project. Documentation as required in Section E2.9 of the General Conditions shall be completed and turned into the Owner by the described timelines. Failure to submit this information will

result in the Owner holding payment on any payment application that has been submitted at that time.

- 3.2.2** Upon execution of an Early Work Amendment or GMP Amendment, the CM/GC shall provide Construction Phase Services as provided in the Contract Documents, including without limitation providing and paying for all materials, tools, equipment, labor and professional and non-professional services, and performing all other acts and supplying all other things necessary to fully and properly perform and complete the Work, as required by the Contract Documents, to furnish to Owner a complete, fully functional Project, capable of being legally occupied and fully used for its intended purposes upon completion of the Contract (or, as to an Early Work Amendment, to furnish such Work as is described in the Early Work Amendment). Construction Phase Services shall include CM Services performed during the Construction Phase.
- 3.2.3** Notwithstanding any other references to Construction Phase Services in this CM/GC Contract, the Contract shall include Preconstruction Phase Services only unless (i) the parties execute a GMP Amendment or (ii) the parties execute an Early Work Amendment, defined below.
- 3.2.4** The parties may execute one or more Early Work Amendments identifying specific Construction Phase Services that must be performed in advance of establishment of the GMP, without exceeding a not-to-exceed budget, a not-to-exceed guaranteed maximum price, or a fixed price ("Early Work Price") to be stated in such Amendment, with such Amendment including all necessary State of Oregon approvals where required. If the Early Work Price is a not-to-exceed budget, then CM/GC shall be obligated to perform the Early Work only to the extent that the Cost of Work therefor, together with the CM/GC Fee, does not exceed the Early Work Price; however if CM/GC performs Early Work with a cost in excess of the Early Work Price the CM/GC shall pay such excess cost without reimbursement. If one or more Early Work Amendments are executed, the CM/GC shall diligently continue to work toward development of a GMP Amendment acceptable to Owner, which shall incorporate the Early Work Amendments. If Owner thereafter terminates the Contract prior to execution of a GMP Amendment, the provisions of Section J.5 of the OUS General Conditions shall apply.
- 3.2.5** Prior to commencement of the Construction Phase, and in any event not later than mutual execution of the GMP Amendment, CM/GC shall provide to Owner a full performance bond and a payment security bond as required by Section G of the OUS General Conditions in the amount of the GMP. If an Early Work Amendment is executed, CM/GC shall provide such bond in the amount of the Early Work Price under the Early Work Amendment. CM/GC shall provide to Owner additional or replacement bonds at the time of execution of any subsequent Early Work Amendment or GMP Amendment, in each case prior to execution of the Amendment and the supplying of any labor or materials for the prosecution of the Work covered by the Amendment, and in each case in a sufficient amount so that the total bonded

sum equals or exceeds the total Early Work Price or the GMP, as the case may be. In the event of a Scope Change that increases the GMP, CM/GC shall provide to Owner an additional or supplemental bond in the amount of such increase prior to performance of the additional Work.

- 3.2.6** As provided in Section C of the OUS General Conditions, CM/GC and all subcontractors, shall comply with ORS 279C.800 through 279C.870. The Oregon Bureau of Labor and Industries (BOLI) prevailing wage rates that will apply to the Contract shall be those in effect at the time the first Early Work Amendment is executed, or if there is no Early Work Amendment, then those prevailing wage rates in effect at the time the GMP Amendment is executed. Once established, the prevailing wage rates will then be in effect for the remainder of the CM/GC Contract. The prevailing wage rates that will apply will be those set forth in the then current version of the following BOLI booklet, together with any amendments to that booklet: "PREVAILING WAGE RATES for Public Works Contracts in Oregon". The Construction Phase Services will take place in Lane County, Oregon.
- 3.3 Construction Management (CM) Services:** Throughout the Preconstruction Phase and Construction Phase of the Project, the CM/GC shall provide CM Services, generally consisting of coordinating and managing the building process as an independent contractor, in cooperation with the Owner, Owner's Authorized Representative, Architect and other designated Project consultants (the "Construction Principals"). CM Services shall include, but are not limited to:
- 3.3.1** Providing all Preconstruction Phase Services described above;
- 3.3.2** Developing and delivering schedules, preparing construction estimates, performing constructability review, analyzing alternative designs, studying labor conditions, coordinating and communicating the activities of the Construction Principals throughout the Construction Phase to all Construction Principals;
- 3.3.3** Continuously monitoring the Project schedule and recommending adjustments to ensure completion of the Project in the most expeditious manner possible;
- 3.3.4** Working with the Owner, Owner's Authorized Representative, and the Architect to analyze the design, participate in decisions regarding construction materials, methods, systems, phasing, and costs, and suggest modifications to achieve the goals of providing the Owner with the highest quality Project within the budget, GMP and schedule;
- 3.3.5** Providing Value Engineering ("VE") and scope reduction services ongoing through the Project. CM/GC shall develop cost proposals, in the form of additions to or deductions from the GMP, including detailed documentation to support such adjustments and shall submit such proposals to Owner for its approval. CM/GC acknowledges that VE services are intended to improve the value received by Owner with respect to cost reduction or life cycle of the Project;

- 3.3.6** Holding and conducting weekly construction meetings (OAC) with the Owner and the Architect to coordinate, update and ensure progress of the Work;
- 3.3.7** Submitting monthly written report(s) to the Owner's Authorized Representative during construction phase. Each report shall include, but shall not be limited to, Project updates including (i) actual costs and progress for the reporting period as compared to the estimate of costs; (ii) explanations of significant variations; (iii) work completed; (iv) work in progress; (v) changes in the work; and (vi) other information as determined to be appropriate by the Owner. Oral or written updates shall be provided to the Owner as deemed appropriate by the CM/GC or as requested by the Owner;
- 3.3.8** Maintaining a daily log containing a record of weather, Subcontractors working on the site, number of workers, Work accomplished, problems encountered, safety violations and incidents of personal injury and property damage, and other similar relevant data as the Owner may reasonably require. The log shall be available to the Owner and Architect on request;
- 3.3.9** Developing and implementing a system of cost control for the Work acceptable to Owner's Authorized Representative, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The CM/GC shall identify variances between actual and estimated costs and report the variances to the Owner and Architect at regular intervals;
- 3.3.10** Cooperating with any and all consultants hired by Owner; Including but not limited to Geotechnical testing, Energy Systems Analyst consultant, Commissioning consultant, air & water testing & balancing consultant, hazardous materials consultant;
- 3.3.11** At Owner's request, cooperating and performing warranty and inspection Work for the Project through the expiration date of the applicable warranty period;
- 3.3.12** Assisting Owner with start-up of the Project. Such start-up may occur in phases due to phased occupancy;
- 3.3.13** Incorporating commissioning and inspection agents' activities into the Project schedule and coordinating Subcontractors required to participate in the commissioning and inspection process;
- 3.3.14** Performing all other obligations and providing all other services set forth in the Contract Documents; and performing all other acts and supplying all other things necessary to fully and properly perform and complete the Work as required by the Contract.
- 3.3.15** The CM/GC shall have a dedicated full time BIM coordinator either on staff or through contracted expertise which will be responsible for the BIM process and to ensure the BEP requirements are met. The coordinator shall; assemble all submitted design and

construction BIM's into a single fully coordinated and COBie compliant consolidated Navisworks BIM model; lead the coordination and constructability process; provide a clash/issues log and matrix to track coordination issues and data gaps; document any deviations from approved CD drawings and Revit model; and continually coordinate with Architect to maintain updated Revit model and BIM model. All work shall be coordinated with Owner's Authorized MEPF Representative for compliance and approval.

ARTICLE 4 **RELATIONSHIP AND ROLES OF THE PARTIES**

- 4.1** Independent Contractor: The CM/GC is an independent contractor and not an officer, employee, or agent of Owner as those terms are used in ORS 30.265.
- 4.2** Performance of Work: The CM/GC covenants with Owner to cooperate with the Architect and Owner's Authorized Representative and utilize the CM/GC's professional skill, efforts and judgment in furthering the interests of Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in conformance with the terms and conditions of the Contract Documents and in an expeditious and economical manner consistent with the interests of Owner.
- 4.3** Design Consultants: Owner has a separate contract with the Architect related to the Project. Both the CM/GC and the Architect shall be given direction by Owner through Owner's Authorized Representative. The CM/GC agrees to support Owner's efforts to create a collaborative and cooperative relationship among the CM/GC, Architect, other Project consultants, and Owner's Authorized Representative.
- 4.4** BIM: The Architect will utilize Revit to develop a building model, which will be shared with the CM/GC for development of a fully coordinated BIM model. The Architect and CM/GC shall coordinate through the design and construction phases such that the Revit and BIM models are continually updated throughout the process. Final approved and coordinated BIM and Revit models will be provided to the Owner for use.
- 4.5** Forms and Procedures: The Owner has developed or may develop procedures and forms for the administration and tracking of the Contract. The CM/GC agrees to abide by those procedures and use those forms.
- 4.6** CM/GC's Project Staff: The CM/GC's Project staff shall consist of the following personnel:
- 4.6.1** Project Executive and Senior Project Manager: (Staff Member Name) shall be the CM/GC's Project Executive and (Staff Member Name) shall be the CM/GC's Senior Project Manager and one or more will supervise and coordinate all Construction Phase and Preconstruction Phase Services of CM/GC and participate in all meetings throughout the Project term unless otherwise directed by Owner. CM/GC represents that each of the Project Executive (Staff Member Name) and Senior

Project Manager (Staff Member Name) has authority to execute Change Orders and Contract Amendments on behalf of CM/GC.

- 4.6.2** Job Superintendent: If Construction Phase Services are requested and accepted by Owner, (Staff Member Name) shall be the CM/GC's on-site job superintendent throughout the Project term.
- 4.7** Key Persons: The CM/GC's personnel identified in Article 4.5, and any other personnel identified by name in CM/GC's Proposal, shall be considered Key Persons and shall not be replaced during the Project without the written permission of Owner, which shall not be unreasonably withheld. If the CM/GC intends to substitute personnel, a request must be given to Owner at least 30 Days (or such shorter period as permitted by Owner) prior to the intended time of substitution. When replacements have been approved by Owner, the CM/GC 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. If the project is suspended for reasons beyond the control of the CM/GC, it is understood that the CM/GC may find it necessary to reassign these Key Persons to other projects. Upon resurrection of the project, the CM/GC will make their best effort to reassemble these Key Persons to the project. If these Key Persons are not available to return to the project substitute personnel must be approved by the Owner. Inability by the CM/GC to provide acceptable replacement staff can be grounds for termination of this contract.

ARTICLE 5

DATE OF COMMENCEMENT; SUBSTANTIAL AND FINAL COMPLETION

- 5.1** Notice to Proceed: If Construction Phase Services are added to the Contract as set forth in Article 3.2, then a notice to proceed will be issued by Owner to begin the designated or full Construction Phase Services ("Notice to Proceed"). It is anticipated that the Notice to Proceed will be issued on or about winter of 2015. A separate Notice to Proceed shall be issued for any and every Early Work Amendment.
- 5.2** Completion of Project: The CM/GC shall achieve Substantial Completion of the entire Work not later than spring of 2016. Exact dates will be determined during pre-construction and established in the GMP Amendment.
- 5.3** Time is of the Essence: All time limits stated in the Contract Documents are of the essence.
- 5.4** Time Extensions: Notwithstanding provisions for Contract time extensions in Section D.2 of the OUS General Conditions, Owner and CM/GC agree that timely completion of the Work is essential to the success of the Project, and that approval

for time extension shall be granted only as a last resort. CM/GC agrees to make every effort to recover "lost" time.

**ARTICLE 6
FEES, CONTRACT SUM AND GMP**

6.1 Fees, Contract Sum, and GMP: Owner shall pay CM/GC the Preconstruction Fee described in Article 6.2. In addition, for each Early Work Amendment executed by CM/GC and Owner, Owner shall pay CM/GC, as payment for the Early Work, an amount equal to the sum of the CM/GC Fee attributable to the Early Work, and the actual cost of all Early Work completed and accepted by Owner, but not exceeding the Early Work Price.

If a GMP Amendment is executed, Owner shall pay CM/GC, as payment for the Work, the "Contract Sum" which shall equal the sum of the Preconstruction Fee, the CM/GC Fee, the actual cost of the Work including any Early Work, but not exceeding the GMP.

The GMP shall be determined in accordance with the formula set forth below and as described in Article 6.3. The "Cost of the Work" is defined in Article 8. Costs in excess of the GMP shall be paid by the CM/GC without reimbursement by Owner. Changes to the GMP shall only be authorized by Amendment that includes any necessary OUS or DOJ approvals.

Preconstruction Fee	+	CM/GC Fee	+	Estimated Cost of Work (COW)	=	GMP*
Cost Reimbursement \$ [redacted] Maximum Not-To-Exceed		[redacted] % of Estimated Cost of Work (COW)		Includes CM/GC's Contingency and the Maximum Cost of Work (COW)		

*Formula assumes no Early Work is performed.

6.2 Preconstruction Fee: The Preconstruction Fee shall be payable on a cost reimbursement basis up to a maximum not-to-exceed sum of \$ [redacted]. The Preconstruction Fee shall cover constructability review, value engineering, cost estimating, development of the GMP, and all other Preconstruction Phase Services, as described in Article 3. Owner has the right to adjust the duration of the one year Preconstruction Fee payment period, and the associated payment to correspond to any change in payment period, as required to match the requirements of the project. Any such change shall be documented within an amendment to this Contract. If CM/GC's costs for provision of Preconstruction Phase Services exceed the maximum Preconstruction Fee, CM/GC shall pay such additional cost without reimbursement. CM/GC shall not be entitled to any CM/GC Fee upon the Preconstruction Fee. Owner shall pay the Preconstruction Fee on a cost-reimbursement basis with each application for payment during the Preconstruction Phase. If the total actual

Preconstruction Fee is less than the maximum Preconstruction Fee used for initial calculation of the GMP as provided above, the GMP shall be reduced by the difference; provided that Owner may direct instead that any unapplied portion of the maximum Preconstruction Fee be applied to Construction Phase Services, in which case the GMP shall not be reduced by the portion so applied. Except to the extent the parties may expressly agree to the contrary in the GMP Amendment, no Preconstruction Fee or other fee, compensation or reimbursement shall be payable to CM/GC with respect to Preconstruction Services performed after execution of the GMP Amendment. If the project is suspended prior to the completion of the Pre-Construction Services period, the Contractor shall be reimbursed for their expenses to date, not to exceed a monthly proportion equal to 1/12 of the total not-to-exceed amount identified in this Section 6.2 multiplied by the number of months work is performed prior to suspension.

6.3 Establishment of CM/GC Fee; Adjustments to CM/GC Fee:

- 6.3.1** The "CM/GC Fee" shall be a fixed dollar lump sum to be identified in the GMP Amendment, and shall be calculated as % of the Estimated Cost of the Work at the time of establishment of the GMP. In making such calculation, the Estimated Cost of the Work shall exclude the Preconstruction Fee, the CM/GC Fee itself, and any other cost or charge which this CM/GC Contract states is not to be included in calculating the CM/GC Fee, but shall include Allowances, selected alternates, Maximum Not-to-Exceed Cost for GC Work, and reasonable CM/GC contingencies as designated in the GMP Supporting Documents. The CM/GC Fee is inclusive of profit, overhead, and all other indirect or non-reimbursable costs. Owner shall pay the CM/GC Fee ratably with each application for payment during the Construction Phase. In the case of Early Work, the CM/GC Fee shall be the above percentage multiplied by the actual Cost of the Early Work, until such time as a GMP Amendment is executed, at which time such CM/GC Fee payments shall be credited against the CM/GC Fee fixed therein.
- 6.3.2** Notwithstanding any provision of Section D.1.3 of the OUS General Conditions to the contrary, and unless the parties agree in writing to the contrary, any Amendment that increases or decreases the GMP shall adjust the CM/GC Fee then in effect by multiplying the percentage shown in Article 6.3.1 by the change in the Estimated Cost of the Work reflected in such approved Amendment. In addition, if the Contract is terminated for any reason prior to full completion of the Work (including, without limitation, termination during or following performance of Early Work), the CM/GC Fee shall be limited to the total CM/GC Fee multiplied by the percentage of Work completed and accepted at the time of termination. The CM/GC Fee shall not be subject to adjustment for any other reason, including, without limitation, schedule extensions or adjustments, Project delays, unanticipated costs, or unforeseen conditions.

6.4 Determination of GMP:

- 6.4.1** CM/GC shall deliver to Owner a proposed GMP and GMP Supporting Documents at a time designated by Owner during the Preconstruction Phase. If any actual subcontract offers are available at the time the GMP is being established, CM/GC shall use those subcontract Offers in establishing the GMP.
- 6.4.2** As the Plans and Specifications may not be developed to the stage of biddable design documents at the time the GMP proposal is prepared, the CM/GC shall provide in the GMP for further development of the Plans and Specifications by the Architect that is consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Amendment with a corresponding GMP adjustment.
- 6.4.3** The CM/GC shall include with its GMP proposal a written statement of its basis (the "GMP Supporting Documents"), which shall include:
- (a) A list of the Plans and Specifications, including all addenda thereto and the conditions of the Contract, which were used in preparation of the GMP proposal.
 - (b) A list of allowances and a statement of their basis.
 - (c) A list of the clarifications and assumptions made by the CM/GC in the preparation of the GMP proposal to supplement the information contained in the Plans and Specifications.
 - (d) The proposed GMP, including a statement of the estimated cost organized by trade categories, allowances, contingency, and other items and the associated fees that comprise the GMP.
 - (e) The Date of Substantial Completion upon which the proposed GMP is based, and a schedule of the Construction Documents issuance dates upon which the date of Substantial Completion is based.
 - (f) A list of all Gift in Kind contributions committed to the portion of the Project captured in either an Early Work Amendments and the GMP Amendment. These shall be listed with both the value identified on the bid form by the CM/GC or Subcontractor as well as the defined value to the Project.
- 6.4.4** The CM/GC shall meet with the Owner and Architect to review the GMP proposal and the written statement of its basis. If the Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the CM/GC, who shall make appropriate adjustments to the GMP proposal, its basis or both.

- 6.4.5** Prior to the Owner's acceptance of the CM/GC's GMP proposal and issuance of a Notice to Proceed, the CM/GC shall not incur any cost to be reimbursed as part of the Cost of the Work, except as specifically provided in an Early Work Amendment.
- 6.4.6** The Owner shall authorize and cause the Architect to revise the Plans and Specifications to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP Amendment. Such revised Plans and Specifications shall be furnished to the CM/GC in accordance with schedules agreed to by the Owner, Architect and CM/GC. The CM/GC shall promptly notify the Architect and Owner if such revised Plans and Specifications are inconsistent with the agreed-upon assumptions and clarifications.
- 6.4.7** The GMP shall include in the Estimated Cost of the Work only those taxes which are enacted at the time the GMP is established.
- 6.4.8** The Estimated Cost of the Work shall include the CM/GC's contingency, a sum established by the CM/GC for the CM/GC's exclusive use to cover additional development of Plans and Specifications and unanticipated costs and unforeseen conditions which are properly reimbursable as Cost of the Work but which are not the basis for a Change Order. The CM/GC shall notify the Owner prior to the utilization of the CM/GC's Contingency.
- 6.4.9** The CM/GC shall work with the Architect and Owner to identify and confirm components and systems not specifically shown but required for a complete, fully functional Project. Owner will direct the Architect to complete the final Construction Documents in accordance with the Project scope agreed upon by all parties at the time the GMP is established.
- 6.4.10** Notwithstanding the level of detail represented in the GMP Supporting Documents, the CM/GC shall represent and warrant at the time that it submits the GMP that the GMP includes the entire cost of all components and systems required for a complete, fully functional facility.
- 6.4.11** In developing the GMP, the CM/GC shall include and identify such contingencies within the GMP as may be necessary to pay for unanticipated costs and unforeseen conditions that are required for a complete, fully functional facility.
- 6.5** Failure to Furnish an Acceptable GMP: If the CM/GC does not furnish a GMP acceptable to Owner within Owner's Target GMP Range, or if Owner determines at any time in its sole discretion that the parties may fail to reach a timely agreement on a GMP acceptable to Owner, Owner may terminate the Contract without liability, and the CM/GC shall not receive additional compensation beyond the Preconstruction Fee under the Contract and sums due under any Early Work Amendment. Termination under this provision shall proceed under Section J.5 and J.6 of the OUS General Conditions as a termination for Owner's convenience. CM/GC further agrees that Owner shall not be liable for any damages whether actual, consequential or otherwise for termination of the Contract under these provisions.

- 6.6** Acceptance of GMP: Upon acceptance of the GMP by Owner, the parties shall execute a GMP Amendment.
- 6.7** Owner Savings: If the sum of the Preconstruction Fee, plus the CM/GC Fee, plus the actual and final Cost of the Work (the Contract Sum as defined in Article 6.1), is less than the GMP, the savings shall accrue to the Owner.
- 6.8** Allowance Work:
- 6.8.1** CM/GC shall not perform any Allowance Work without prior execution by Owner of an Amendment approving the Specifications for the Allowance Work and the price thereof.
- 6.8.2** Owner shall be entitled to apply any Allowance line items that are not been fully expended to other line item Allowances that have been fully expended, without any resulting increase in the GMP.
- 6.8.3** If the total Cost of the Allowance Work exceeds the total Allowances within the GMP, CM/GC shall not perform any Allowance Work in excess of such amount until either (i) the parties agree that the additional Allowance work will be performed within the then-current GMP or (ii) a GMP Amendment is executed to increase the GMP by the excess cost of the Allowance work.
- 6.8.4** The Contract Sum shall not include any Allowance items not identified in the GMP Amendment or the GMP Supporting Documents until such allowance item is reduced to a fixed price by Amendment.
- 6.8.5** If at the Final Completion of the Project, any portion of the Allowance funds remains unexpended, the GMP shall be reduced by a corresponding amount via an Amendment.
- 6.9** Reallocating Projected Cost Underruns after Bid (Offer) Buyout: As soon as possible after the awarding of the Work to the primary Subcontractors, CM/GC shall review projected costs and provide the Owner with a buy-out status report showing any projected cost underruns, reconciling accepted Offers and other reasonably anticipated costs, to the cost estimate used by CM/GC to establish the GMP. CM/GC shall include with its report any underlying documentation requested by Owner used to develop or support such report. CM/GC shall also consider the reduced risk associated with known subcontracting costs, and the impact that reduced risk has on the amount of the CM/GC's Contingency. The parties shall negotiate in good faith to execute a Change Order transferring an appropriate portion of any projected cost underruns to an Owner-controlled contingency fund to be held within the GMP to pay for additional costs arising from (a) any Owner-directed or approved change to the Work, (b) schedule changes that would otherwise entitle CM/GC to an increase in the GMP, (c) Allowance items after exhaustion of all Allowances, (d) selection by Owner of more expensive alternates than those used for calculation of the GMP, (e) Owner selection of substitutions that increase the Cost of the Work, or (f) any other

costs which otherwise would entitle CM/GC to an increase in the GMP. Any transfer of projected cost underruns from CM/GC's contingency to the Owner-controlled contingency fund will not affect CM/GC's obligation to furnish Owner with a complete, fully functional facility within the GMP without use of the funds transferred to the Owner-controlled contingency fund unless such funds are released by Owner for the purposes set forth in (a) through (f) of this Article 6.9. Any transfer of funds to the Owner-controlled contingency fund will not reduce the CM/GC Fee, nor will any subsequent release and use of funds from the Owner-controlled contingency fund for the purposes set forth in (a) through (f) of this Article 6.9 increase the CM/GC Fee.

ARTICLE 7 **CHANGES IN THE WORK**

- 7.1** Price Adjustments: Adjustments to the Estimated Cost of the Work required by changes in the Work shall be determined by any of the methods listed in Section D of the OUS General Conditions, except that, unless the adjustment is based upon fixed pricing or unit pricing:
- 7.1.1** For Change Order or force account work, the CM/GC shall be entitled to the CM/GC Fee allowed under Article 6.3.2 of this CM/GC Contract, as well as an additional processing fee for Change Order or force account work captured in an Amendment. This processing fee shall be equal to the 10 % markup for change values up to \$5,000 that are set forth in Section D of the OUS General Conditions. No Section D markup beyond the \$500 (10% on \$5000) will be allowed on any Subcontractor change by the CM/GC. This 10% processing fee shall be calculated at the level of each individual Change Request, Proposal Request, CCD, etc. not at the level of a Change Order or Amendment;
 - 7.1.2** The increase or decrease in the Estimated Cost of the Work, other than for subcontract work, shall be calculated pursuant to Articles 8 and 9 of this CM/GC Contract, instead of being based on CM/GC's Direct Costs as defined in the OUS General Conditions; and
 - 7.1.3** In calculating adjustments to subcontracts, unless the parties agree otherwise, the change shall be limited to the Subcontractor's Direct Costs plus the supplemental mark-up provided in Section D of the OUS General Conditions, and shall not be modified by Articles 8 and 9 of this CM/GC Contract.
- 7.2** Adjustments to GMP: Adjustments to the GMP after execution of the GMP Amendment may be made only (i) in the event of Scope Changes or (ii) as otherwise expressly provided in this CM/GC Contract, and then only in accordance with the following procedure:

- 7.2.1** CM/GC shall review subsequent iterations of the Plans and Specifications as they are prepared to determine whether, in the opinion of CM/GC, they result in a Scope Change so that it can be determined if an adjustment to the GMP is warranted.
- 7.2.2** Changes to the GMP shall be initiated by written notice by one party to the other ("GMP Change Request"). CM/GC shall deliver any such GMP Change Request to Architect and Owner's Authorized Representative promptly after becoming aware of any Scope Change if, in CM/GC's opinion, it constitutes grounds for adjustment of the GMP. Any GMP Change Request shall include a proposal as to the appropriate GMP adjustment with respect to the Scope Change at issue.
- 7.2.3** CM/GC shall submit its GMP Change Requests as soon as possible, and CM/GC shall not be entitled to claim a GMP increase unless CM/GC submitted a GMP Change Request to Owner's Authorized Representative and to Architect within the earlier of (a) 30 Days after CM/GC has received the information constituting the basis for the claim, or (b) as to Work not yet bid or proposed, prior to submission of solicitations for such Work and as to Work already solicited, prior to commencement of the portion of the Work for which CM/GC intends to claim a Scope Change; and (c) in any event, prior to CM/GC's signing of a Change Order for the Scope Change which must be included in a fully executed Amendment.
- 7.2.4** Owner may, at any time, submit a GMP Change Request requesting a reduction of the GMP, which shall include Owner's basis for such request, which may include, for example, reduction of the CM/GC's Contingency after further development of the Plans and Specifications that form the basis for the original GMP Amendment, and/or unused Allowances.
- 7.2.5** CM/GC shall work with Architect to reconcile all differences in its GMP Change Request with Architect within seven Days from the date of submission of the GMP Change Request. "Reconciled" means that the CM/GC and Architect have verified that their assumptions about the various categories are the same, and that they have identified the reason for differences in the GMP Change Request and the Architect's position. CM/GC shall submit the Reconciled GMP Change Request to Owner, which submission shall be a condition to any CM/GC claim for a GMP increase.
- 7.2.6** If the Reconciled GMP Change Request is not acceptable to Owner, CM/GC agrees to work with the Owner and the Architect to provide a GMP Change Request that is acceptable to Owner.
- 7.2.7** CM/GC agrees to make all records, calculations, drawings and similar items relating to GMP Change Request available to Owner and to allow Architect and Owner access and opportunity to view such documents at CM/GC's offices. Upon Owner's reasonable notice, CM/GC shall deliver two copies of such documents to Owner and Architect at any regular meeting or at the Site.
- 7.2.8** GMP increases, if any, shall not exceed the increased Cost of the Work arising from the Scope Change (whether based on agreed fixed pricing, or the estimated Cost of

the Work increase based on cost-reimbursable pricing), reconciled in accordance with the above provisions, as arising from the incident justifying the GMP increase, plus Section D markups from the OUS General Conditions as modified by Section 7.1.1 above, plus or minus the CM/GC Fee applicable to such change in the Cost of the Work.

7.2.9 Except as provided in this Article 7.2, adjustments to the GMP shall be reconciled in accordance with Section D of the OUS General Conditions.

7.3 Execution by Owner: If Architect is not the Owner's Authorized Representative, then notwithstanding any provision in the Contract to the contrary, Architect has no authority to execute Change Orders or Amendments on behalf of Owner, and only duly authorized personnel of Owner may do so.

ARTICLE 8
COST OF THE WORK
(To Be Reimbursed)

8.1 Cost of the Work: The term "Cost of the Work" shall mean the following costs. The Cost of the Work shall include only those items necessarily and reasonably incurred by CM/GC in the proper performance of the Work and specifically identified in this Article 8, and only to the extent that they are directly related to the Project.

8.2 Labor Costs:

8.2.1 Labor costs include wages of construction workers directly employed by the CM/GC to perform the construction of the Work at the site.

8.2.2 Wages and salaries of the CM/GC's supervisory and administrative personnel (i) stationed at the site, or (ii) engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work with Owner, or otherwise engaged and off the site when specifically related to the Project, and (iii) under either clause (i) or (ii), only with Owner's prior written approval, and only for that portion of their time directly required for the Work.

8.2.3 Fringe benefit costs paid or incurred by the CM/GC for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining contracts and, for personnel not covered by such contracts, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Articles 8.2.1 through 8.2.2.

8.3 Subcontract Costs:

8.3.1 Subcontractor costs include CM/GC's actual payment to Subcontractors pursuant to CM/GC's contract with such Subcontractor for the Work on the Project. No amount

paid by or payable to any such Subcontractor other than the fixed or cost reimbursement price of its subcontract shall be included in the Cost of the Work, unless otherwise approved in writing by Owner.

8.4 Costs of Materials and Equipment Incorporated in the Work or Stored On Site:

8.4.1 Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completed Work.

8.4.2 Costs of materials in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be delivered to Owner at the completion of the Work or, at Owner's option, shall be sold by the CM/GC. Any sale shall be commercially reasonable and CM/GC shall provide accounting for such a sale within 15 Days of the transaction. Net amounts realized, if any, from such sales shall be credited to Owner as a deduction from the Cost of the Work.

8.5 Costs of Miscellaneous Equipment and Other Items; Equipment Rental Charges:

8.5.1 Costs, including transportation, installation, maintenance, dismantling and removal, of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the CM/GC at the site and fully consumed in the performance of the Work; and cost less salvage value on such items if not fully consumed, whether sold to others or retained by the CM/GC; provided that Owner at Owner's option may require that CM/GC deliver to Owner (at no charge) at the end of the Project any of such items procured for this Project. Cost for items previously used by the CM/GC shall mean fair market value. CM/GC shall charge no additional administrative or other mark-up for purchased items. The CM/GC shall document all small tools purchased for the Project via invoices in monthly billing, and shall document the disposition of small tools which have an individual price that exceeds \$100. A copy of such disposition log shall accompany the payment application whenever these items are included in the application.

8.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by the construction workers, which are provided by the CM/GC at the site, whether rented from the CM/GC or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be according to industry standards, shall not exceed 100% of the rental rates published from time to time in the Rental Rate Blue Book published by Penton Media Inc.(<http://www.equipmentwatch.com>) and in effect at the time of rental, shall not exceed acquisition costs, and for individual items exceeding \$10,000, will be subject to Owner's prior approval. CM/GC shall deliver to Owner a list of published rates from time to time at Owner's request. For all items rented or leased, the CM/GC shall charge Owner only the rental charge incurred by CM/GC, including reasonable delivery charges, with no

additional administrative or other mark-up. CM/GC shall make efforts and use its best skills and judgment to procure equipment in the most expeditious and economical manner consistent with the interest of the Owner. Efforts shall include, but not be limited to, providing Owner with a rent/buy analysis so that Owner may elect for CM/GC to procure the item in lieu of rental if the facility at issue is expected to be rented for six months or longer. Such rent/buy analysis shall include, where available, a leasing rate commensurate with the expected term of rental of the facility at issue. Inclusions to and exclusions from rental rates will be made in accordance with American Association of Equipment Dealer standards.

8.5.3 Costs of removal of debris from the site:

8.5.4 Cost of telegrams and long-distance telephone calls, communication devices, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office, which are solely for the benefit of the Work.

8.5.5 That portion of the travel and per diem subsistence expenses of the CM/GC's personnel determined by Owner to be reasonable and necessary, at Owner approved rates, incurred while traveling in discharge of duties connected with the Work. Main office staff travel shall not be reimbursed unless approved in advance by Owner. These travel expenses shall be reimbursed at cost, but not exceeding the rates stated in Exhibit E. CM/GC personnel who are scheduled to work at the Project site for less than six months may receive a subsistence per diem approved by the Owner in accordance with Exhibit E if their place of residence is greater than 60 miles from the Project site; provided no such personnel shall be entitled to such per diem reimbursement beyond such six-month period.

8.6 Other Costs:

8.6.1 That portion of premiums for insurance directly attributable to the Contract, including the deductible for builders all/risk insurance, and payment, performance and public works bond premiums as required by Section G of the OUS General Conditions (but excluding premiums for Subcontractor bonds unless authorized by Owner). CM/GC's charge to Owner for all insurance, other than bonds, shall be _____% of the Cost of the Work

8.6.2 Sales tax, use tax or similar excise taxes imposed by a governmental authority which are directly related to the Work and for which the CM/GC is liable.

8.6.3 Fees and assessments for building permit, for other permits, for licenses and for inspections which the CM/GC is required by the Contract Documents to pay.

8.6.4 CM/GC deposits lost when the loss is caused by Owner's fault or negligence.

8.6.5 Costs of drawings, Specifications and other documents required to complete the Work, except as provided by Owner or Architect.

- 8.6.6** Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by Owner.
- 8.7** Costs to Prevent Damage or Injury in Emergencies: The Cost of the Work shall also include costs which are incurred by the CM/GC in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.
- 8.8** Cost For General Conditions Work: CM/GC shall be paid on a cost reimbursable maximum not-to-exceed price basis as payment for the GC Work, including all labor, materials, and direct and indirect costs thereof. The maximum not-to-exceed amount for GC Work shall be established in each Early Work Amendment or the GMP Amendment, as applicable. To the extent any GC Work is otherwise described above in this Article 8, CM/GC's compensation for the same is included in the Cost for GC Work and shall not otherwise be charged as Cost of the Work. (See Exhibit C). The Cost for GC Work, less 5% retainage thereon, shall be paid monthly on a reimbursable basis over the number of months of the scheduled Construction Phase, including any period of Early Work, commencing with the first progress billing after commencement of the scheduled Construction Phase or Early Work Period. However, no adjustment in the maximum amount payable for General Conditions Work will be made if the actual construction period or Early Work period is shorter or longer than the number of months scheduled for the Construction Phase or Early Work period, unless such period is extended because of an Owner-requested delay.

ARTICLE 9
COSTS EXCLUDED FROM COST OF WORK
(Not To Be Reimbursed)

- 9.1** Costs Excluded from Cost of Work: The following shall not be included in the Cost of the Work:
- 9.1.1** Salaries and other compensation of the CM/GC's personnel stationed at the CM/GC's principal office or offices other than the site office except as allowed under Articles 8.2.2 and 8.2.3.
- 9.1.2** Expenses of the CM/GC's principal office and/or offices other than the site office.
- 9.1.3** Any overhead and general expenses, except as may be expressly included in Article 8.
- 9.1.4** CM/GC's capital expenses, including interest on the CM/GC's capital employed for the Work.
- 9.1.5** Rental cost of machinery and equipment, except as provided in Article 8.5.2

- 9.1.6 Any cost associated with the Project not specifically and expressly described in Article 8.
- 9.1.7 Costs due to the fault or negligence of the CM/GC, Subcontractors, suppliers, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable.
- 9.1.8 Costs due to correction of any repair work, nonconforming or defective work, or warranty work.
- 9.1.9 Merit, safety, or other incentive payments, bonuses or awards, or any expenses in connection therewith, except as provided in Article 8.
- 9.1.10 Costs associated with fines and penalties.
- 9.1.11 Except for Early Work, cost of Preconstruction Phase Services.
- 9.1.12 The Cost of the Work for GC Work in excess of the maximum not-to-exceed cost established for GC Work.
- 9.1.13 Any costs in excess of the GMP.

ARTICLE 10
DISCOUNTS, REBATES AND REFUNDS

- 10.1 Discounts, Rebates and Refunds: Cash discounts obtained on payments made by the CM/GC shall accrue to Owner. Trade discounts, rebates, refunds and net amounts received from sales of surplus materials and equipment shall accrue to Owner, and the CM/GC shall make provisions so that they can be secured.
- 10.2 Amounts Credited to Owner: Amounts which accrue to Owner in accordance with the provisions of Article 10.1 shall be credited to Owner as a deduction from the Cost of the Work.

ARTICLE 11
SUBCONTRACTS AND OTHER CONTRACTS

- 11.1 General Subcontracting Requirements:
 - 11.1.1 Other than Work performed pursuant to Articles 11.4 or 11.5 of this CM/GC Contract, CM/GC shall subcontract the Work to Subcontractors other than the CM/GC and its Affiliates. If CM/GC elects to bid on any Work, CM/GC shall inform Owner of its intention to do so prior to the bid date for that Work.
 - 11.1.2 The CM/GC shall cooperate with and assist Owner to comply with Oregon Administrative Rules ("OAR") 580-061-0030 and OAR 580-061-0035, respecting the solicitation of Minority, Women and Emerging Small Business Enterprises. CM/GC

shall also take the actions specified in ORS 200.045(2) and (3) to make good faith efforts to subcontract with Minority, Women and Emerging Small Business Enterprises. Requirements imposed on the CM/GC shall be imposed by CM/GC on its Subcontractors.

11.1.3 The CM/GC shall report to Owner on the results of the efforts under Article 11.1.2 following award of all subcontracts. The CM/GC shall also submit quarterly reports to Owner listing Work contracted to date with Minority, Women and Emerging Small Business Enterprises.

11.2 CM/GC's Obligations under Subcontracts:

11.2.1 No use of a Subcontractor or supplier shall relieve the CM/GC of any of its obligations or liabilities under the Contract. Except as may expressly otherwise be provided in the Contract, the CM/GC shall be fully responsible and liable for the acts or omissions of all Subcontractors and suppliers including persons directly or indirectly employed by them. The CM/GC shall have sole responsibility for managing and coordinating the operations of its Subcontractors and suppliers, including the settlement of disputes with or between the CM/GC and any such Subcontractor or supplier.

11.2.2 The CM/GC shall include in each subcontract and require each Subcontractor to include in any lower tier subcontract, all provisions necessary to make all of the provisions of the Contract Documents, including the OUS General Conditions, fully effective as applied to Subcontractors. CM/GC shall indemnify Owner for any additional cost based on a subcontractor claim which results from the failure of CM/GC to incorporate the provisions of this CM/GC Contract in each subcontract. The CM/GC shall provide all necessary Plans, Specifications, and instructions to its suppliers and Subcontractors to enable them to properly perform their work.

11.2.3 Retainage from Subcontractors: Except with the Owner's prior approval, payments to Subcontractors shall be subject to retainage of no more than 5%. The Owner and the CM/GC shall agree upon a mutually acceptable procedure for review and approval of payments and retainage for Subcontractors.

11.3 Subcontractor Selection:

11.3.1 Unless otherwise provided under this Article 11, the selection of all Subcontractors and suppliers shall be made by competitive Offers in a manner that will not encourage favoritism or substantially diminish competition. While not subject to the competitive procurement requirements of ORS Chapter 279C, the process shall conform to the following procedures, in general compliance with the open and competitive nature of public procurement, taking into account industry subcontracting practices.

11.3.2 CM/GC shall submit to Owner's Authorized Representative its proposed procurement documents for review and comment before they are issued for

solicitation. CM/GC shall consider and respond to all Owner comments regarding any proposed Offer packages. As Offers are received, CM/GC shall submit to the Owner an Offer comparison in a mutually agreeable form together with any specific back-up documentation requested by Owner. The competitive process used to award subcontracts by the CM/GC may be monitored by the Owner's Authorized Representative; provided that such monitoring shall not excuse CM/GC from compliance with the subcontracting requirements of this Contract. CM/GC shall cooperate in all respects with Owner's monitoring. The Owner's Authorized Representative shall be advised in advance of and be given the opportunity to be present at Offer openings, and CM/GC shall provide him or her with a summary or abstract of all Offers in form acceptable to the Owner's Authorized Representative, and copies of particular Offers if requested, prior to CM/GC's selection of Offerors. Prior to opening Offers, the CM/GC agrees to disclose in writing to Owner any financial interest it has in any such Subcontractor, supplier or other contracting party whenever such Subcontractor, supplier or contracting party intends to compete on any Project work, directly or indirectly, including whether such party is an Affiliate of CM/GC.

11.3.3 The following minimum requirements apply to the Subcontract solicitation process:

- (a) Solicitations shall be advertised at least 10 Days prior to opening in the subcontracting opportunities portion of the OUS procurement website, in the Daily Journal of Commerce and adhere to proposed outreach commitments included in the Proposal attached as appendix K, or advertise in at least one other newspaper specifically targeted to reach the Minority, Women and Emerging Small Business audience. CM/GC also agrees to advertise in a local community newspaper in the area in which the Project is located, in order to allow for local participation in the solicitation process. The CM/GC shall submit its proposed list of bidders for each scope of work to the Owner prior to solicitation for bids in order to allow the Owner to add qualified local bidders to CM/GC's bid list.
- (b) Unless specific other prior arrangement has been made with Owner, all Offers will be written, and submitted to a specific location at a specific time. CM/GC shall time-stamp all Offers as received. Subcontractors must be qualified to perform the Work for this Project by being appropriately registered with the State of Oregon Construction Contractors Board.
- (c) If fewer than three (3) Offers are submitted in response to any solicitation (inclusive of any Offer submitted by CM/GC), prior written approval by Owner shall be required to accept an Offer.
- (d) CM/GC may develop and implement a prequalification process for particular solicitations; followed by selection of successful Offers among those Offerors that CM/GC determines meet the prequalification standards, with Owner's prior written approval of such prequalification process.

- (e) CM/GC shall comply, and require Subcontractor compliance with, State of Oregon Bureau of Labor & Industries prevailing wage rates as specified in the RFP.
- (f) Owner may at its sole discretion, require CM/GC to re-solicit for Offers based on the same or modified documents.
- (g) CM/GC shall review all Offers and shall work with Offerors to clarify Offers, reduce exclusions, verify scope and quantities, and seek to minimize work subsequently awarded via the Change Order process.
- (h) The CM/GC shall document any and all discussions, questions and answers, modifications and responses to from any Offeror and ensure that the same are distributed to all Offerors, and Owner shall be entitled to inspect such documentation on request.
- (i) CM/GC shall determine the lowest Offer for each solicitation that meets CM/GC's reasonable performance standards for the components of the Work at issue; provided that if CM/GC determines it is unable to execute a suitable subcontract with such Offeror, CM/GC may, with Owner's prior approval, execute a subcontract with the second-lowest Offeror pursuant to Article 11.3.4 below.

11.3.4 Under special circumstances and only with prior written authorization by Owner, Work may be subcontracted on other than a low price basis, including without limitation, through competitive negotiation. As a condition to its authorization, Owner may require CM/GC's agreement to establish and implement qualification and performance criteria for Offerors, including a scoring system within requests for proposals. Examples include: where there are single fabricators of materials; special packaging requirements for Subcontractor work; design-build work or, where an alternative contracting method can be demonstrated to clearly benefit Owner.

11.3.5 CM/GC shall notify Owner in writing in advance before award of any proposed Subcontract, which notice shall include summaries in a form acceptable to Owner of all Offers received for the Subcontract at issue. Owner reserves the right to disapprove any proposed Subcontractors, suppliers and Subcontract or supply contract awards, based on legal standards of responsibility.

11.3.6 CM/GC's subcontracting records shall not be considered public records; provided, however, that Owner and other agencies of the State shall retain the right to audit and monitor the subcontracting process in order to protect the Owner's interests.

11.4 CM/GC Field Work:

11.4.1 The CM/GC or its Affiliate may provide CM/GC Field Work required to complete the Project with its own forces, without the necessity of subcontracting such work.

11.4.2 Except as provided in Article 11.4.1, any other portion of the Work proposed to be performed by CM/GC or any Affiliate, including without limitation provision of any materials, equipment, or supplies, shall be subject to the provisions of Article 11.5.

11.5 Subcontracting by CM/GC:

11.5.1 Except to the extent otherwise approved in advance in writing by Owner's Authorized Representative, the CM/GC or its Affiliates may submit an Offer in accordance with Article 11.3 to do Work with its own forces, provided at least 50% of the labor by such work unit is performed by employees of the CM/GC or such Affiliate. If CM/GC is selected to perform the work, the markups for Change Order Work that are set forth in the OUS General Conditions will apply to work performed under the subcontract. The CM/GC shall be allowed to markup the subcontract in accordance with Section 7.1.1 of this CM/GC Contract for such Work.

11.5.2 For those items for which the CM/GC or any of its subsidiaries intends to submit an Offer, such intent must be publicly announced with the solicitation for Offers required by Article 11.3.1, and Owner notified in writing prior to the Offer date. All Offers for this work shall be delivered to Owner and publicly opened by Owner at an announced time, date, and place.

11.6 Protests: CM/GC, acting as an independent contractor, shall include in the competitive process to award all subcontracts, a protest process for Subcontractors and suppliers that are competing Offerors, which process shall be subject to approval by Owner. CM/GC shall be solely responsible for resolving the procurement protests of Subcontractors and suppliers. CM/GC shall indemnify, defend, protect and hold harmless Owner from and against any such procurement protests and resulting claims or litigation. CM/GC shall act as an independent contractor, and not an agent of Owner, in connection with any procurement protest. The provisions of this Article 11 are solely for the benefit of Owner, and do not grant any rights or remedies (including third party beneficiary rights) to any Offeror or other protester, in connection with any procurement protest or claim.

ARTICLE 12 **ACCOUNTING RECORDS**

12.1 Accounting; Audit Access: The CM/GC shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management 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 the CM/GC's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Contract, and the CM/GC shall preserve these for a period of three years after final payment, or for such longer period as may be required by law.

12.2 Periodic and Final Audits: Owner may, at its discretion, perform periodic audits of the Cost of the Work and any other reimbursable costs associated with the Project. Owner intends to conduct a final audit of reimbursable costs prior to the Contract closeout. The CM/GC shall cooperate fully with Owner in the performance of such audits. Disputes over audit findings or conclusions shall be subject to the process set forth in Article 14.4.

ARTICLE 13 **PROGRESS PAYMENTS**

- 13.1** Integration with OUS General Conditions: The requirements of this Article 13 and Article 14 are in addition to, and not in lieu of, the requirements of Section E of the OUS General Conditions. In the event of conflict between the provisions of Articles 13 and 14 and Section E, the provision more favorable to Owner shall control. Without limitation, the provisions of Articles 13.3 and 13.4 shall control over the corresponding provisions of Section E.2.5 of the OUS General Conditions.
- 13.2** Progress Payments: Based upon applications for payment submitted pursuant to Section E of the OUS General Conditions, Owner shall make progress payments on account of the Preconstruction Fee, Cost of the Work, and associated CM/GC Fee, less 5% retainage, to the CM/GC as provided below and elsewhere in the Contract Documents. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein.
- 13.3** Percentage of Completion: Applications for payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the application for payment. The percentage of completion shall be the lesser of (i) the percentage of that portion of the Work which has actually been completed; or (ii) the percentage obtained by dividing (a) the expense that has actually been incurred by the CM/GC on account of that portion of the Work for which the CM/GC has made or intends to make actual payment prior to the next application for payment by (b) the share of the GMP allocated to that portion of the Work in the Schedule of Values.
- 13.4** Calculation of Payment: Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
- 13.5** Timeliness of Payments: Undisputed payment owed shall be paid by Owner within Thirty (30) days of receipt of a payment request which meets the requirements of this article.
- 13.5.1** Pre-Construction Phase:
- (a) The Preconstruction Fee will be billed on a cost reimbursement basis submitted monthly. Provide backup for each payment application that includes breakdown of labor hours, materials, etc. to justify reimbursement being requested.

- (b) These billings will not be subject to retainage described in the General Conditions.
- (c) If upon execution of an Early Work Amendment, the Preconstruction Services are not complete, the Contractor is to submit separate payment applications for pre-Construction Phase Services and Construction Phase Services.
- (d) The Preconstruction Fee for Preconstruction Phase Services shall not be included in the Construction Phase invoicing until the final application for payment. Include within the final application, a single line item for the final cost reimbursed value determined at the end of the Preconstruction Phase. In no event may the Preconstruction Fee and the cost of Construction Phase Services and all other costs and fees authorized under the Contract exceed the GMP.

13.5.2 Construction Phase:

- (a) Take that portion of the GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work under the Schedule of Values by the share of the GMP allocated to that portion of the Work in the Schedule of Values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included;
- (b) Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored and otherwise in compliance with Section E.2.3 of the OUS General Conditions;
- (c) With respect to Change Order Work, add General Condition Section D markups as allowed by 7.1.1 of this CM/GC Contract.;
- (c) Add the CM/GC's Fee. The portion of the CM/GC's Fee payable shall be an amount that bears the same ratio to CM/GC Fee as sum of the amounts in the three preceding clauses bears to the estimated probable Cost of the Work described in Article 6.1, but in no event causing total CM/GC Fee payments to exceed the total CM/GC Fee;
- (d) Subtract the aggregate of previous payments made by and retained by the Owner;
- (e) Subtract the shortfall, if any, indicated by the documentation required to substantiate prior applications for payment, or resulting from errors subsequently discovered by the Owner in such documentation;
- (f) Subtract any amounts for which the Owner's Authorized Representative has withheld or denied payment as provided in the Contract Documents; and

- (g) Subtract 5% retainage on the entire progress payment.

ARTICLE 14
FINAL PAYMENT

- 14.1** Final Payment Accounting: CM/GC shall submit to Owner a final detailed accounting of the Cost of the Work together with CM/GC's final application for payment.
- 14.2** Calculation of Final Payment: The amount of the final payment shall be calculated as follows:
- 14.2.1** Take the sum of the CM/GC Fee, plus the Preconstruction Fee, plus the actual Cost of the Work substantiated by the CM/GC's final accounting. Said sum shall not exceed the GMP.
- 14.2.2** Subtract amounts, if any, for which the Owner's Authorized Representative withholds, in whole or in part, approval of payment.
- 14.2.3** Subtract the aggregate of previous payments made by Owner to CM/GC. If the aggregate of previous payments made by Owner exceeds the amount due the CM/GC, the CM/GC shall reimburse the difference to Owner within 30 Days with interest at the rate applicable to Owner payments under the OUS General Conditions.
- 14.3** Final Payment Review: Owner or its accountants will review and report in writing on the CM/GC's final accounting within 30 Days after delivery of the final accounting by the CM/GC. Based upon such Cost of the Work as Owner or Owner's accountants report to be substantiated by the CM/GC's final accounting, and provided the other conditions of the Contract have been met, the Owner's Authorized Representative will, within 10 Days after receipt of the written report of Owner's accountants, either issue to Owner an approval of CM/GC's final application for payment with a copy to the CM/GC or notify the CM/GC and Owner in writing of the Owner's Authorized Representative's reasons for withholding approval of any part of the application for payment, which disapproval shall include Owner's Authorized Representative's estimate of the amount that is due CM/GC under the application for payment.
- 14.4** Payment Disputes: If Owner's accountants report the Cost of the Work as substantiated by the CM/GC's final accounting to be less than claimed by the CM/GC or if Owner's Authorized Representative declines to approve any duly submitted payment request by CM/GC, the CM/GC shall be entitled to demand a review by the Owner's highest contracting authority of the disputed amount. Such demand shall be made by the CM/GC within 30 Days after the CM/GC's receipt of a copy of the rejection of the application for payment; failure to demand additional review within this 30-Day period shall result in the substantiated amount reported by Owner's accountants becoming binding on the CM/GC. In addition, If Owner or any other state agency performs a subsequent audit of the Cost of the Work and determines

any item therein to have been unsubstantiated or that CM/GC was otherwise overpaid, CM/GC shall have 30 Days after delivery of request for reimbursement by Owner to demand additional review by Owner's highest contracting authority; failure to make such demand within this 30 Day period shall result in the requested reimbursement becoming unconditionally due and payable by CM/GC. If CM/GC timely submits a protest to the Agency's highest contracting authority, CM/GC's Claim shall be subject to the claims review process in Section D.3 of the OUS General Conditions. Pending a final resolution, Owner shall pay the CM/GC the amount of the application for payment approved by the Owner's Authorized Representative.

- 14.5** Effect of Payment: Neither approval of an application for payment, a progress payment, release of retainage, final payment, or partial or entire use or occupancy of the Project by the Owner shall constitute acceptance of work not conforming to the Contract Documents, or waiver of the right to assert overpayment.

ARTICLE 15 **TERMINATION OR SUSPENSION**

- 15.1** Owner's Right to Terminate Prior to Execution of GMP Amendment: Prior to execution by both parties of the GMP Amendment, the Owner may terminate the Contract at any time without cause. Upon such termination, the amount to be paid to the CM/GC shall not exceed the Preconstruction Fee payable to the date of termination, together with amounts payable for Early Work if an Early Work Amendment has been executed. If Owner terminates for convenience during the Preconstruction Phase, Owner shall be entitled to copies of, and shall have the right to use, all work product of CM/GC and its Subcontractors performed to the date of termination, and CM/GC shall deliver copies of the same to Owner on request.
- 15.2** Owner's Termination for Convenience after GMP Amendment: After the GMP Amendment is executed by both parties, the Contract may be terminated by Owner without penalty for convenience pursuant to Section J.5 of the OUS General Conditions in which case CM/GC shall be entitled to payment of the amount stated in Article 15.1, together with the actual Cost of the Work completed, plus the CM/GC's Fee prorated based on the actual Cost of the Work completed prior to the date of termination, but in any event not in excess of the GMP.
- 15.3** Owner's Termination for Cause: In the event of termination of this Agreement by Owner for cause pursuant to Section J.4 of the OUS General Conditions, the amount, if any, to be paid to the CM/GC after application of the OUS General Conditions and Owner's rights at law shall not exceed the amount the CM/GC would be entitled to receive under Article 15.2.
- 15.4** CM/GC Termination for Cause: CM/GC acknowledges that disputes regarding payments and Change Orders may occur as part of the CM/GC process, and that Owner's declining to pay disputed amounts shall not be grounds for suspension of the Work or termination for cause by CM/GC. If CM/GC terminates the Contract for

Owner's material breach, the amount to be paid to CM/GC shall not exceed the amount CM/GC would have been entitled to receive under Article 13 above through termination and demobilization from the Project, with the CM/GC Fee prorated based on the actual Cost of the Work through the date of termination.

- 15.5** Assignment of Subcontracts: Each subcontract and supply contract for any portion of the Work is hereby irrevocably assigned by the CM/GC to the Owner, provided that such assignment is effective only after termination of the Contract by the Owner, and only for those subcontracts and supply contracts which the Owner accepts by notifying the Subcontractor/supplier and CM/GC in writing. For those subcontracts and supply contracts accepted by Owner, if the Work has been suspended for more than 30 Days, the Subcontractor's/supplier's compensation shall be equitably adjusted for increases in cost resulting from the suspension. CM/GC shall include a provision in each subcontract and supply agreement whereby the Subcontractor/supplier acknowledges Owner's rights under this Article 15.5. With respect to any subcontracts/supply contracts that are not accepted by Owner, the provisions of Section J.6.1 of the OUS General Conditions shall apply.

ARTICLE 16 **REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS**

- 16.1** Representations and Warranties: CM/GC represents and warrants to Owner as of the effective date of the Contract:
- 16.1.1** It is qualified to do business as a licensed general contractor under the laws of the State of Oregon, and has all requisite corporate power and corporate authority to carry on its business as now being conducted;
- 16.1.2** It has full corporate power and corporate authority to enter into and perform the Contract and to consummate the transactions contemplated hereby; CM/GC has duly and validly executed and delivered this CM/GC Contract to Owner and that the Contract constitutes the legal, valid and binding obligation of CM/GC, enforceable against CM/GC in accordance with its terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law);
- 16.1.3** CM/GC's execution and delivery of this CM/GC Contract and the consummation of the transactions contemplated hereby will not conflict with or result in a material breach of any terms or provisions of, or constitute a material default under, (i) CM/GC's Articles of Incorporation or Bylaws; (ii) any note, bond, mortgage, indenture, license, lease, contract, commitment, agreement or other instrument or obligation to which CM/GC is a party or by which CM/GC may be bound; or (iii) any statute, order, writ, injunction, decree, rule or regulation applicable to CM/GC;

- 16.1.4** No material consent, approval, authorization, declaration or other order of, or registration or filing with, any court or regulatory authority or any third person is required for the valid execution, delivery and performance of the Contract by CM/GC or its consummation of the transactions contemplated hereby;
- 16.1.5** There is no action, proceeding, suit, investigation or inquiry pending that questions the validity of the Contract or that would prevent or hinder the consummation of the transactions contemplated hereby; and
- 16.1.6** The CM/GC's Senior Project Manager and Project Manager identified in Article 4 are duly appointed representatives and each has the authority to bind the CM/GC to any and all duties, obligations and liabilities under the Contract Documents and any Amendments thereto.
- 16.2** Non-Discrimination: CM/GC certifies that it has not discriminated and will not discriminate against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts, as required by OAR 580-061-0030. CM/GC further certifies that it is aware of and will comply with the OUS Board sexual harassment policy pursuant to OAR 580-061-0040.
- 16.3** Tax Compliance Certification: The individual signing on behalf of CM/GC hereby certifies and swears under penalty of perjury that s/he is authorized to act on behalf of CM/GC, s/he has authority and knowledge regarding CM/GC's payment of taxes, and to the best of her/his knowledge, CM/GC is not in violation of any Oregon tax laws. For purposes of this certification, "Oregon tax laws" means a state tax imposed by ORS 401.792 to 401.816, ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

ARTICLE 17 **MISCELLANEOUS**

- 17.1** Headings: The headings used in the CM/GC Contract are solely for convenience of reference, are not part of the Contract and are not to be considered in construing or interpreting the Contract.
- 17.2** Merger: The Contract Documents constitute the entire contract between the parties. No waiver, consent, modification or change of terms of the Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, 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, not specified herein regarding the Contract. CM/GC, by signature of its representative, hereby acknowledges that it has read the Contract, understands it and agrees to be bound by its terms and conditions.

THIS CM/GC CONTRACT is executed in four original copies of which one is to be delivered to the CM/GC, and the remainder to Owner.

CM/GC:

Name of Firm: _____

Address: _____

CM/GC's Federal Tax I.D. #: _____

Construction Contractor's Board Registration No.: _____

Signature of Authorized Representative of CM/GC
Name, Title

Date: _____

OWNER:

STATE OF OREGON acting by and through the
Oregon State Board of Higher Education (OSBHE)
on behalf of the University of Oregon

Signature of Owner's Authorized Representative
Darin C. Dehle, Director of Capital Construction

Date: _____

EXHIBIT A

OREGON UNIVERSITY SYSTEM
GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS
July 1, 2012

EXHIBIT B

Sample: Early Work Amendment & GMP Amendment

(Fill out all **Highlighted** areas and delete *Italic Notations*)
AMENDMENT NO. ##

(FIRST, SECOND...) EARLY WORK AMENDMENT
TO CM/GC CONTRACT
(PROJECT NAME)
UO PROJECT # 50-##-##

THIS EARLY WORK AMENDMENT shall become effective upon execution by all parties.

The CM/GC Contract, which was effective (*Month day, year*) , for the construction of the **Project Name**, between:

The Owner:

The State of Oregon, acting by and through the Oregon State Board of Higher Education (OSBHE) on behalf of the University of Oregon

And
**CONSTRUCTION MANAGER/
GENERAL CONTRACTOR**
(referred to as Contractor in the OUS General Conditions and herein referred to as "the CM/GC"):

(Contractor Name)
(Address)
(City, State ZIP)

is hereby amended as follows:

1. EARLY WORK

In accordance with Article 3.2 of the CM/GC Contract, which authorizes the CM/GC to perform Construction Phase Services in advance of the execution of a GMP Amendment if an Early Work Amendment is executed, Owner and the CM/GC hereby agree that the CM/GC shall perform the Early Work generally described below and more specifically described in the Construction Documents for the Early Work that are listed in **Exhibit A**, including any Early Work Plans and Specifications. **Exhibit A** and all Construction Documents listed in **Exhibit A** are by this reference incorporated herein. This Early Work consists generally of the following:

SCOPE OF WORK: *(This may be typed in here or added as an Exhibit)*

2. MAXIMUM EARLY WORK PRICE

The maximum not-to-exceed Early Work Price (“Maximum Early Work Price”) for the Early Work described in the Construction Documents listed in **Exhibit A** is stated below. The cost breakdown for the Maximum Early Work Price is shown in **Exhibit B** which is by this reference incorporated herein, and consists of the following elements which are specifically described in Paragraph 3:

(a)	Preconstruction Services	\$	_____
(b)	Estimated Cost of Work (maximum not to exceed amount)	\$	_____
(c)	Reimbursable Maximum Not-To-Exceed Costs for GC Work attributable to Early Work	\$	_____
(d)	Maximum CM/GC Fee (_____% of the sum of (b) and (c))	\$	_____
(e)	Maximum Early Work Price of this Amendment	\$	_____

3. COST ELEMENTS OF EARLY WORK PRICE

The above-stated Maximum Early Work Price includes the following elements:

- (a) the cost for performance of the Early Work (including the CM/GC’s Contingency) which shall not exceed the maximum Estimated Cost of Work stated in Paragraph 2(b). CM/GC will be paid for performance of the Early Work in accordance with the payment provisions set forth in Section E of the General Conditions. Performance of the Early Work by CM/GC will be compensated on a cost reimbursement basis, but in no event shall CM/GC receive more than the maximum amount stated in Paragraph 2(b) for completing the Early Work.
- (b) the Cost for General Conditions Work attributable to the Early Work which shall not exceed the maximum amount stated in Paragraph 2(c). The Cost for General Conditions Work attributable to the Early Work shall be paid to CM/GC on a cost reimbursement basis, beginning with the first progress billing after commencement of the scheduled Early Work Construction Phase. The Cost for General Conditions Work attributable to future

Construction Phase Services shall be payable to the CM/GC during the performance of those Construction Phase Services if and when authorized under another Early Work Amendment or the GMP Amendment.

- (c) the maximum CM/GC Fee amount stated in Paragraph 2(d) which is an estimated amount based on the maximum Estimated Cost of the Work stated in Paragraph 2(b) plus the maximum Cost for General Conditions Work attributable to the Early Work stated in Paragraph 2(c). The actual CM/GC Fee will be based on the actual cost of performance of the Early Work (plus the actual Cost for General Conditions Work attributable to the Early Work) and will be paid to CM/GC ratably with each application for payment during the performance of the Early Work beginning with the first progress billing after commencement of the scheduled Early Work Construction Phase in accordance with Section 6.3.1 of the CM/GC Contract.

4. CURRENT TOTAL CONTRACT PRICE

The Current total Contract price is comprised of a maximum Preconstruction Fee and the sum of the Early Work Prices of all previous Early Work Amendments and the Maximum Early Work Price under this Amendment, all as shown below:

(a)	Original Contract Value (maximum not to exceed amount)	\$	
(b)	Prior Early Work Amendments	\$	
(c)	Prior Total Contract Sum (before this Amendment)	\$	
(d)	Maximum Early Work Price for this Amendment	\$	
(e)	Current total Contract price	\$	

REFER to EXHIBIT C for complete breakdown of Contract Values. (Attach Exhibit C Excel Document)

5. BONDING

The CM/GC shall provide to Owner a performance bond and a payment bond as required by Section G of the General Conditions, each bond in an amount that equals or exceeds the Current total Contract price set forth in paragraph 4(e), prior to supplying any labor or materials for prosecution of the Early Work.

6. REMAINING PROVISIONS

Except as amended herein, all provisions of the CM/GC Contract, as previously amended, shall remain in full force and effect, including Article 6 regarding establishment of the GMP. This Amendment does not create any contractual rights or obligations regarding the possible addition of future phases of the Work, including in particular additional Construction Phase Services not authorized hereunder, unless a GMP Amendment or another Early Work Amendment is executed between the parties.

7. TAX COMPLIANCE

By signature on this Early Work Amendment, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of CM/GC and that CM/GC 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 ORS 403.200 to 403.250 and 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 Department of Revenue under ORS 305.620.

8. PREVAILING WAGE RATES

CM/GC and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates and the required public works bond, as outlined in Sections C.1, C.2 and G.2.3 of the OUS General Conditions for Public Improvement Contracts. The Bureau of Labor and Industries (BOLI) wage rates and requirements set forth in the following BOLI booklet (and any listed amendments to that booklet), which are incorporated herein by reference, apply to the Work authorized under this Early Work Amendment and to all future Work under the Contract through the remainder of the Project:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, _____ (Enter appropriate date for release of BOLI Wage rates. Include Addendum dates if applicable "as Amended"), which can be downloaded at the following web address:

(Insert appropriate web address in a format similar to that provided below)

http://www.oregon.gov/boli/WHD/PWR/Pages/January_2013_Index.aspx &
http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_oregon_2013.aspx

The Work will take place in Lane County, Oregon.

(Signatures on the following page.)

THIS CONTRACT is executed in two original copies of which one is to be delivered to the CM/GC, and the remainder to Owner.

CM/GC:

Name of Firm: [redacted]

Address: [redacted]

CM/GC's Federal I.D. #: [redacted]

Construction Contractor's Board Registration No.: [redacted]

Signature of Authorized Representative of CM/GC

Title _____

Date _____

OWNER:

State of Oregon acting by and through the Oregon
State Board of Higher Education on behalf of the
University of Oregon

By _____

Jamie Moffitt (Provide appropriate signatory based upon signature authority)

Its _ Vice President for Finance and Administration/Chief Financial Officer

Date _____

EXHIBIT A

EARLY WORK CONSTRUCTION DOCUMENTS

(Attach Index of Plans and Specifications used to establish EWA)

EXHIBIT B

EARLY WORK PRICE BREAKDOWN

(Attach Support Documentation)

EXHIBIT C

AMENDMENT COST BREAKDOWN MATRIX

(Attach Exhibit C Excel Form)

EXHIBIT C - PROJECT NAME

Amendment Cost Breakdown Matrix

Contract DOC	Precon Fee	ECOW	GC Work	CM/GC Fee	Contract Total
Original Contract					\$ -
Amend 01 -					\$ -
Amend 02 -					\$ -
Amend 03 -					\$ -
Amend0 4 -					\$ -
Amend 05 -					\$ -
Amend 06 -					\$ -
Amend 07 -					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
CP# and Contract Totals	\$ -	\$ -	\$ -	\$ -	\$ -

(Fill out all **Highlighted** areas and delete *Italic Notations*)

AMENDMENT # **_____**

GMP AMENDMENT TO CM/GC CONTRACT 50-**xx-xx**

THIS GMP AMENDMENT IS BETWEEN:

OWNER:

The State of Oregon, acting by and through the Oregon State Board of Higher Education (OSBHE) on behalf of the University of Oregon

And

CONSTRUCTION MANAGER/
GENERAL CONTRACTOR
(referred to as Contractor in the
OUS General Conditions and herein
referred to as "the CM/GC"):

(Contractor name)
(address)
(City, State and zip)

The Project is:

(Project Name) **_____**
UO Project #50-**xx-xx**

Date of Original CM/GC Contract ("Contract"):

Date of this Amendment:

The Owner and CM/GC hereby amend the Contract as set forth below. Capitalized terms not otherwise used herein shall have the meanings given in the Contract. Except as amended hereby, the Contract remains in full force and effect.

1. WORK ADDED BY THIS GMP AMENDMENT. In accordance with Article 3.2 of the CM/GC Contract, the Owner and the CM/GC hereby agree that the CM/GC shall perform the Contract Work generally described below.

(Generally describe scope of work here. Attach Exhibit A Construction Documents and Specifications.)

2. PRICE OF WORK ADDED BY THIS GMP AMENDMENT. The maximum price for the Work added by this GMP Amendment which is described in the Construction Documents listed in **Exhibit A** is stated below. The cost breakdown for the maximum price is shown in **Exhibit C** and consists of the following elements which are specifically described in Paragraph 3:

- | | | | |
|-----|--|----|-------|
| (a) | Estimated Cost of Work added by this GMP Amendment | \$ | _____ |
| (b) | Maximum not-to-exceed Costs for General Conditions Work added by this GMP Amendment | \$ | _____ |
| (c) | CM/GC Fee for Work added by this GMP Amendment (<u> </u> % of the sum of 2(a) plus 2(b)) | \$ | _____ |
| (d) | Maximum Price of Work added by this GMP Amendment | \$ | _____ |

3. COST ELEMENTS OF THE PRICE OF WORK ADDED BY THIS GMP AMENDMENT. This maximum price for Work added by this GMP Amendment includes the following elements:

(a) The estimated Cost of the Work stated in Paragraph 2(a) (which includes the CM/GC's Contingency), as CM/GC will be paid for performance of the Work in accordance with the payment provisions set forth in Section E of the General Conditions. Performance of the Work by CM/GC will be compensated on a cost reimbursement basis during the performance of the Work added by this GMP Amendment, but in no event shall CM/GC receive more than the maximum amount stated in Paragraph 2(a) for completing the Work under this GMP Amendment.

(b) The maximum not-to-exceed Costs for General Conditions Work attributable to the Work added by this GMP Amendment which shall not exceed the maximum not-to-exceed amount stated in Paragraph 2(b). The actual cost for General Conditions Work attributable to the Work added by this GMP Amendment shall be paid to CM/GC during performance of the Work added by this GMP Amendment on a cost reimbursement basis, beginning with the first progress billing after commencement of the scheduled Construction Phase.

(c) The CM/GC Fee amount stated in Paragraph 2(c) which is an estimated amount based on the estimated Cost of the Work stated in Paragraph 2(a) plus the General Conditions Work amount stated in Paragraph 2(b). The CM/GC Fee to be paid for Work added by this GMP Amendment will be determined by multiplying the CM/GC Fee percentage (%) times the actual cost of the Work added by this GMP Amendment (including, the CM/GC's Contingency) plus the actual Costs for General Conditions Work. The CM/GC Fee will be paid to CM/GC ratably with each application for payment based on the actual Cost of the Work invoiced during the performance of the Work beginning with the first progress billing after commencement of the scheduled Work added by this GMP Amendment. Notwithstanding that the CM/GC Fee is calculated based on the actual Cost of the Work (including CM/GC's Contingency) plus the actual Costs for General Conditions Work during the performance of the Work added by this GMP

Amendment, the total CM/GC Fee to be paid at completion of the Project for all Work performed under all Early Work Amendments and this GMP Amendment will be based on the estimated Cost of the Work (including the CM/GC's Contingency) plus the maximum Costs for General Conditions Work, all as identified in prior Early Work Amendments and in this GMP Amendment, as summarized in Paragraph 6 below.

4. BASIS FOR WORK ADDED BY THIS GMP AMENDMENT. The Work added by this GMP Amendment is based on the construction documents attached as **Exhibit A-** listed below, which are by this reference incorporated herein:

5. BONDING. The CM/GC shall increase the amount of the performance and payment bonds previously provided in connection with this CM/GC Contract, or provide to Owner additional performance and payment bonds, as required by Section G of the General Conditions, the amount of such increase of each existing bond, or the amount of each new bond, to equal or exceed the maximum price for the Work added by this GMP Amendment stated in Paragraph 2(d), prior to supplying any labor or materials for prosecution of the Work under this GMP Amendment.

6. GMP. The parties agree that the GMP for the Project is \$ [REDACTED], consisting of the Preconstruction Fee, the estimated Cost of the Work, the maximum not-to-exceed Costs for General Conditions Work, and the CM/GC Fee (stated as a fixed dollar lump sum amount), as follows:

Preconstruction Fee:	\$	[REDACTED]
Estimated Cost of Work (ECOW):	\$	[REDACTED]
Maximum Costs for General Conditions Work:	\$	[REDACTED]
CM/GC Fee for the Project:	\$	[REDACTED]
GMP (Total of above categories):	\$	[REDACTED]

For purposes of determining the CM/GC Fee for the entire Project, the sum of the estimated Cost of the Work (which includes the CM/GC's Contingency) plus the total Costs for General Conditions Work is multiplied by the CM/GC Fee percentage of [REDACTED] % which results in the totals stated above and in the chart below for all Early Work Amendments and this GMP Amendment. The total CM/GC Fee stated below that will be paid at Project completion will be adjusted by crediting against that amount the CM/GC Fees paid to CM/GC under the prior Early Work Amendments and this GMP Amendment, as provided in Section 6.3.1 of the Contract. Totals are described in **Exhibit D** of this GMP Amendment.

7. BASIS OF GMP FOR THE PROJECT. The GMP for the Project is based on the GMP Supporting Documents attached as **Exhibit C** - listed below, which are by this reference incorporated herein, including the Allowances, attached as **Exhibit B**, assumptions and exclusions designated therein.

8. PLANS AND SPECIFICATIONS. The Plans and Specifications for the Project are as identified in the GMP Supporting Documents. CM/GC shall perform Construction Phase Services in accordance with the Plans and Specifications and the other Contract Documents.

9. SUBSTANTIAL AND FINAL COMPLETION DATE. Notwithstanding any provision in the Contract Documents or GMP Supporting Documents to the contrary, the required date for Substantial Completion of the Work shall be [REDACTED] the required date for Final Completion of the Work shall be [REDACTED], as described in the Construction Schedule attached as **Exhibit E**.

10. REMAINING PROVISIONS. Except as amended herein, all provisions of the CM/GC Contract shall remain in full force and effect, including Article 6 regarding establishment of the GMP.

11. TAX COMPLIANCE. By signature on this Amendment, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of CM/GC and that CM/GC 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 401.792 to 401.816 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber And Forestland Tax), 323 (Cigarettes And Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Department of Revenue under ORS 305.620.

(NOTE: Add Section 12 "Prevailing Wage Rates" here. It should be the exact language from Section 8 of the Early Work Amendment language. This should only be added to the GMP Amendment if NO Early Work Amendments were issued as part of the project.)

THIS CONTRACT is executed in two original copies of which one is to be delivered to the CM/GC, and the remainder to Owner.

CM/GC:

Name of Firm:

Address:

CM/GC's Federal I.D. #:

Construction Contractor's Board Registration No.:

Signature of Authorized Representative of CM/GC

Title _____

Date _____

OWNER:

State of Oregon acting by and through the Oregon
State Board of Higher Education on behalf of the
University of Oregon

Signature of Owner's Authorized Representative

Jamie Moffitt *(Provide appropriate signatory based upon signature authority)*

Title: Vice President of Finance and Administration and CFO

Date _____

EXHIBIT A

Index of Plans & Specifications

(Attach Index of Plans and Specifications used to establish GMP)

EXHIBIT B

Allowance Summary

(Attach Allowance Summary. If one does not exist, mark this page "RESERVED")

EXHIBIT C

**GMP Cost Breakdown, Assumptions, and Clarifications
made in preparing the Guaranteed Maximum Price**

(Attach Support Documentation)

EXHIBIT D

Amendment Cost Breakdown Matrix

(Attach Exhibit D Excel Form)

EXHIBIT D - PROJECT NAME

Amendment Cost Breakdown Matrix

Contract DOC	Precon Fee	ECOW	GC Work	CM/GC Fee	Contract Total
Original Contract					\$ -
Amend 01 -					\$ -
Amend 02 -					\$ -
Amend 03 -					\$ -
Amend0 4 -					\$ -
Amend 05 -					\$ -
Amend 06 -					\$ -
Amend 07 -					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
CP# and Contract Totals	\$ -	\$ -	\$ -	\$ -	\$ -

EXHIBIT E

Construction Schedule

(Attach Construction Schedule)

EXHIBIT C

DIRECT COSTS/GC WORK COSTS MATRIX

EXHIBIT D

OUS SUPPLEMENTAL GENERAL CONDITIONS

EXHIBIT E

REIMBURSABLE TRAVEL AND PER DIEM EXPENSES

The Owner shall reimburse CM/GC for any allowable travel and per diem subsistence expenses more particularly described below. Charges for travel expenses will be reimbursed at cost, but not in excess of the rates stated below. These rates are as follows:

Air fare (coach class only) and car rental	At cost
Personal car mileage	\$0.51 per mile
Lodging	\$108 per night plus tax
Meals: (Documentation not required; reimbursable only when associated with overnight travel.)	
Breakfast	\$13.00
Lunch	\$13.00
Dinner	\$26.00
Printing, photography, long distance telephone charges and other direct expenses	At cost

Requests for reimbursement of allowable expenses, except meals, must include documentation of actual expenditures.

EXHIBIT F
CM/GC PROPOSAL

EXHIBIT G

PERFORMANCE & PAYMENT BONDS

APPENDIX B

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 an Change Orders.

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 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.

J.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 C

OREGON UNIVERSITY SYSTEM

SUPPLEMENTAL GENERAL CONDITIONS

To The

GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS

Contract Number: _____

Project Name: _____

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

Section A.1, Add definition for “Amendment” as follows:

AMENDMENT, means a writing which, when fully executed by the Parties to this Contract, constitutes a change to a Contract Document. Amendments to the Contract shall be issued in accordance with the change provisions of Section D and, if applicable, establish a Contract Price and/or Contract Time adjustment.

Section A.1, Delete definition “Change Order” is deleted and replaced with the following:

CHANGE ORDER, shall mean term Amendment as defined in these Supplemental General Conditions.

Section A.1, Definition for “Contract Documents” is deleted and replaced with the following:

CONTRACT DOCUMENTS, means the Request for Proposals and addenda thereto, the Oregon University System CM/GC Contract, Oregon University System General Conditions for Public Improvement Contracts, Oregon University System Supplemental General Conditions, if any, the accepted Offer, Plans, Specifications, Amendments and Construction Change Directives.

Section A.1, Definition for “Overhead” is deleted and replaced with the following:

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 or General Conditions, including without limitation such Overhead expenses as wages or salary of personnel primarily at the Contractor's principle place of business, Contractor's office costs and supplies at Contractor's principal place of business, and Commercial General Liability Insurance and Automobile Liability Insurance.

Section B.4 is hereby deleted and replaced with the following:

Contractor shall obtain and pay for all necessary permits, licenses and fees, except for those specifically excluded in the Retainer 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. Notwithstanding the first sentence of this paragraph, Owner shall pay for the following: Plan check fees and permit fees required for the general building permit, systems development charges, and building department inspection fees. Notwithstanding the foregoing, however, Contractor shall obtain all permits, licenses and fees required for the construction of the Work.

Section K.2 is hereby deleted and replaced with the following:

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 two 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.

Section K.4 is hereby deleted and replaced with the following:

As part of the Work, and prior to submission of the final application for payment, the Contractor shall schedule with the Owner and provide 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. In addition to any off-site training required by the Contract Documents, training shall include a formal session conducted at the Work site after the equipment and/or system is completely installed and operational in its normal operating environment.

APPENDIX D

Direct Costs/GC Work Costs Matrix

	Description	Construction costs/Paid by Owner		Costs included in CM/GC Fee	Misc. Costs Paid by Owner
		Direct Cost of the Work	General Conditions Work Cost		
Costs Related to CM Staffing & Job Office					
1	Project Superintendent		X		
2	Area Superintendents		X		
3	Project Executive (for project specific time only)		X		
4	Senior Project Manager (for project specific time only)		X		
5	Project Manager		X		
6	Project Engineers		X		
7	Field Engineers		X*		
8	Project Admin		X*		
9	Scheduler (for project specific time only)		X		
10	MEP Coordinator (for project specific time only)		X		
11	LEED Coordinator (for project specific time only)		X		
12	Safety Coordinator (for project specific time only)		X		
13	Detailer	X			
14	Accounting/Data Processing			X	
15	Payroll Accountant			X	
16	Surveying	X			
17	Benefits		X		
18	Vacation Time		X		
19	Travel, Hotel, Meals, etc. (in accordance with OUS guidelines)		X		
20	Sick Leave		X		
21	Bonuses			X	
22	Jobsite Office material costs and expendables		X		
23	Warranty			X	
24	Corrective/Non-conforming repair			X	
25	Corrective work not due to contractor default				X
26	PM auto rental		X		
27	PM auto fuel/maintenance		X		
28	Project Superintendent truck rental		X		
29	Project Superintendent truck fuel/maintenance		X		
30	Office Trailer Rental		X		
31	A/E Temp Office Rental				N/A
32	Office Furniture/Equipment		X*		
33	Blueprints for sub bidding				X
34	Blueprints for day-to-day job operations		X		
35	Postage/FedEx		X		
36	Project Photos		X		
37	Personal Computers/software		X		
38	General Contractor Bond	X			
39	Subcontractor Bonds	X			
40	Insurance GL (in accordance with OUS contract only)			X	
41	Insurance All Risk	X			
42	Soils report				X
43	Testing and Inspections				X
44	Facility training				X
45	Building Permits/Fees				X
46	Development Permits/fees				X
47	Principal in Charge			X	
48	Estimating			X	
49	Value engineering			X	
50	Corporate accounting			X	
51	Corporate safety officer			X	
52	Main office administration			X	
53	Corporate IT director			X	
54	Legal			X	
55	Main office payroll costs			X	
56	Main office fringe/bonus costs			X	

Costs Related to COW Activities & Craft Labor

57	Construction Wages for trade labor	X*			
58	Labor Burden for trade labor	X*			
59	Subcontracts	X			
60	Material & Equipment related to craft labor & site logistics	X			
61	Rental-Contractor Owned equip (less than \$2000 will be purchased)	X*			
62	Small Tools (less than \$2000 will be purchased)	X*			
63	Flatbed truck rental/operation	X			
64	Flatbed truck fuel/maintenance	X			
65	Water truck	X			
66	Air Compressor	X			
67	Water pumping equipment	X			
68	Other dewatering equipment	X			
69	Equipment rental -third party	X			
70	Storage Trailer rental	X			
71	Temporary Toilets	X			
72	Project Signage	X			
73	Temporary Fencing	X			
74	Barricades	X			
75	Temporary Enclosures	X			
76	Temporary Stairs	X			
77	Opening Protection	X			
78	Safety railing and nets	X			
79	Drinking water (NOT coffee)		X		
80	Safety equipment for CMGC personnel. Subs provide own in COW.		X		
81	First Aid supplies for CMGC personnel. Subs provide own in COW.		X		

	Description	Construction costs/Paid by Owner		Costs included in CM/GC Fee	Misc. Costs Paid by Owner
		Direct Cost of the Work	General Conditions Work Cost		
82	Security	X*			
83	Weather protection	X			
84	Mobilization/Demobilization	X			
85	Parking/Shuttles			X	
86	Telephone Installation		X		
87	Telephone Bills		X		
88	Temp utilities hookup	X			
89	Temp utility bills				X
90	Periodic Cleanup	X			
91	Final cleanup	X			
92	Dump permits/fees	X			
93	Trash removal/Hauling	X			
94	Flagging/Traffic control	X			
95	Dust Control	X			
96	Trash chute	X			
97	Trade permits	X			
98	Manlift Materials and Rental	X			
99	Manlift Erect/Dismantle	X			
100	Manlift operator	X			
101	Crane rental	X			
102	Crane operator & bellman	X			
103	Crane Erect/Dismantle/Jump	X			
104	Crane Service agreement costs	X			
105	Temp elevator operator	X			
106	Temp elevator agreement	X			
107	Forklift rental	X			
108	Forklift operator	X			
109	Fuel/Oil/Maintenance	X			

APPENDIX F

OREGON UNIVERSITY SYSTEM

CM/GC CONTRACT

PERFORMANCE BOND

Bond No. _____

Solicitation _____

Project Name _____

_____	(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, Oregon State Board of Higher Education (OSBHE), 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 State of Oregon, 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 State of Oregon, OSBHE, 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 above-referenced agency(ies), 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

APPENDIX G

OREGON UNIVERSITY SYSTEM

CM/GC CONTRACT

PAYMENT BOND

Bond No. _____
Solicitation _____
Project Name _____

_____ (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, Oregon State Board of Higher Education (OSBHE), 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 State of Oregon, 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 State of Oregon, OSBHE 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 above-referenced agency(ies), 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