



Engineering +  
Environmental

# **Erb Memorial Union Bid Package #2 Asbestos Abatement**

## **Asbestos Abatement Specifications**

Erb Memorial Union  
1222 E 13th Avenue and 1395 University Street  
Eugene, Oregon

Prepared for:  
University of Oregon  
Eugene, Oregon

April 2014  
Project No. 51980.012

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# UNIVERSITY OF OREGON

Erb Memorial Union  
Bid Package #2 Asbestos Abatement

## ASBESTOS ABATEMENT

These specifications are for the exclusive use of the Owner for conducting asbestos abatement projects as part of the Owner's Asbestos Control Program. These specifications are not to be photographed, photocopied, or similarly reproduced in total or in part without the expressed written consent of the Owner.

April 2014

### PREPARED BY:

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2645 Willamette Street, Suite A  
Eugene, Oregon 97405  
541.686.8684  
PBS Project Number: 51980.012

Project Designer:  
Jack Burgess  
EPA Accredited Project Designer  
Accreditation Number: PDR-13-6994A

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Signature

Date

## PROJECT DIRECTORY

### OWNER:

University of Oregon  
Environmental Health & Safety  
5224 University of Oregon  
Eugene, OR 97403-5224  
Phone: 541.346.2908  
Fax: 541.346.7008  
Attn: Mike Eldredge

### SITE:

Erb Memorial Union  
1222 E 13<sup>th</sup> Avenue and 1395 University Street  
Eugene, Oregon

### CONSULTANT:

PBS Engineering and Environmental Inc.  
2645 Willamette Street, Suite A  
Eugene, OR 97405  
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Attn: Jack Burgess

**UNIVERSITY OF OREGON**

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# OREGON UNIVERSITY SYSTEM

## NOTICE OF RETAINER CONTRACT OPPORTUNITY

**THIS OPPORTUNITY IS ONLY AVAILABLE TO CONTRACTORS WITH A CURRENT OREGON UNIVERSITY SYSTEM (OUS) RETAINER CONTRACT FOR CONSTRUCTION RELATED SERVICES.**

The State of Oregon, acting by and through the State Board of Higher Education on behalf of the University of Oregon (“Owner”) is accepting sealed bids for a public improvement project at Erb Memorial Union Building until 4:00 PM, Pacific Time, April, 24th 2014 (“Closing Date and Time”) for the Erb Memorial Union Bid Package #2 Asbestos Abatement project located on the campus of the University of Oregon, in Eugene, Oregon (“Project”). The Project includes removal of various asbestos-containing building materials and related demolition work.

A mandatory pre-bid conference and examination of the site and conditions will be conducted at 1:00 PM on Thursday April 17th, 2014. Bidders shall meet with Owner’s Representative at The Erb Memorial Union for that purpose. Attendance will be documented through a sign-in sheet prepared by the Owner’s Representative. Prime bidders who arrive more than 5 minutes after start of time of the meeting (as stated in the solicitation and by the Owner’s Representative’s watch) or after the discussion portion of the meeting (whichever comes first) shall not be permitted to sign in and will not be permitted to submit a bid on the Project.

Bids will be received on a lump-sum basis for all of the work. **Bid packets may be obtained on the OUS Bid and Business Opportunities website (<http://secure.ous.edu/bid/>).**

All bidders must comply with requirements of the prevailing wage law in ORS 279C.800 through ORS 279C.870. All bidders must be registered with the Construction Contractor’s Board at the time of bid submission. No bid will be considered unless fully completed in the manner provided in the “Instructions to Bidders” upon the Bid Form provided and accompanied by Bid Security. OUS encourages bids from Minority, Women, and Emerging Small Businesses.

OREGON STATE BOARD OF HIGHER EDUCATION

By: Jamie Moffitt, Vice President for Finance and Administration

**OREGON UNIVERSITY SYSTEM**  
**STANDARD RETAINER CONTRACT**  
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## **INSTRUCTIONS TO BIDDERS**

Oregon Administrative Rules (“OAR”) Chapter 580, Divisions 61 and 63 govern this OUS procurement process.

### **Article 1. Definitions**

**1.1.** Capitalized words used herein but not defined shall have the meaning set forth in the OUS Retainer General Conditions and OAR 580-061-0010. The following terms used herein shall have the meaning set forth below:

“**Bid Form**”- refers to OUS Contract Form B-5 provided by Owner to be completed by Bidder.

“**Project Manual**”- The Project Manual includes, but is not necessarily limited to the following: the Advertisement for Bids or Notice of Contracting Opportunity, these Instructions to Bidders, Supplemental Instructions to Bidders, Bid Form, OUS Retainer Contract General Conditions, Supplemental General Conditions (if any), Sample Retainer Contract Supplement, Performance Bond, Payment Bond, and the Plans and Specifications.

### **Article 2. Scope of Work**

**2.1** The Work contemplated in this document shall be for the Owner in connection with the Project described in the Project Manual.

### **Article 3. Examination of Site and Conditions**

**3.1** Before making a Bid, the Bidder shall examine the Work site to ascertain its physical condition. The Bidder shall be responsible for being fully informed as to the quality, quantity and sources of supply of the materials listed on the Project Manual. Failure to comply with this Section will not release Contractor from entering into the Contract nor excuse Contractor from performing the Work in strict accordance with the terms of the Contract Documents.

**3.2** The Owner will not be responsible for any loss or unanticipated costs which may arise as a result of Contractor's failure to be fully informed in advance with regard to all conditions pertaining to the Work and the character of the Work required.

**3.3.** No statement made by any officer, agent, or employee of the Owner in relation to the physical conditions pertaining to the Work site or quality, quantity, and supply of materials will be binding on the Owner, unless included in writing in the Project Manual or an Addendum.

### **Article 4. Substitute Materials Approval Process**

**4.1** Prior to submitting a Bid including a Substitution, the Bidder must first seek approval of the Substitution from the Architect (or Engineer, as appropriate hereafter) by submitting a written request for approval at least three calendar days prior to the Closing Date and Time. The Bidder submitting the request shall be responsible for its timely delivery.

**4.2** Substitution approval requests shall be accompanied by samples, records of performance, certified copies of tests by impartial and recognized laboratories, and such other information as the Architect may request.

**4.3** Within a reasonable time after receiving such a request the Owner (or Architect if so designated) will consider

whether the Substitution sought by Bidder is of equal value, utility, as the designated product in the Project Manual. If the requested Substitution is approved an Addendum to the Project Manual shall be issued. A copy of each Addendum will be posted on the OUS Bid and Business Opportunities website (<http://secure.ous.edu/bid>) and shall become a part of the Project Manual.

**4.4** When the Architect approves a Substitution by Addendum, it is with the understanding that the Contractor guarantees the substituted article or material to be equal or better than the one specified.

## **Article 5. Interpretation of Project Manual**

**5.1** A Bidder in doubt as to the meaning of any part of the Project Manual may submit a written request for an interpretation to the Architect at any time prior to three calendar days prior to the Closing Date and Time.

**5.2** Any interpretation of the Project Manual will be made only by a duly issued Addendum. The Owner will not be responsible for any other explanation or interpretation of the Project Manual nor for any other approval of a particular manufacturer's process or item.

**5.3** To establish a basis of quality, certain processes, types of machinery and equipment or kinds of materials may be specified in the Project Manual either by description of process or by designating a manufacturer by name and referring to a brand or product designation or by specifying a kind of material. Whenever a process is designated or a manufacturer named, brand or item designation given, or whenever a process or material covered by patent is designated or described, it shall be understood that the words "or approved equal" follow such name, designation or description, whether they do so or not.

## **Article 6. Execution of the Bid Form**

**6.1** The Bid Form relates to Bids on a specific Project Manual. Only the amounts and information asked for on the Bid Form furnished by the Owner will be considered as the Bid. Each Bidder shall Bid upon the Work exactly as set forth in the Bid Form. The Bidder shall include in the Bid a sum to cover the cost of all items contemplated by the Project Manual. Bids that fail to address alternates set forth on the Bid Form may be considered non-responsive.

**6.2** Each Bid Form must: 1) Be completed in accordance with these instructions; 2) Include the appropriate signatures as noted on the Bid Form; 3) Include numbers pertaining to base Bids stated both in writing and in figures; and 4) Include the Bidder's typed or clearly printed address.

**6.3** When Bidding on an alternate for which there is no charge, the Bidder shall write the words "No Charge" in the space provided on the Bid Form. If one or more alternates is shown on the Bid Form, the Bidder shall indicate whether each is "add" or "deduct."

## **Article 7. Prohibition of Alterations to Bid**

**7.1** Bids which are incomplete, or contain ambiguities or conditions not provided for in the Bid Form, may be rejected.

## **Article 8. Submission of Bid**

**8.1** Each Bid shall be sealed in an envelope, properly addressed to the appropriate project representative of the Owner, showing on the outside of the envelope the name of the Bidder and the name of the project. Bids will be received at the time and place stated in the Advertisement for Bids.



## **Article 9. Bid Closing and Opening of Bids**

**9.1** All Bids must be received by the Owner before the Closing Date and Time. Any Bids received after the Closing Date and Time will be rejected and returned to the Bidder unopened.

## **Article 10. Acceptance or Rejection of Bids by Owner**

**10.1** Unless all Bids are rejected, the Owner will award the Contract based on the lowest responsive Bid from a responsible Bidder. If that Bidder does not execute the Contract, the Contract will be awarded to the next lowest responsible Bidder or Bidders in succession.

**10.2** The procedures for Contract awards shall be in compliance with the provisions of OARs adopted by the Owner.

**10.3** The Owner reserves the right to reject all Bids and to waive minor informalities.

**10.4** In determining the lowest Bidder, the Owner reserves the right to take into consideration any or all authorized base Bids as well as alternates or combinations indicated in the Bid Form.

**10.5** If Owner has not accepted a Bid within 30 calendar days after the opening of the Bids, each of the three lowest Bidders may withdraw the Bid submitted.

## **Article 11. Withdrawal of Bid**

**11.1** At any time prior to the Closing Date and Time a Bidder may withdraw its Bid. This will not preclude the submission of another Bid by such Bidder prior to the Closing Date and Time.

**11.2** After the Closing Date and Time, no Bidder will be permitted to withdraw its Bid within the time period specified in Article 10 for award and execution, except as provided for in that Article.

## **Article 12. Execution of Contract, Agreement, Performance Bond and Payment Bond**

**12.1** The Owner will provide the successful Bidder with Contract Documents within 10 calendar days after the award of the Contract. The Bidder shall be required to execute the Contract as provided, including a Performance Bond and a Payment Bond from a surety company licensed to do surety business in the State of Oregon, within 20 calendar days after the award of the Contract. The Contract Documents shall be delivered to the Owner in the manner stated in the Notice of Award.

## **Article 13. Recyclable Products**

**13.1** Contractors must use recyclable products to the maximum extent economically feasible in the performance of the Contract.

**OREGON UNIVERSITY SYSTEM**  
**STANDARD RETAINER CONTRACT**  
**SUPPLEMENTAL INSTRUCTIONS TO BIDDERS**

**Erb Memorial Union**  
**Bid Package #2 Asbestos Abatement**

**The following modify the Oregon University System “Instructions to Bidders, Form B-2” for this procurement. Where a portion of the Instructions to Bidders has been modified by these Supplemental Instructions to Bidders, the unaltered portions shall remain in effect.**

Complete Bids (including all attachments) may be emailed and must be electronically received by the Closing Date and Time 4:00 PM on Thursday April 24th, 2014. The bid must be emailed to [capcon@uoregon.edu](mailto:capcon@uoregon.edu). The email subject line must be “Bid for Erb Memorial Union Bid Package #2 Asbestos Abatement Project”. Bidders submitting an electronic Bid will receive an email reply. Bidders that do not receive an email reply *must* telephone (541-346-2287) and confirm electronic receipt of the complete emailed document(s) before the Closing Date and Time. Bids delayed or lost by email system filtering or failures may be considered at Owner’s sole discretion.

In addition to electronic submission, the original copy of the Bid must be postmarked no later than April 28<sup>th</sup>, 2014. The envelope/package containing the Proposal must be clearly marked Bid for Erb Memorial Union Bid Package #2 Asbestos Abatement Project.

**OREGON UNIVERSITY SYSTEM**  
**STANDARD RETAINER CONTRACT**  
**BID FORM**

OUS CAMPUS: UNIVERSITY OF OREGON

PROJECT: ERB MEMORIAL UNION BID PACKAGE #2 ASBESTOS ABATEMENT PROJECT

BID CLOSING DATE: 4:00 PM, Pacific Time, April, 24 2014

FROM: \_\_\_\_\_  
*Name of Contractor*

TO: The State of Oregon, acting by and through the Oregon State Board of Higher Education, on behalf of the University of Oregon (“Owner”)  
*(campus or office name and address)*

Capital Construction  
1295 Franklin Boulevard  
1276 University of Oregon  
Eugene, OR 97403-1276

1. The Undersigned *(check one of the following and insert information as requested)*:

\_\_\_ a. An individual doing business under an assumed name registered under the laws of the State of \_\_\_\_\_; or

\_\_\_ b. A partnership registered under the laws of the State of \_\_\_\_\_; or

\_\_\_ c. A corporation organized under the laws of the State of \_\_\_\_\_; or

\_\_\_ d. A limited liability corporation/company organized under the laws of the State of \_\_\_\_\_;

hereby proposes to furnish all material and labor and perform all Work hereinafter indicated for the above project in strict accordance with the Contract Documents for the Basic Bid as follows:

\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

and the Undersigned agrees to be bound by each of the following documents:

- Notice of Retainer Contract Opportunity

- Instructions to Bidders
- Supplemental Instructions to Bidders, if any
- OUS Retainer Contract General Conditions
- UO Supplemental Retainer Contract General Conditions
- Sample Retainer Contract Supplement
- Performance Bond and Payment Bond
- Plans and Specifications
- Prevailing Wage Rates
- Payroll and Certified Statement Form  
(found at [http://egov.oregon.gov/BOLI/WHD/PWR/W\\_PWR\\_Forms.shtml](http://egov.oregon.gov/BOLI/WHD/PWR/W_PWR_Forms.shtml))

• Any ADDENDA numbered \_\_\_\_ through\_\_\_\_, inclusive (*fill in blanks*).

2. Alternate Bids not applicable.

3. Unit prices not applicable.

4. The work shall be completed within the time stipulated and specified in Division 1, Section 01010, of the Specifications.

5. The Undersigned certifies that: (1) This Bid has been arrived at independently and is being submitted without collusion with and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment or services described in the invitation to bid designed to limit independent bidding or competition; and (2) The contents of the Bid have not been communicated by the Undersigned or its employees or agents to any person not an employee or agent of the Undersigned and will not be communicated to such person prior to the official opening of the Bid.

6. The undersigned **HAS, HAS NOT** (*circle applicable status*) paid unemployment or income taxes in Oregon within the past 12 months and **HAS, HAS NOT** (*circle applicable status*) a business address in Oregon.

7. The Undersigned agrees, if awarded a contract, to comply with the provisions of ORS 279C.800 through 279C.870 pertaining to the payment of the prevailing rates of wage.

8. Contractor's CCB registration number is \_\_\_\_\_. As a condition to submitting a bid, a Contractor must be registered with the Oregon Construction Contractors Board in accordance with ORS 701.035 to 701.055, and disclose the registration number. Failure to register and disclose the number will render the bid unresponsive and it will be rejected, unless contrary to federal law.

9. The successful Bidder hereby certifies that all subcontractors who will perform construction work as described in ORS 701.005(2) were registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time the subcontractor(s) made a bid to work under the Contract.

10. The successful Bidder hereby certifies that, in compliance with the Worker's Compensation Law of the State of Oregon, its Worker's Compensation Insurance provider is \_\_\_\_\_, Policy No. \_\_\_\_\_, and that Contractor shall submit Certificates of Insurance as required.

11. Contractor's Project Manager for this project is: \_\_\_\_\_,  
Office Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_.

12. The Undersigned certifies that it has not discriminated against minority, women, or emerging small businesses in obtaining any subcontracts for this project.

13. The Undersigned agrees, if awarded the Contract, to execute and deliver to Owner, within twenty (20) calendar days after receiving the Contract Documents, an Agreement Form and a satisfactory Performance Bond and Payment Bond, each in an amount equal to one hundred (100) percent of the Contract sum, using forms provided by the Owner. The surety requested to issue the Performance Bond and Payment Bond will be:

\_\_\_\_\_  
*(name of surety company - not insurance agency)*

The Undersigned hereby authorizes said surety company to disclose any information to the Owner concerning the Undersigned's ability to supply a Performance Bond and Payment Bond each in the amount of the Contract.

14. In determining the lowest Bidder, the Owner reserves the right to take into consideration any or all authorized base Bids as well as alternates or combinations indicated in the Bid Form.

By signature below, Contractor agrees to be bound by this Bid.

NAME OF FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

FEDERAL TAX ID \_\_\_\_\_

TELEPHONE NO \_\_\_\_\_

FAX NO \_\_\_\_\_

SIGNATURE 1) \_\_\_\_\_

Sole Individual

or 2) \_\_\_\_\_

Partner

or 3) \_\_\_\_\_

Authorized Officer of Corporation

(SEAL)

\_\_\_\_\_  
Attested: Secretary of Corporation

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

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

**OREGON UNIVERSITY SYSTEM**  
**RETAINER SUPPLEMENTAL GENERAL CONDITIONS**

**To The**  
**GENERAL CONDITIONS**  
**FOR RETAINER CONTRACTS**

**Supplement No.** \_\_\_\_\_  
**Project Name** \_\_\_\_\_

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

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.



# OREGON UNIVERSITY SYSTEM

## GENERAL CONDITIONS FOR RETAINER CONTRACTS

July 1, 2012

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

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**OREGON UNIVERSITY SYSTEM  
GENERAL CONDITIONS FOR RETAINER CONTRACTS  
("OUS Retainer General Conditions")**

**SECTION A  
GENERAL PROVISIONS**

**A.1 DEFINITION OF TERMS**

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

**AMENDMENT**, means a writing which, when fully executed by the Parties to this Contract, constitutes a change to a Contract Document. Amendments to Supplements (hereinafter a "Supplement Amendment") shall be issued in accordance with the changes provisions of Section D and, if applicable, establish a Contract Price or Contract Time adjustment.

**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.

**CHANGE ORDER**, means a written order issued by the Owner to be later included as an Amendment. A Change Order shall not be effective until codified as an Amendment.

**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 Retainer 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 Offerors, Supplemental Instructions to Offerors, the OUS Retainer Contract, OUS Retainer General Conditions, Retainer Supplemental General Conditions, if any, the accepted Offer, Plans, Specifications, Supplements, Amendments, 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 a Supplement and, if applicable, the issuance of a Notice to Proceed and concluding upon Final Completion.

**CONTRACT PRICE**, means the total of the awarded Offer 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; 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 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 Supplements and Amendments 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.

**OFFER**, means a bid in connection with Instructions to Bidders or a proposal in connection with a Request for Proposals.

**OFFEROR**, means a bidder in connection with Instructions to Bidders or a proposer in connection with a Request for Proposals.

**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 Retainer 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 Retainer General Conditions, recording all Services performed.

**SOLICITATION DOCUMENT**, means Instructions to Bidders or Offerors 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.

**SUPPLEMENT**, means a writing which, when fully executed by the Parties thereto, constitutes 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.

**RETAINER SUPPLEMENTAL GENERAL CONDITIONS**, means those conditions that remove from, add to, or modify these OUS Retainer General Conditions. Retainer 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 Supplements, Amendments and Construction Change Directives, with those of later date having precedence over those of an earlier date;
- (b) The Retainer Supplemental General Conditions;
- (c) The OUS Retainer Contract;
- (d) The OUS Retainer 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 Offer.

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 an Offer, 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**

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.

**B.5 COMPLIANCE WITH GOVERNMENT  
REGULATIONS**

- B.5.1 Contractor shall comply with Applicable Laws pertaining to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following, as applicable:
- (i) Title VI and VII of Civil Rights Act of 1964, as amended;
  - (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended;
  - (iii) the Health Insurance Portability and Accountability Act of 1996;
  - (iv) the Americans with Disabilities Act of 1990, as amended;
  - (v) ORS Chapter 659A; as amended;
  - (vi) all regulations and administrative rules established pursuant to the foregoing laws; and
  - (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- B.5.2 Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations, and
- (a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts.
  - (b) Contractor shall maintain, in current and valid form, all licenses and certificates required by Applicable Laws or this Contract when performing the Work.
- B.5.3 Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.
- B.5.4 Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape contractor's license issued pursuant to ORS 671.560.
- B.5.5 The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987.
- B.5.6 Failure to comply with any or all of the requirements of B.5.1 through B.5.5 shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

**B.6 SUPERINTENDENCE**

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

**B.7 INSPECTION**

- B.7.1 Owner shall have access to the Work at all times.
- B.7.2 Inspection of the Work will be made by the Owner at its discretion. The Owner will have authority to reject Work that does not conform to the Contract Documents. Any Work found to be not in conformance with the Contract Documents, in the

discretion of the Owner, shall be removed and replaced at the Contractor's expense.

- B.7.3 Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by Applicable Laws or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.
- B.7.4 As required by the Contract Documents, Work done or material used without required inspection or testing and/or without providing timely notice to the Owner may be ordered removed at the Contractor's expense.
- B.7.5 If directed to do so any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done without required testing or inspection or sufficient notice to the Owner, the uncovering and restoration shall be done at the Contractor's expense. If the Work uncovered is acceptable and was done with sufficient notice to the Owner, the uncovering and restoration will be paid for pursuant to a Supplement Amendment.
- 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 Retainer 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; 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 on 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 Amendment. The amount of the Amendment 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 Supplement Amendment 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 Supplement Amendment 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 of 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 Supplement or Amendment 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 Amendments shall be executed under the conditions of the Contract Documents. Such changes may include, but are not limited to:

- (a) Modification of specifications and design.
- (b) Increases or decreases in quantities.
- (c) Increases or decreases to the amount of Work.
- (d) Addition or elimination of any Work item.
- (e) Change in the duration of the project.
- (f) Acceleration or delay in performance of Work.
- (g) Deductive changes.

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

percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Owner.

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

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

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

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

(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, or if there will be a Guaranteed Maximum Price (GMP) Amendment, then within ten (10) Days of Contractor's execution of the GMP Amendment. Contractor shall submit annual MWESB Reports on June 30 of each year the Contract is active. Contracts (or GMP Amendments) 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 fifteen (15) 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 15-Day period.

E.5.1.4 Owner will reduce the amount of the retainage if the Contractor notifies the controller of 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.

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 the Owner 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 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 their 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 issuance of a Supplement, Contractor shall obtain, and keep in effect at Contractor's expense for the term of the Supplement, 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 and a Supplement.
- 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 \$3,000,000 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 remain 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 agrees 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 any Supplement.
- G.3.8 Retainer Contract Program: For the OUS Retainer Contract Program the term "Contract" as used in this Section G in the phrases "keep in effect during the term of this Contract" and "prior to execution of the Contract" shall mean each Retainer Contract Supplement issued under the Retainer 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 Supplement Amendment, 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, 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 provision 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 project in every respect as though its prosecution had been continuous and without suspension.

#### **J.3 COMPENSATION FOR SUSPENSION**

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

#### **J.4 OWNER'S RIGHT TO TERMINATE CONTRACT**

J.4.1 The Owner may, without prejudice to any other right or remedy, and after giving Contractor seven (7) Days' written notice and an opportunity to cure, terminate the Contract in whole or in part under the following conditions:

- (a) If Contractor should, voluntarily or involuntarily, seek protection under the United States Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
- (b) If Contractor should make a general assignment for the benefit of Contractor's creditors;
- (c) If a receiver should be appointed on account of Contractor's insolvency;
- (d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;
- (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner; or
- (f) If Contractor is otherwise in breach of any part of the Contract.
- (g) If Contractor is in violation of Applicable Laws, either in the conduct of its business or in its performance of the Work.

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

#### **J.5 TERMINATION FOR CONVENIENCE**

J.5.1 Owner may terminate the Contract in whole or in part whenever Owner determines that termination of the Contract is in the best interest of Owner or the public.

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

#### **J.6 ACTION UPON TERMINATION**

J.6.1 Upon receiving a notice of termination, and except as directed otherwise by the Owner, Contractor shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Work terminated and, with the prior written approval of the Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.

J.6.2 As directed by the Owner, Contractor shall, upon termination, transfer title and deliver to the Owner all Record Documents, information, and other property that, if the Contract had been completed, would have been required to be furnished to the Owner.

I.6.3 Upon Owner's notice of termination pursuant to either Section J.4 or J.5, if Owner shall so elect, Contractor shall assign 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 (refer also to 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 (3) complete and approved sets of O & M Manuals 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 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 held 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.

**OREGON UNIVERSITY SYSTEM**  
**STANDARD PUBLIC IMPROVEMENT 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, acting by and through the State Board of Higher Education, on behalf of the OUS (OUS), the sum of (Total Penal Sum of Bond)

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

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

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

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

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein,

and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the OUS, and \_\_\_\_\_ (name of institution and any other Owner agency), and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said contract according to law, then this obligation is to be void; otherwise, it shall remain in full force and effect.

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

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**PRINCIPAL:** \_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Official Capacity  
Attest: \_\_\_\_\_  
Corporation Secretary

**SURETY:** \_\_\_\_\_  
*[Add signatures for each surety if using multiple bonds]*

**BY ATTORNEY-IN-FACT:**  
*[Power-of-Attorney must accompany each surety bond]*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax



**OREGON UNIVERSITY SYSTEM**

**STANDARD PUBLIC IMPROVEMENT 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, acting by and through the State Board of Higher education, on behalf of the Oregon University System (OUS), the sum of (Total Penal Sum of Bond) \_\_\_\_\_ (Provided, that we the Sureties bind ourselves in such sum “jointly and severally” as well as “severally” only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

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

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

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

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

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

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

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**PRINCIPAL:** \_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Official Capacity

Attest: \_\_\_\_\_  
Corporation Secretary

**SURETY:** \_\_\_\_\_

*[Add signatures for each if using multiple bonds]*

**BY ATTORNEY-IN-FACT:**

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

# PREVAILING WAGE RATES

for

## Public Works Contracts in Oregon



**OREGON BUREAU OF LABOR AND INDUSTRIES**

**Brad Avakian  
Commissioner  
Bureau of Labor and Industries**

**Effective: January 1, 2014**

As Amended: April 1, 2014

Created: September 15, 2011/Updated 4/3/12

Purpose of File:

Each Fiscal year, the OUS campuses are required to report data to the State Legislature on Minority, Women and Emerging Small Business Contractors and Sub-Contractors who provide goods and services. Various statistics are calculated, based on the data input being provided by the contractors. This file is for the collection of the data for each project by contract. Each University will compile statistics associated with all of their contracts during each fiscal year. Once consolidated at the University level, the information is sent to OUS who in turn consolidates all of the information from the seven institutions and reports it to the Legislature.

General Information on how to use the file:

You will fill this form out at least twice for your project. Small projects that do NOT span over the end of a fiscal year (June 30 – July 1) will require two submittals (An Initial and a Final). Any project spanning over the end of a fiscal year will require three submittals (Initial, Year-End and Final). For larger projects that span over multiple fiscal years, the Year-End report will need to be submitted multiple times.

The first Submittal will always be the “Initial” report which is due within 10 days of the execution of the contract or in the case of a CM/GC contract, the establishment of an Early Work Amendment or Guaranteed Maximum Price Amendment.

At the end of every fiscal year, you are required to submit a “Year-End” report.

At the completion of the project you are required to submit a “Final” report.

- 2) The areas shaded in gray in the OVERALL PROJECT DATA section are for input by the Contractor. The gray portion of the “Individual Contractor/Sub-Contractor Data Entry Matrix” is also an area intended for Contractor input.
- 3) For some items, a drop-down box is provided. This is to maintain the consistency of data used to sort information.
- 4) For other items, simply type in the information. If the type of information typed in is incorrect, you will get an error message or your results may look incorrect. For example, when you enter a date, simply type it: 8/17/11. You do not need to spell out the month.

Saving your file:

- 1) FILE NAMING CONVENTION – All files submitted to the campus shall be named as defined by the following naming convention: (filename = FYXX\_ContractNumber\_SubmissionStatus)

FYXX = XX refers to the two digit extension of the year. Example “FY12” for Fiscal Year 2012.

Include an underscore between the FYXX and the Contract Number. There should be no blanks in the filename.

ContractNumber = Insert the number that is established on the front of your contract with the campus.

Include an underscore between the Contract Number and the Submission Status. There should be no blanks in the filename.2)

SubmissionStatus = "I" for Initial; "Y" for Year end; "F" for Final. This should correspond with what you select at the top of the report as explained in item 1 of “Filling Out the Form” below.

Filling Out the Form:

- 1) Use the drop-down box adjacent to the REPORT BEING SUBMITTED heading to pick the corresponding report you are submitting for your project. This will establish highlighted headings (in light green) in the “Individual C/S-C Data Entry Matrix” & OPERALL PROJECT DATA sections that define for you which columns or rows should be completely filled out prior to submission.

- 2) Next, fill in the information in the OVERALL PROJECT DATA section. Again, rows highlighted in green will tell you which cells to fill in based upon the type of report being submitted. Only fill in the cells that are highlighted. The top 5 cells should remain the same for the duration of the reporting on the project. Cell B-11 should also remain unchanged after the initial submittal. Cells B-14 thru B-16 may change over the life of the project if you add additional sub-contractors as the project progresses.
- 3) Once you have completed the OVERALL PROJECT DATA section, begin entering each sub-contractor in the "Individual C/S-C Data Entry Matrix table. Columns F, J, K & L are drop-down selections in the table area. Just pick the appropriate response for these columns. There are "notes" that pop up as you select cells in the columns that help explain what information is needed for each column.
- 4) **IMPORTANT:** Use the tab key to move across the columns. This is necessary in order to avoid generating false information in the cells so that calculations occur appropriately.
- 5) The first two rows of the Matrix are formatted to receive information. They will be identified in bright red when you make the selection of the type of form you are submitting (Cell B-1). To add another row that is properly formatted (like the rows above it), simply press the tab key when you get to the last column in the row you just filled in.
- 6) To change information in a cell, simply type over it or press the Delete key on your keyboard. Using other methods to change data can cause unwanted results. For example, copy and paste can add unwanted data. Using the spacebar to delete information actually leaves behind a space—which is a character—which will cause math errors.
- 7) You must have a State of Oregon Certification Number OR indicate that a contractor is self-identifying as a MWESB. If you have not filled in one of these, then the Name of the Contractor will remain bright red (which is an error symbol).
- 8) All cells in the CALCULATED REPORTING DATA section are automatically generated formulas and cannot be changed.
- 9) Columns to be completed are as follows:
  - Name of MWESB General/ Subcontractor:** List each MWESB used on the project (all tiers). If you as the General, are an MWESB contractor, submit your information in the first row.
  - State of Oregon MWESB Certification Number:** This is the number provided when a contractor or subcontractor applies for and receives this certification. Enter this number.
  - Self-Identified or Other Certified:** If a sub-contractor indicates that they are a women, minority or emerging small business, but doesn't have certification, indicate here by identifying with a "Yes" by picking it from the drop-down box.
  - Initial Sub-Contract Value:** This is the value of the subcontract-with the specific contractor listed, not to be confused with the value of the overall construction contract between the Contractor and the Owner. Once this number is entered, it should not change on subsequent submittals of the form.
  - Sub-Contract value billed within the fiscal year (July 1-June 30):** This is the value for work performed during the year being reported. If your reporting requirements span multiple years due to the size of your project, this information may be replaced by new information for subsequent years.
  - Final Sub-Contract Value:** This is the final value of the sub-contract, including any additions or deductions that occur over the course of the project.
- MORE THAN ONE OF THE FOLLOWING CATEGORIES CAN BE SELECTED:**
  - Minority-Owned:** Certified by the State of Oregon or self-identifying; select Yes from the drop-down if it applies or leave blank if it does not.
  - Women-Owned:** Certified by the State of Oregon or self-identifying; select Yes from the drop-down if it applies or leave blank if it does not.
  - Emerging Small Business:** Certified by the State of Oregon or self-identifying; select Yes from the drop-down if it applies or leave blank if it does not apply.
- 10) Check your work prior to submitting the document to make sure that all cells in (light green) highlighted rows or columns are completed. If you do not have light green highlights showing up on your document, please return to #1 in this section and follow the directions given. REMEMBER TO SAVE YOUR FILE AGAIN NOW.

**Submitting your Form:**

Follow the directions as provided by the campus you are contracted with to submit this document. Typically you should be given an E-mail address within your contract transmittal or cover letter for which to submit the file.

## CapCon MWESB Subcontractor Report

<b>REPORT BEING SUBMITTED</b>	
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### OVERALL PROJECT DATA

Reporting Period	2011
Campus	
General Contractor's Name	
Contract Number	
Project Name	
Contract Execution Date (Date Contract was Signed by the Owner)	
Date of Final Payment Application	
Initial Total Contract Value	
Total Contract Value billed within the fiscal year (July 1 - June 30)	
Final Total Contract Value	
Total Number of Subcontractors Used on Project	
Total Number of First-Tier Subcontractors Used on Project	
Number of First-Tier MWESB Subcontractors	

### CALCULATED REPORTING DATA (Self Calculating - No Data Entry)

Number of MWESB Subcontractors	0
% MWESB Subcontractors	
% First-Tier MWESB Subcontractors	

#### CERTIFIED MWESB TOTALS

Value Awarded to MWESB Contractors	\$0.00
% Value Awarded to MWESB Contractors	
Value - <b>minority-owned</b> MWESB subcontractors	\$0.00
% - <b>minority-owned</b> MWESB subcontractors	
Value - <b>women-owned</b> MWESB subcontractors	\$0.00
% - <b>women-owned</b> MWESB subcontractors	
Value - <b>emerging small business</b> MWESB subcontractors	\$0.00
% - <b>emerging small business</b> MWESB subcontractors	

#### SELF-IDENTIFIED or OTHER CERTIFIED MWESB TOTALS

Value - <b>self-identified or other certified</b> subcontractors	\$0.00
% - <b>self-identified or other certified</b> subcontractors	

#### OVERALL PROJECT CONTRACT HISTORY

% Value Awarded to MWESB Contractors at Initial Contract	#DIV/0!
% Value Awarded to MWESB Contractors at Final Contract	#DIV/0!

#### FOR OFFICIAL USE ONLY:

Date Received by the Campus	
Initials of Campus staff who checked the document	



## **SECTION 01010 - SUMMARY OF WORK**

### **PART 1 - GENERAL**

#### **1.01 SCOPE OF WORK**

- A. The work under this contract consists of asbestos abatement and related procedures identified by the Owner. Provide all material, labor and equipment necessary to accomplish the work.
- B. The Contract Sum shall not be affected by changes due to increases in equipment, transportation, labor or material costs, disposal costs and fees, or other similar events.

#### **1.02 RELATED WORK BY THE OWNER OR BY OTHERS**

- A. The Owner will undertake building demolition under a separate contract. Coordinate all asbestos abatement and related work with the Owner's General Contractor, including schedule and phasing.
- B. The Owner may retain an Industrial Hygienist or Environmental Consultant to perform the following:
  - 1. Take and analyze air samples before, during and after the work.
  - 2. Observe the work of the Contractor.
  - 3. Monitor the Contractor's compliance with the Specification requirements.

#### **1.03 BASE BID**

- A. The scope of work included under the base bid shall include removal and disposal of asbestos-containing materials, selective demolition, and related work as indicated within this section and the attached abatement drawings. The scope of work under the base bid is identified as follows. Refer to the attached abatement diagrams for additional information.
  - 1. Duct Felt Tape Abatement – Remove and dispose of all asbestos-containing felt duct joint tape throughout the work areas. Asbestos-containing tape (2") is applied to duct joints on approximately 3,200 linear feet of sheet metal ductwork with dimensions ranging from 64" x 62" to 8" x 4". A limited amount of ductwork is concealed above hard ceilings, 2' x 4' lay in ceiling tiles, under fiberglass insulation, and in a vertical chase. The majority of ductwork is concealed by a custom suspended wood grid ceiling. Contractor to remove ceiling materials as necessary to access ductwork throughout the work area. Contractor shall expose all seams on fiberglass insulated ductwork within the Penthouse Mechanical Room and vertical chase. Demolish and dispose of any non asbestos duct necessary to access asbestos containing sections.
  - 2. Wood Flooring/Mastic Abatement – Remove and dispose of approximately 24,800 square feet of end grain wood flooring with asbestos-containing mastic throughout the work areas. The wood flooring is applied to concrete. In the event that wood flooring extends under newer interior demising walls, contractor shall perform selective demolition to access the concealed wood flooring and mastic. Remove all residual mastic from concrete substrate.
  - 3. 5' x 5' Concrete Tiles/Mastic Abatement – Remove and dispose of approximately 8,100 square feet of 5' x 5' concrete slab over asbestos-containing residual mastic



- throughout the work areas. Remove all residual mastic from concrete substrate.
4. 12" Floor Tile/Mastic Abatement – Remove and dispose of approximately 1,550 square feet of asbestos-containing floor tile and mastic in various locations. The tile is applied to concrete. In the event that floor tile extends under newer interior demising walls, contractor shall perform selective demolition to access the concealed tile and mastic.
  5. Petroleum-Based Roofing Felt and Mastic – Remove and dispose of approximately 3,150 square feet of asbestos-containing roofing felt and mastic on the roof of the Penthouse Mechanical Room and over the roof access enclosure.
  6. Petroleum-Based Gray/Black Roofing Sealant – Remove and dispose of approximately 80 square feet of asbestos-containing sealant on a variety of surfaces throughout the membrane covered portion of the roof. The material is around air intake louvers, doors and skylights.
  7. Mechanical Piping Flange Gaskets – All mechanical piping flanges and valves will be left in place during demolition. The demolition contractor will detach and separate during demolition activities. The abatement contractor shall dispose of all flanges and valves upon completion of demolition.
  8. Cement Asbestos Board (CAB) – The scope of work includes removal and disposal of approximately 96 square feet of asbestos-containing cement board in various locations.
  9. Brown and Gold Sink Undercoating – The scope of work includes removal and disposal of 5 sinks with an asbestos-containing undercoating.
  10. Pipe Insulation Abatement – The scope of work includes removal and disposal of approximately 14 lineal feet of asbestos-containing pipe insulation.
- B. Contractor shall remove and dispose of all casework and other obstructions as necessary to access concealed materials included in the Base Bid scope of work. Plumbing fixtures will be removed by the Owner's General Contractor.
  - C. Contractor shall coordinate with the Owner's General Contractor to arrange for safely de-energizing all electrical fixtures prior to impact or removal.
  - D. Weekly progress meetings may be conducted with the Owner or Owner's general contractor throughout the abatement period. The Abatement Contractor's project site supervisor is required to attend.
  - E. Contractor is responsible for maintaining work areas in a safe condition throughout abatement.
  - F. If suspect asbestos-containing materials are identified by the Contractor that are not identified in the abatement scope of work, all testing shall be conducted by the Owner. Contractor shall notify the Owner and the Owner shall provide sampling and analysis at the Owner's expense. Contractor is not authorized to collect or analyze bulk samples from Owner property.

#### 1.04 PROJECT SCHEDULE

- A. The Owner or Owner's general contractor shall schedule a preconstruction conference to be held prior to the start of work. Contractor's superintendent and crew foreman must attend.
- B. Contractor shall begin work on submittals and notification no later than five calendar

days after written Notification to Proceed is received from the Owner.

- C. The schedule for completion of work shall be as follows. The Abatement Contractor's work plan and project execution shall be conducted in coordination with the general contractor's construction schedule and project phasing requirements. All abatement work is scheduled for 2<sup>nd</sup> shift/evening hours to be performed after 5:00 pm and before 7:00 am.
  - 1. Work in the Phase I areas, shall begin on or about May 5, 2014, and shall be substantially complete within twenty-one (28) calendar days of the start date.
  - 2. Work in the Phase 2 area shall begin on or about June 23, 2014, and shall be substantially complete within twenty-one (21) calendar days of the start date.
  - 3. Final Completion shall be within seven (7) calendar days of Substantial Completion.
- D. Base Bid shall be honored as specified including all addenda without alteration by the Contractor for a period of 90 calendar days from the Bid Date. The Owner may issue a written Notice to Proceed within that time frame at the Owner's option.

### 1.05 PERMITS AND FEES

- A. After execution of the contract, the Contractor shall obtain and pay for all permits, fees, and licenses necessary to execute and complete the work of each project. Obtain permits and notify the following agencies at least ten (10) days prior to beginning work. Other permits and notifications may also be necessary.

Lane Regional Air Protection Agency  
1010 Main Street  
Springfield, Oregon 97477  
541.736.1056

- B. Contractor shall maintain the notification to comply with the regulations set forth by LRAPA throughout the construction period. Amended permits shall be submitted to LRAPA to indicate the following changes to the initial permit.
  - 1. Project category and required fee. Contractor shall pay all fees associated with notifications amendments to comply with changes in scope, etc.
  - 2. Daily hours onsite (clearance air monitoring is included).
  - 3. Start and stop dates.
  - 4. Work practices and removal procedures.
  - 5. Disposal procedures.
  - 6. Disposal site.
- C. Contractor shall immediately submit copies of amended LRAPA notifications to the Environmental Consultant. Failure to submit amended notifications may result in project stoppage until required amendments are submitted.

### 1.06 PATENTS

- A. Certain products or procedures may have a patent or require a licensing agreement. The Contractor should utilize all products and procedures under proper authority of the licensing agreements and patent rights. Neither the Owner nor the Environmental Consultant are responsible for any licensing or patent infringements.

### **1.07 SPECIFICATIONS ON SITE**

- A. Contractor shall maintain a minimum of two copies of the complete specifications on site at all times. One shall be principally used by the Asbestos Abatement Contractor and another shall be principally used by the Industrial Hygienist Technician. Both copies shall be available to the Owner's Project Representative and authorized visitors.

### **1.08 PROJECT STOPPAGE**

- A. At any time during the work, the Owner or Environmental Consultant may stop the work if violations of the Specifications are observed or if the functioning of the Owner is jeopardized by the activities of the Contractor or his subcontractors. Work shall stop immediately upon verbal direction of Owner or Environmental Consultant. Work may commence when violations are rectified or activities are altered and determined to be acceptable by the Owner or Environmental Consultant.

### **1.09 VARIATIONS IN QUANTITIES**

- A. The quantities and location of ACM indicated on the drawings and the extent of work included in this section are only best estimates that are limited by the physical constraints imposed by occupancy of the building. Accordingly, minor variations of plus or minus 10 percent of the estimated quantities of ACM within the limits of the base bid scope of work are considered as having no impact on contract price and time of this contract. Locations of ACM different than indicated on drawings but within the limits of a containment are considered as having no impact on contract price and time of this contract. Where additional asbestos abatement work is required beyond the above variations, the contract price and time will be adjusted under provisions of applicable clause in the contract. Additional or reduced abatement work beyond the variations stated will be a basis for adjustment of the contract price.

### **1.10 PRECAUTIONS REGARDING HAZARDOUS MATERIALS**

- A. Contractor shall comply with all applicable federal and local regulations regarding hazardous materials handling, storage and disposal procedures. Hazardous Materials that are brought on to the site for construction purposes shall be accompanied with appropriate Material Safety Data Sheet (MSDS) information. MSDS's shall be submitted to the Owner in accordance with the specifications. Contractor shall bear all costs associated with handling or clean-up of spills, releases, or environmental concern created from hazardous materials brought, stored, or used on-site. The Contractor is encouraged to minimize hazardous waste materials requiring special disposal. No dumping of hazardous materials in storm drainage or sanitary sewers is permitted.

### **1.11 SCHEDULE OF VALUES**

- A. Prior to conducting field work, the Contractor shall submit a Schedule of Values to the Owner and Environmental Consultant for approval. The schedule shall closely follow the American Institute of Architects Document AG703.

### **1.12 CONTRACT CANCELLATION**

- A. The Owner reserves the right to cancel the contract upon written notice at any time, if in its sole judgement, it determines that the Contractor is not meeting the terms of the Specification proposal as submitted and approved.

### **1.13 PREVAILING WAGES**

- A. Contractor is required to comply with all applicable requirements of Oregon Revised Statute Chapter 279 including the Prevailing Wage requirements for Contractor's employees and the employees of Subcontractors.

### **1.14 PROGRESS PAYMENTS**

- A. At the Contractor's request, the Owner will review the Contractor's estimate of the amount of work completed and of the value of such completed work. With these estimates as a base, a partial payment will be made to the Contractor. Partial payment shall be equal to the value of completed work, less such amounts as may have been previously paid, less other such amounts as may be deductible or as may be owing and due to the Owner for any cause, and less an amount to be retained in protection of the Owner's interests.
- B. The amount to be retained from any given partial payment will be such that when added to the sum of amounts previously retained will bring the total of amounts retained equal to ten percent of the value of completed work, unless otherwise specified.
- C. Such amount of retainage shall be withheld and retained by Owner until it is included in and paid to Contractor as part of the final payment of the contract amount.

### **1.15 INSURANCE**

- A. Contractor shall comply with insurance and bonding requirements set forth in the University of Oregon Master Agreement for Asbestos Abatement.

### **1.16 MISCELLANEOUS REQUIREMENTS AND OTHER INFORMATION**

- A. All quantities given are estimates. Contractors are responsible for verifying site conditions during the bid period.
- B. Change orders shall be submitted in writing before change order work is started. All change orders shall be submitted on AIA Form G701 or equivalent as approved by the Owner.
- C. The contractor shall provide adequate lighting for the duration of the project.
- D. Non-friable asbestos abatement work is to be completed from within a regulated area, demarcated using asbestos caution tape according to all applicable regulations. Critical barriers shall be installed over penetrations within the work area, and local HEPA filtration shall be used. All workers completing non-friable asbestos abatement shall use PPE, including at least a ½ face respirator and Tyvek coveralls.
- E. Contractor shall install view windows of at least 24" X 24" to be placed in locations that allow asbestos abatement & demolition work to be observed at all times wherever feasible.
- F. All waste must be removed daily from the work area. Generated waste shall not be allowed to accumulate.
- G. Any drop boxes used at the site must be lockable and totally enclosed, with a hard cover.
- H. In the event that the contractor is required to access electrical panels and de-energize components to be removed as a part of the contractual scope of work, the circuit breakers will be marked by the owner. The contractor may only manipulate these

indicated breakers. In the event that the incorrect breaker is manipulated, the contractor will be responsible for all repairs associated with power loss and potential surges when the circuit is restored.

- I. Contractor shall use a digital manometer equipped with an automatic printout or downloadable use history for all work specified to be completed under negative pressure. Negative pressure must be -0.02 in/wc or greater throughout abatement work.
- J. Air filtration units must be exhausted outside the building for the duration of this project. Contractor shall maintain new HEPA filters and prefilters for each air filtration unit employed on this project. Contractor shall immediately change air filtration unit filters upon the request of the owner or the owner's representative. Contractor shall secure doors or accessible windows using plywood of a minimum thickness of ½".
- K. Contractor shall clean all surfaces within the work area following the completion of asbestos abatement and demolition. The work areas and adjacent building areas must be free of all dirt dust and debris caused by work under this contract following the completion of this project and will be inspected by the Owner or Owner's Representative.
- L. Contractor is responsible for all parking and all fees associated with parking for all work under this contract.
- M. Contractor shall provide temporary toilet facilities for their employees for the duration of this project.

## **PART 2 - PRODUCTS**

Not applicable.

## **PART 3 - EXECUTION**

Not applicable.

**END OF SECTION 01010**

**SECTION 01410 - AIR MONITORING REQUIREMENTS**

**PART 1 - GENERAL**

**1.01 AIR MONITORING BY CONTRACTOR**

- A. The Contractor will be responsible for all OR-OSHA compliance monitoring and documentation.

**1.02 AIR MONITORING BY OWNER**

- A. The Owner will retain PBS Engineering and Environmental Inc. to collect and analyze asbestos air samples during the project. Documentation of sample results will be forwarded to the Contractor as appropriate to meet regulatory requirements.
- B. Samples analyzed by Phase Contrast Microscopy will use NIOSH Analytical Method No. 7400. Samples analyzed by Transmission Electron Microscopy will use the AHERA methodology, 40 CFR Part 763.
- C. Owner's Air Sampling During Abatement:
  - 1. Air Sampling Table is to be used as a guide. The Owner's Industrial Hygienist/Asbestos Abatement Consultant may modify criteria. Modifications to the Maximum Allowable Fiber Count shall be made in writing by the Owner.

Type of Sample	Average Samples per 8-hour Work Shift	Sample Volume--L (Liters)	Approximate Flow Rate	Maximum Allowable Fiber Count (f/cc)
HEPA Fan Exhaust	0 or selected units	400-2000 L	2 to 10 LPM	0.01 f/cc
Outside of Work Area	0-5	400-2000 L	2 to 10 LPM	0.01 s/cc or <pre-abatement
Clearance PCM	5/work area	800-3000 L	2 to 10 LPM	0.01 f/cc
Clearance TEM	5/work area	1200-1800 L	2 to 10 LPM	<70 s/mm2 average

- 2. The Owner reserves the right to monitor Contractor's performance via air samples on abatement workers and in the work area in addition to the Contractor's air monitoring.
- 3. Visual inspection and clearance air monitoring services will be provided by the Owner per work area during regular business hours (7:00 AM – 5:00 PM), or during the contractor work-shift hours. These services shall be conducted off-hours/shift if necessary to accommodate the Owner or in difficult to clear

containments that are not the fault of the Contractor, at the Owner's discretion. Contractor may request clearances to be conducted off-hours/shift, and shall be responsible for payment of all overtime fees to the Owner in the form of a credit for all work associated with off-hours/shift work that is conducted at the Contractor's request.

4. Contractor shall provide the Environmental Consultant with 24-Hours notice prior to Visual Inspection and Clearance Air Monitoring.
5. Contractor shall provide a certified supervisor to remain onsite at all times while personnel are inside containment.
6. Contractor shall provide for clean make-up air where necessary to pass air clearances.

### 1.03 QUALITY ASSURANCE

- A. If, at any time during the work, analysis of an air sample taken by the Owner or Owner's representative indicates a fiber count in excess of the allowable maximums specified, the Industrial Hygienist who analyzed the air sample shall immediately notify:
  1. The Contractor's Supervisor
  2. Consultant Project Manager
  3. University of Oregon Asbestos Program Manager
- B. Immediately upon being notified of fiber count exceeding the specified maximum allowable levels, the Contractor shall perform the following steps in the order presented, at no additional cost to Owner:
  1. Stop abatement work
  2. Discuss the fiber count, potential cause, and other concerns with the Environmental Consultant, and the Owner if the Owner is available. The Environmental Consultant will determine the actions to be taken by the Contractor at no cost to the Owner.
  3. Modify work procedures, and make other changes determined to be the possible cause of high fiber counts.
  4. Carefully resume work under close air monitoring.
- C. Contractor has the right to run air samples in addition to the Environmental Consultant's air monitoring.

**END OF SECTION 01410**

## SECTION 01500 - TEMPORARY FACILITIES

### PART 1 GENERAL

#### 1.01 SCOPE

- A. Contractor shall arrange for and provide temporary facilities and utilities such as water, electricity, gas, etc., as specified herein and as required for proper and expeditious prosecution of work. Contractor shall inspect the Owner's facilities to determine that the capacity and operation of services provided by the Owner are adequate for the execution of the work.
- B. Contractor shall arrange with utility company, rental company, etc. to provide any additional temporary service required, and pay all costs for such power, lighting, water, sanitation facility or any other service used, if temporary service from existing sources is insufficient to meet needs of temporary facilities.
- C. Contractor shall make temporary connections to utilities and services in locations acceptable to Owner and Environmental Consultant and local authorities having jurisdiction thereof; furnish necessary labor and materials, and make installations in manner subject to acceptance of such authorities and Environmental Consultant; maintain such connections; remove temporary installation and connections when no longer required; restore services and sources of supply to proper operating condition upon completion of the project.

### PART 2 - PRODUCTS

#### 2.01 MATERIAL

- A. Material may be new or used, but must be adequate in capacity for the required usage, must not create unsafe conditions, and must not violate requirements of applicable codes and standards.

#### 2.02 TEMPORARY ELECTRICAL POWER AND LIGHTING

- A. Temporary Electrical Service: The Owner will provide, without charge, electrical power from existing outlets up to the rated capacities. The Contractor shall provide connections and all means of conveying same from existing outlets to required locations and shall pay for any damage to existing systems resulting from misuse thereof. Electrical safety measures, including ground fault protection, waterproof temporary lighting and cords, and deactivation of existing electrical wiring within work areas shall be included as part of the work under this contract.
- B. Contractor shall maintain temporary wiring in safe manner and utilize it so as not to constitute a hazard to persons or property.
- C. When permanent power and lighting system outside of the isolated work area is in operating condition, it may be used provided Contractor obtains Owner's approval, assumes full responsibility for entire power and lighting system, and pays costs for maintenance and restoration of system.
- D. Temporary Lighting: Contractor shall provide temporary lighting in all isolated work areas. Lighting shall be durable, grounded, and provide safe illumination levels throughout the work area.



2.03 TEMPORARY WATER SERVICE

- A. Contractor shall provide water for construction purposes and pay costs of water used. Contractor may make temporary connections to existing facilities; if available.
- B. Contractor shall provide hot water adequate to supply each crew with sufficient warm water to allow a thorough shower during worker decontamination.

2.04 TEMPORARY SANITARY FACILITIES

- A. Contractor will provide temporary toilet facilities, adequate for the number of employees on the job. Temporary toilet facilities shall be in place prior to start of construction.
- B. No toilet facilities shall be allowed within the work area.

2.05 ACCESS TO SITE

- A. Contractor shall instruct all vendors, Subcontractors, and employees to enter abatement site from location as indicated by Owner. Use of other entrances shall not be permitted.
- B. Contractor shall ensure only authorized personnel are allowed access to the abatement areas.

2.06 SECURITY

- A. Contractor shall take adequate precautions against fire, keep flammable material at the absolute minimum and ensure that such material is properly handled and stored. Open flames, fires or gas-fired space heaters are not permitted.

2.07 NOISE AND VIBRATION CONTROL

- A. It is essential that the work be performed in a manner to produce the least interference and inconvenience to staff. Contractor shall use methods and equipment that will keep noise and vibration to a minimum.
- B. At such times as the Owner determines that the work interferes with normal functions, the Owner shall have the right to request the Contractor to stop the noisy or other work. The Contractor may resume this noisy work at a mutually agreed-upon time or switch to a less noisy method. If the work is stopped, it shall not be used as a claim for additional compensation or contract time.
- C. Contractor shall cooperate with the Owner by informing them in advance of particularly noisy operations, operations causing excessive building vibrations, or other potentially objectionable activities, so that the Owner may warn the staff and schedule work functions accordingly.

**PART 3 - EXECUTION**

Not applicable.

**END OF SECTION 01500**

## SECTION 02075- ASBESTOS ABATEMENT

### PART 1 - GENERAL

#### 1.01 SCOPE

- A. This section covers the removal, patching, encapsulation, or enclosure of materials that contain or are suspected to contain asbestos.
- B. Contractor shall provide all labor, materials, equipment, services, and insurance required to complete asbestos abatement procedures as indicated in these Specifications and/or the drawings.

#### 1.02 DEFINITIONS

- A. Abatement: Procedures to control fiber release from asbestos-containing building materials. Includes: encapsulation, enclosure, removal, repair and related activities.
- B. Aggressive Sampling: A method of air sampling that assures that the asbestos fibers remain airborne during the sampling time. All surfaces inside the work area will be agitated by the liberal use of compressed air. Fans will then be placed so as to keep all suspended fibers airborne, and run throughout the sampling period.
- C. AHERA: Asbestos Hazard Emergency Response Act, 40 CFR Part 763.
- D. Air Lock: A system for permitting ingress or egress without permitting air movement between a contaminated area and an uncontaminated area, typically consisting of two curtained doorways at least 3 feet apart.
- E. Air Monitoring: The process of measuring the asbestos fiber content of a specific volume of air in a stated period of time.
- F. Amended Water: Water containing a surfactant additive.
- G. Asbestos-containing Material (ACM): Any material containing more than one percent asbestos as defined under NESHAPS CFR 40, Part 61, OAR Chapter 340, Division 248, OR-OSHA 437, 1926.1101, and OSHA 29 CFR Part 1926.1101.
- H. Authorized Visitor: The Owner or designated representative, or a representative of any regulatory or other agency having jurisdiction over the project, and having required training, medical, fit test, etc.
- I. Certified Industrial Hygienist (CIH): An industrial hygienist certified in Comprehensive Practice by the American Board of Industrial Hygiene.
- J. Class I Asbestos Work: Activities involving the removal of TSI and surfacing ACM and PACM.
- K. Class II Asbestos Work: Activities involving the removal of ACM which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, and mastics.
- L. Clean Room: An uncontaminated area or room that is part of the worker decontamination enclosure system, with provisions for storage of workers' street clothes and clean protective equipment.
- M. Critical Barrier: Solid barrier constructed from minimum of 2" x 4" studs, 16" o.c.; 1/2"

- plywood or drywall sealed airtight and covered on both sides (where applicable) with 2 layers of 6-mil plastic.
- N. **Curtained Doorway:** A device to allow ingress or egress from one room to another while permitting minimal air movement between the rooms, typically constructed by placing three overlapping sheets of plastic over an existing or temporarily framed doorway, securing each along the top of the doorway in a pleated fashion and securing one vertical side of each sheet on alternating sides of consecutive sheets. Two curtained doorways spaced a minimum of 3 feet apart to form an air lock.
  - O. **Disposal:** Procedures necessary to transport and deposit the asbestos-contaminated material in an approved waste disposal site in compliance with EPA and other applicable regulations.
  - P. **Enclosure:** Procedures necessary to completely seal all asbestos-containing material behind airtight, impermeable, permanent barriers, including PVC jackets.
  - Q. **Encapsulant (Sealant):** A liquid material which can be applied to asbestos-containing material and which controls the possible release of asbestos fibers from the material either by creating a membrane over the surface (bridging encapsulant), or by penetrating into the material and binding its components together (penetrating encapsulant).
  - R. **Environmental Consultant:** Environmental consultant specializing in asbestos abatement--PBS Engineering and Environmental inc., 2645 Willamette Street, Eugene, Oregon, 97405, 541.686.8684--or any subcontractor designated by PBS.
  - S. **Equipment Room:** A contaminated area or room which is part of the worker decontamination enclosure system, with provisions for storage of contaminated clothing and equipment.
  - T. **Fitting:** With regard to pipe insulation, a fitting is any elbow, offset, reducer, tee, etc.
  - U. **Fixed Object:** Fixtures which are attached to the building or are too heavy or bulky to remove from the work area.
  - V. **Glove Bag:** A manufactured device consisting of a transparent plastic bag with inward projecting sleeves, an internal tool pouch, provisions for fastening and sealing at the top and sides, and a receptacle in the bottom to hold asbestos waste. The glove bag is installed so as to surround the material to be removed and contain all fibers released during the process. Glove bags are used to remove insulation from small sections of pipe and fittings.
  - W. **HEPA Filter:** a High Efficiency Particulate Air (absolute) filter capable of trapping and retaining 99.97 percent of asbestos fibers greater than 0.3 microns in length.
  - X. **HEPA Vacuum Equipment:** High Efficiency Particulate Air (absolute) filtered vacuuming equipment with a filter system capable of collecting and retaining asbestos fibers. Filters of 99.97 percent efficiency for retaining fibers of 0.3 microns in length or larger shall be installed for filtering discharge air.
  - Y. **Independent Testing Laboratory:** A laboratory financially independent from and hired by the Owner or Contractor which is either AIHA-accredited for asbestos with demonstrated proficiency via the AIHA PAT program, or has analysts proficient in the AIHA AAR program for air sample analysis.

- Z. Industrial Hygienist: An employee of the Independent Testing Laboratory who is experienced and trained in asbestos sampling and analysis as specified.
- AA. Isolated Work Area: A totally contained area of the facility where abatement activities are performed.
- BB. Movable Object: Furnishings which are not attached to the building structure and can be removed from the work area.
- CC. Negative-air Glove Bag: A manufactured device consisting of a transparent plastic bag with inward projecting sleeves, an internal tool pouch, provisions for fastening and sealing it at the top and sides, and a receptacle in the bottom to hold asbestos waste. The glove bag is installed so as to surround the material to be removed and contain all fibers released through the process, with provisions for allowing continuous airflow through the bag while maintaining negative pressure inside.
- DD. Owner: Representatives designated by the Owner, or designated employees of the Owner.
- EE. PACM: "Presumed asbestos-containing materials".
- FF. Pressure Differential Fan System: An air-purifying fan system located within or outside the isolated work area, which draws air out of the work area through a HEPA filter, thus keeping the static air pressure in the work area lower than in adjacent areas, and preventing escape of contaminated air from work area to adjacent areas.
- GG. Public Area: Any area outside the isolated work area. When work area isolation measures are removed, the work area becomes a public area.
- HH. Removal: All operations where ACM and/or PACM is taken out or stripped from structures or substrates, and includes demolition activities.
- II. Shower Room: A room between the clean room and the equipment room in the worker decontamination enclosure system, which is equipped with hot and cold running water controllable at the faucet and soap and shampoo, and which is suitably arranged for complete showering during decontamination. The shower room must be separated from the clean room and equipment room by air locks.
- JJ. Special Fitting: With regard to pipe insulation, a special fitting is any valve, union, strainer, thermometer, flange, etc.
- KK. Surfactant: A chemical wetting agent added to water to improve penetration, thus reducing the quantity of water required for a given operation or area.
- LL. Tack Coat: A coat of penetrating encapsulant applied to all surfaces from which asbestos-containing materials have been removed.
- MM. Thermal System Insulation (TSI): ACM applied to pipes, fittings, boilers, breeching, tanks, ducts or other structural components to prevent heat loss or gain.
- NN. Vacuum Loader Removal: Wetting and pneumatic conveying of loose material through a vacuum hose to a sealed collection tank specially equipped to prevent escape of fibers.
- OO. Wet Cleaning: The process of eliminating asbestos from building surfaces and objects by using cloths, mops, or other cleaning tools which have been dampened with water.
- PP. Worker Decontamination Enclosure System: A showering facility for workers, typically

consisting of a clean room, a shower room, and an equipment room. Each of these rooms is separated from the others by air locks. The equipment room is separated from the work area by a curtained doorway. The clean room is separated from the public area by a curtained doorway.

QQ. Worksite Entry Logbook: A logbook kept in the clean room which must be signed by everyone entering or leaving the work area. All pages of the logbook must be the same as the sample page bound into these Specifications.

### 1.03 DOCUMENTS INCORPORATED BY REFERENCE

- A. The current issue of each document shall govern. Where conflict among requirements or with these Specifications exists, the most stringent requirements shall apply.
1. U.S. Environmental Protection Agency National Emissions Standards for Hazardous Air Pollutants (NESHAPS). (Code of Federal Regulations Title 40, Part 61, Subparts A and M.)
  2. U.S. Environmental Protection Agency Office of Toxic Substances Guidance Document, "Guidance for Controlling Friable Asbestos Containing Materials in Buildings." EPA Report Number 560/5 85 024 ("Purple Book").
  3. U.S. Department of Labor Occupational Safety and Health Administration (OSHA):
    - a. Title 29 Code of Federal Regulations Section 1910.1001 General Industry Standard for Asbestos.
    - b. Title 29 Code of Federal Regulations Section 1910.134 General Industry Standard For Respiratory Protection.
    - c. Title 29 Code of Federal Regulations Section 1926 Construction Industry.
    - d. Title 29 Code of Federal Regulations Section 1910.1020 Access to Employee Exposure and Medical Records.
    - e. Title 29 Code of Federal Regulations Section 1910.1200 Hazard Communication.
  4. National Institute for Occupational Safety and Health (NIOSH), 42 CFR Part 84, Respiratory Protective Devices.
  5. American National Standards Institute (ANSI) NY; ANSI Standard Z 88.2 1980 "American National Standards Practice for Respiratory Protection", latest edition.
  6. Lane Regional Air Pollution Authority (LRAPA), Title 43, Asbestos Requirements, as amended July 11, 2010.
  7. Oregon Administrative Rules Chapter 340, Division 25, Department of Environmental Quality; Chapter 340, Division 33, Licensing and Certification Requirements.
  8. Oregon Administrative Rules Chapter 437, Divisions 2 and 3.
  9. Oregon Revised Statutes (ORS), Chapters 279C, Public Improvements and Related Contracts; 656, Workers Compensation; and 701, Construction Contractors and Contracts.
  10. Uniform Building Code (U.B.C.), latest edition, regulations as applicable.
  11. All related electrical work shall be performed in accordance with the National Electrical Code.
  12. All local ordinances, regulations, or rules pertaining to asbestos, including its storage, transportation, and disposal.

## 1.04 SUBMITTALS AND NOTICES

- A. Contractors shall submit three bound, indexed copies of each submittal package as indicated below.
- B. Contractors shall submit to the Environmental Consultant the following information prior to beginning work on the project.
  1. **CONTRACTOR'S LICENSE.** Submit proof that the Asbestos Abatement Contractor is currently and for the duration of the project licensed in the State of Oregon to perform asbestos abatement, per ORS Chapter 701, and OAR Chapter 340, Division 248.
  2. **ASBESTOS SUPERVISOR.** Submit the name and resume of experience of the assigned on-site foreman. At a minimum, the foreman shall have successfully completed the DEQ Asbestos Supervisor course as approved by the State of Oregon. Other criteria such as references and similar projects will also be reviewed. At the Owner's request, the Contractor shall arrange an oral interview with the assigned on-site foreman. The Owner and the Environmental Consultant reserve the right to reject the foreman from the work at any time during the project. The Contractor shall then assign another on-site foreman for Owner and Environmental Consultant approval as described above.
  3. **INSURANCE CERTIFICATE.** Submit a copy of the certificate of asbestos-specific liability insurance policy, as specified in Section 01030.
  4. **WORKER CERTIFICATION.** Submit written proof indicating that all employees impacting asbestos-containing materials are Oregon State-certified asbestos workers. Proof shall include a signature from the Contractor's Principal indicating that all employees assigned to this project have completed such a program, and photocopies of certificates.
  5. **RESPIRATOR PROGRAM.** Submit written proof indicating respirator program is in compliance with all parts of OSHA Asbestos Regulations CFR Title 29, Part 1910.134 and 1926.1101, OR-OSHA Chapter 437, 1910.134 and 1926.1101.
  6. **MEDICAL PROGRAM.** Submit written proof medical exam program is in compliance with OSHA Asbestos Regulations CFR Title 29, Section 1926.1101 and OR-OSHA Chapter 437, 1926.1101.
  7. **EMERGENCY PLANS.** Submit a written emergency control and cleanup plan to be followed by the Contractor in the event of: an accidental breach in containment, power failure, and accidental disturbance of ACM's in non-isolated areas.
  8. **NOTIFICATION.** Submit copy of written notification to LRAPA, of the proposed asbestos work not fewer than ten days before work commences on this project.
  9. **DISPOSAL PLAN.** Submit written proof that all required permits and arrangements for transport and disposal of asbestos-containing or contaminated materials, supplies, and the like at a site approved by EPA and other responsible agencies have been obtained.
  10. **WORK PLAN.** Submit a written "work plan" satisfactory to the Owner describing the schedule for asbestos abatement, decontamination procedures, and plans for construction and location of decontamination enclosure systems, pressure differential exhaust fans, etc. in compliance with these Specifications and applicable regulations, including calculations for determining required number of negative-air filtration units. The plan shall schedule the systematic flow of work

throughout the facility per Specifications on a day-by- day basis, outlining room-by-room, or area-by-area procedures and planned alternative control measures. The Contractor shall keep close coordination of his work with the Owner.

11. AIR MONITORING. Submit information pertaining to the proposed Air Monitoring Program for this project if appropriate. This information shall include the name(s) of the Certified Industrial Hygienist appointed, the name of the on-site Industrial Hygiene Technician working under his supervision, types of equipment, and sampling schedule, sampling procedures, calibration recordkeeping, and testing laboratory proposed.
  12. PRODUCT INFORMATION. Submit complete product information for any materials and products for which the Contractor requests approval for use on this job (other than those specified).
  13. EMERGENCY PHONE NUMBER. Submit a local phone number at which the Contractor or on-site foreman can be reached on a twenty-four hour basis during the course of the work.
- C. Contractor shall not begin work until submittals are reviewed and accepted by Owner and the Environmental Consultant. Allow a ten day review period.
- D. During the work the Contractor shall submit to the Owner on a periodic basis as agreed to by the Owner, Environmental Consultant, and Contractor:
1. Waste shipment and disposal documentation.
  2. Air monitoring data.
  3. Notification updates.
- E. Contractor shall submit to the Environmental Consultant in writing all information required above regarding any new asbestos workers hired by or subcontracted to the Contractor before these new asbestos abatement workers begin work.
- F. Prior to removal of decontamination systems and isolation barriers, the Contractor shall obtain specific written permission from the Environmental Consultant.
- G. Prior to making final application for payment the Contractor shall:
1. Complete all work under this contract.
  2. Submit to the Environmental Consultant all required submittals including all Waste Shipment Records completely filled out and signed.
  3. Submit to the Owner all payroll reports for work on this contract and other information as described elsewhere in the Specifications, if appropriate under the contract.
  4. Submit to the Environmental Consultant "as-abated" drawings along with a signed affidavit stating that all asbestos-containing materials have been removed as indicated on the drawings.
- H. See other sections of these Specifications and EPA, OSHA, and other standards referenced therein, for further information and requirements not included above.

## 1.05 BUILDING PROTECTION

- A. Building Security and Protection
1. The Contractor shall post adequate warning signs at all potential entrances to work

areas as required by EPA and OSHA.

2. Contractor shall protect all existing fixed equipment, building finishes that are to remain, and existing systems and functions from damage during the abatement process. Extra precautions are to be taken in protecting existing electrical panels, light fixtures, etc. Any damage to existing building, services, and/or equipment shall be remedied by the Contractor at his expense.
3. Contractor shall clean external surfaces of contaminated containers and equipment thoroughly by wet sponging and HEPA vacuum.
4. Contractor shall maintain access and use of existing fire lanes.

## 1.06 PERSONNEL PROTECTION

### A. Training

1. Prior to commencement of work, Contractor shall ensure all workers have been trained as specified.
2. The Contractor shall provide and post, in the clean room(s) and the equipment room(s), the decontamination, respirator, and work procedures to be followed by the workers.
3. For demolition of non-asbestos containing walls and ceilings in areas containing friable asbestos materials, the Contractor has the option to train qualified demolition workers. Such training shall be the sole responsibility of the Contractor and shall consist of a minimum of eight hours, unless applicable regulatory agencies accept a lesser amount of classroom time. Topics shall include background of asbestos, health effects, personnel protection, use of worker decontamination and other topics. Training shall be acceptable to OR-OSHA, Department of Environmental Quality and other applicable agencies.

### B. Personnel Protective Equipment for Asbestos Removal

1. Work clothes shall consist of disposable full-body coveralls and head and foot covers ("Tyvek" or approved), boots, or sneakers. Eye, hearing, fall protection and hard hats should be available as appropriate.
2. At a minimum, respiratory protection shall be approved by NIOSH/MSHA (National Institute for Occupational Safety and Health/Mine Safety and Health Administration), United States Department of Labor, and U.S. Department of Health, Education and Welfare, Centers for Disease Control, and be as listed below. Respiratory protection shall provide workers with a maximum calculated fiber level inside the mask of 0.01 f/cc.
  - a. Glove Bag or Modified Glove Bag: Full-face mask, powered air-purifying respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 100.
  - b. Demolition of walls and ceilings that may impact friable asbestos-containing material: Half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
  - c. Pre-abatement work in close proximity to friable asbestos-containing materials: Half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.



- d. Abatement in Isolated Areas: Full-face mask, powered air-purifying respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 100.
  - e. HEPA vacuuming and wet cleaning of surfaces: Half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
  - f. Vinyl asbestos floor tile removal: Half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
  - g. Handling of double-bagged asbestos-contaminated waste: Half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
3. Additional respiratory protection shall be as required by CFR 29 1910.134 and 1926.1101, OR-OSHA Chapter 437, 1910.134 and 1926.1101.
  4. As part of the Contractor's Respiratory Protection Program, all workers shall be provided with a selection of brands and sizes of respirators to choose from. At a minimum, all workers shall be qualitatively fit-tested at the time of respirator selection per OR-OSHA Worker's Compensation Department Rule 22-069 (4)(e)(5)(i), and semiannually thereafter.
  5. Contractor shall supply replacement filter cartridges as required. Cartridges that have become wet or clogged shall be replaced immediately.
- C. Worker Decontamination Enclosure System
1. The Contractor shall construct a personnel decontamination facility immediately outside of the isolated work area consisting of three chambers and two air locks as follows:
    - a. The equipment room shall consist of an air lock to the shower room, and a curtained doorway to the work area.
    - b. The shower room shall have two air locks, one to the equipment room and one to the clean room. All showers shall have hot and cold water controllable at the taps and shall be installed in this room. The Contractor shall supply and maintain soap, shampoo and towels at all times in the shower area. Shower wastewater shall be filtered to remove all fibers larger than 5 microns or as required by local regulations, before disposal in the municipal sewer system, or shall be collected and disposed of as asbestos-contaminated material. Obtain any permits as required by local municipalities as to water discharge and comply with all regulations. Water filters shall be disposed of as asbestos-contaminated material.
    - c. The clean room shall consist of an air lock to the shower room and a curtained doorway to the adjacent building area. The clean room shall contain a first aid kit, storage for workers' and visitors' clothing and shoes, a place to sit down, and the Worksite Entry Logbook. Work, respirator and decontamination procedures, regulations and Prevailing Wage Rates shall be conspicuously posted. There shall be a supply of clean protective clothing, respirators and cartridges in the clean room at all times.

2. Contractor shall not begin asbestos abatement work unless this system is functional, in good repair, and has been found acceptable for specification compliance by the Environmental Consultant.
- D. Personnel Protection Procedures in Isolated Work Areas
1. Each worker shall, upon entering the jobsite: Remove street clothes in the clean change room, put on and fit-test his respirator, put on clean protective clothing and sign in on the Worksite Entry Logbook before entering the equipment room or the work area.
  2. Workers shall, each time they leave the work area: remove gross contamination from clothing before leaving the work area; proceed to the equipment room and remove and dispose of disposable work clothes; remove and store shoes, boots and other equipment except respirators; still wearing the respirator proceed to the showers; clean the outside of the respirator with soap and water while showering; remove the respirator; thoroughly shampoo and wash themselves; remove filters, dispose of filters in the container provided for the purpose; and wash and rinse the inside of the respirator.
  3. Following showering and drying off, each worker shall proceed directly to the clean change room and dress in clean clothes at the end of each day's work, or before eating, smoking, or drinking. Before reentering the work area from the clean change room, each worker shall put on his respirator with clean filters, dress in clean protective clothing, and sign in on the Worksite Entry Logbook.
  4. Contaminated work footwear and other equipment shall be stored in the equipment room when not in use in the work area. Upon completion of asbestos abatement, dispose of footwear as contaminated waste or clean thoroughly inside and out using soap and water before removing from work area.
  5. Workers shall not eat, drink or chew gum at the worksite except in the established clean room. Smoking or using other tobacco products is prohibited.
  6. Workers shall be fully protected with respirators and protective clothing immediately prior to the first disturbance of asbestos-containing or contaminated material and until final cleanup is completed.
- E. Access to Isolated Work Area by Others
1. Except for emergency personnel, the Contractor shall limit access to the work area to authorized visitors.
  2. The Contractor shall provide protective clothing, respirators and equipment for all authorized visitors, as specified above.
  3. All authorized visitors shall be subject to the personnel protection provisions specified above, and shall sign in and out on the Worksite Entry Logbook.
- F. Personnel Protection During Work in Non-isolated Work Areas
1. Work clothes per 1.06 B.
  2. Respiratory protection per 1.06 B.
  3. Worker protection procedures will differ from 1.06 D, in that two layers of coveralls shall be worn after removal of street clothes. Worker decontamination through a Worker Decontamination Enclosure is required. The first layer of coveralls must be removed when exiting the glove bag work area. The worker shall immediately proceed to the Worker Decontamination Unit. The remaining requirements of 1.06

D still apply.

4. Contractor to submit to the Environmental Consultant for approval, an emergency control and cleanup plan to be followed in the event of asbestos contamination during glove bag use. Contractor shall ensure all workers are thoroughly familiar with approved plan.
5. Contractor shall promptly remove all bags as they are used to the bag-holding and decontamination enclosure system.

**G. Emergency Precautions**

1. The Contractor shall establish emergency and fire exits from the work area. Contractor shall ensure these exits are well marked and remain unobstructed.
2. The Contractor shall be prepared to administer first aid to injured personnel after decontamination. Seriously injured personnel shall be treated immediately or evacuated without delay for decontamination.
3. Contractor shall notify the local fire department of the asbestos abatement project prior to beginning work area preparation.

**1.07 SAFETY**

- A. With regard to the work of this contract, the safety of the Contractor's employees, the Owner's employees, and the public is the sole responsibility of the Contractor.

**1.08 LIABILITY**

- A. The Contractor is an independent contractor and not an employee of the Owner or of the Environmental Consultant. The Owner and Environmental Consultant shall have no liability to the Contractor or any third persons for Contractor's failure to faithfully perform and follow the provisions of these Specifications and the requirements of the governing agencies. Notwithstanding the failure of the Owner or the Environmental Consultant to discover a violation by the Contractor of any of the provisions of these Specifications, or to require the Contractor to fully perform and follow any of them, such failure shall not constitute a waiver of any of the requirements of these Specifications which shall remain fully binding upon the Contractor.

**1.09 DELIVERY**

- A. Contractor shall deliver all materials to the worksite in the original packages, containers or bundles bearing the name of the manufacturer and the brand name.

**1.10 STORAGE**

- A. Contractor shall store all materials subject to damage off the ground, away from wet or damp surfaces, away from heat sources, and under cover sufficient to prevent damage, contamination or fire.

**1.11 PROTECTION**

- A. Damaged or deteriorating materials shall not be used and shall be removed from the premises by the Contractor. Materials that become contaminated with asbestos shall be disposed of in accordance with the applicable regulations by the Contractor.

## 1.12 SUBCONTRACTORS

- A. Any Subcontractors employed by the Contractor shall be bound to all the work and safety standards specified elsewhere in this Specification. Subcontractor's personnel shall be fully trained and supervised by the Contractor during performance of this work.

## PART 2 - PRODUCTS

### 2.01 MATERIALS

- A. Plastic Sheet: Plastic sheet shall be flame-retardant polyethylene material sized in lengths and widths to minimize the frequency of joints. The minimum thickness shall be 6-mil.
- B. Plastic Bags: Plastic bags shall be 6-mil polyethylene printed with warning labels per OSHA and EPA regulations.
- C. Tape: Tape shall be capable of sealing joints of adjacent sheets of plastic and for attachment of plastic sheet to finished or unfinished surfaces of dissimilar materials and capable of adhering under dry and wet conditions, including use of amended water. Minimum of 2" wide tape must be used.
- D. Disposal Containers: Disposal containers shall be suitable to receive and retain any asbestos-containing or contaminated materials until disposal at an approved site. The containers shall be labeled in accordance with OSHA and EPA regulations. Containers must be both air- and watertight, and have hard top, bottom and sides.
- E. Warning Labels and Signs: Warning labels and signs shall be posted as required by OR-OSHA, ODOT, DEQ, and LRAPA regulations.
- F. Amended Water: Clean potable water containing a surfactant additive. The surfactant additive shall be 50 percent polyoxyethylene ether and 50 percent polyethylene ester, or equivalent, and shall be mixed with water at a concentration of one ounce surfactant to 5 gallons of water, or as recommended by the manufacturer in the case of an equivalent.
- G. Encapsulants (Sealants): Encapsulants shall be of the bridging or penetrating variety and shall be listed as "satisfactory" by the EPA. Encapsulants shall provide a suitable substrate bonding agent for application of new material where appropriate. Penetrating Encapsulant: No. 207 Special Sealer #33775-27A as manufactured by Makus-Cincinnatus, Inc.; "Asbestop 30B-2" as manufactured by Asbesco Corp.; "Cable Coating 22-P" as manufactured by American Coatings Corp., or approved. Bridging Encapsulant: Decadex Firecheck, manufacturer's standard color "Magnolia", as manufactured by Pentagon Plastics, Inc.; "Cable Coating 2-B", manufacturer's standard color gray, as manufactured by American Coatings Corp.; or approved.
- H. Encapsulants for all Steel Structures (Re-fireproofing): Post-abatement encapsulants on steel structures to be re-fireproofed shall be the acceptable primer for the re-spray fireproofing material, of the bridging or penetrating variety and shall be listed as "satisfactory" by the EPA. HB Fuller 32-60; International Coatings Serpi-Flex, Fiberlock Fiberset FT. Encapsulants must be approved for use by U.L. testing as substrate for new fireproofing where applicable.
- I. Rewettable Lagging Cloth: 12 oz. glass fabric lagging cloth saturated with dried lagging adhesive. "Dip-Lag" as manufactured by Claremont Co. or approved.

- J. Enclosure: Protective plastic jacketing systems, framed gypsum board enclosures, suspended ceilings or other materials as specified elsewhere.
- K. Other Materials: provide all other materials such as lumber, nails and hardware, which may be required to construct and dismantle the decontamination area and the barriers that isolate the work area, and as required to complete the work as specified.

## 2.02 TOOLS AND EQUIPMENT

- A. Water Sprayer: The water sprayer shall be an airless or other low-pressure sprayer for amended water application.
- B. Air-purifying Equipment: Air-purifying equipment shall consist of High-efficiency Particulate Air (HEPA) filtration systems. No air movement system or air equipment shall discharge asbestos fibers outside the work area. Each unit shall be capable of variable volume from a minimum of 500 CFM to at least 1700 CFM under load and shall have at least 2 stages of pre-filtration ahead of the HEPA final filter. Each unit shall be equipped with an elapsed time indicator (hour meter), static pressure gauge with low flow alarm, be overload protected, and each unit shall be equipped with heat and smoke sensors which will visually and audibly warn workers and shut unit fan down within 30 seconds. The units shall be: Micro-Trap Portable Air Filtration System manufactured by Asbestos Control Technology, Inc., "HOG 2000" Negative-air Protection System manufactured by Control Resource Systems, or approved.
- C. Pressure Differential Monitoring Equipment: A combination sensing, alarm and recording device shall be in operation at all times during use of the HEPA air-purifying equipment. The unit shall be a "Neg-A-Master", manufactured by Control Resource Systems, Inc., or an approved.
- D. Water-purifying Equipment: Capable of removing all fibers longer than 5 microns or as required by local regulations from water used in abatement work and decontamination showers. Control Resource Systems, Inc. "AQUA-HOG" or approved.
- E. Airless Sprayer: An airless sprayer, suitable for application of penetrating encapsulant material, shall be used.
- F. Vacuum Equipment: all vacuum equipment utilized in the work area shall be High-efficiency Particulate Air (HEPA) equipment, and suitable for wet/dry usage.
- G. Scaffolding: Scaffolding, as required to accomplish the specified work, shall meet all applicable safety regulations. All special scaffolding shall have drawings and calculations stamped and signed by a civil or structural engineer registered in the state of Oregon.
- H. Transportation Equipment: Transportation equipment, as required, shall be suitable for loading, temporary storage, transit, and unloading of contaminated waste without exposure to persons or property. Equipment shall have a hard top, bottom and sides. If equipment is rented, notify rental agency in advance, in writing, of intended use of equipment.
- I. Electrical: Electrical tools, equipment and lighting shall meet all applicable codes and regulations. Ground fault protection as required by OSHA, shall be in effect at all times. Contractor shall take all additional precautions and measures necessary to insure a safe working environment during wet removal.
- J. Glove Bags: Bags shall be clean poly bags, seamless at the bottom, with preprinted

asbestos warning labels, 6-mil PVC with attached TYVEK arms and latex gloves. Bags shall be Profo' Bag manufactured by Asbestos Control Technology, Inc., or Asbest'O'Saf/SAC by Control Resource Systems, Inc., or approved.

- K. Remote Filter Housing: Stainless steel housing with pre-filters and HEPA filter sealed to cabinet flanges by Century Equipment "Advance Guard II" or approved equal.
- L. Other Tools and Equipment: Provide other suitable tools for the removal, enclosure, encapsulation, patching, and disposal activities including but not limited to: hand-held scrapers, wire brushes, sponges, and rounded-edge shovels.

## **PART 3 - EXECUTION**

### **3.01 FULL ISOLATION WORK AREA PREPARATION**

- A. Contractor shall perform the following isolation procedures in the order in which they are presented. Any alternative control measures considered for Class I work shall be performed in accordance with 29 CFR 1926.1101.
  - 1. Shut down, remove filters and isolate HVAC systems to prevent contamination and fiber dispersal. Coordinate with building users and Owner prior to shutdown.
  - 2. Coordinate all electrical, safety and other service connections, requirements and equipment with the Owner. Use a journeyman electrician at a minimum. It is the Contractor's responsibility to verify operation of systems that will be shut off during abatement. If any system is found to be defective or not operating satisfactorily, the Contractor shall notify the Owner or Environmental Consultant in writing prior to shutoff.
  - 3. Install critical barriers as follows. Seal off all openings, including but not limited to doorways, windows, and other penetrations of the work area, with solid critical barriers, except openings left for HEPA air-purification system, which shall be properly HEPA- filtered. Where doors exist, sealing may be done by closing door, sealing with tape on both sides, then covering both sides with two layers of plastic sheeting.
  - 4. Pre-clean movable objects, such as furniture and equipment to be removed (and carpeting), within the proposed work areas using HEPA-filtered vacuum equipment and/or wet cleaning methods as appropriate, and remove such objects from work areas to a temporary location, or consolidate such objects away from removal work and enclose with critical barriers.
  - 5. Pre-clean fixed objects within the proposed work areas, using HEPA-filtered vacuum equipment and/or wet cleaning methods as appropriate, and enclose with critical barriers. Equipment which must continue operating shall be enclosed and ventilated to avoid damage.
  - 6. Set up the worker decontamination enclosure system (decon). Once this system is installed and abatement commences, it shall be utilized in the specified manner for the ingress and egress of all personnel and equipment, except in emergency situations. All personnel shall sign the Worksite Entry Logbook each time they pass in or out of the decontamination enclosure.
  - 7. Install HEPA air-purifying equipment pressure differential fan system so as to ensure lower static pressure in the isolated work area than in surrounding areas, a flow of air through all parts of the isolated work area towards the air-purifying equipment, and minimum air contamination levels at abatement worker breathing

zones. Discharge from air-purifying equipment shall be ducted outside the building. Use one or more units of capacity as recommended by the manufacturer for the volume of the isolated work area, but in no case shall airflow be less than 6 air changes every 60 minutes with a minimum pressure differential of 0.02" wg between the work area and the decon clean room.

8. Cover floor and wall surfaces with plastic sheeting sealed with tape. Cover floors first so that plastic extends at least 12" up on walls, then cover walls with plastic sheeting to overlap floor plastic by a minimum of 24", thus overlapping the horizontal floor material by a minimum of 12". Install additional layer of plastic sheeting on floor and walls in similar manner. Contractor may use mechanical fastening techniques, such as tack strips, as necessary to secure wall plastic sheeting. Contractor shall repair any damage resulting from mechanical fasteners.
  9. Maintain emergency and fire exits from the work areas, or establish alternative exits satisfactory to the local building or fire department officials. Ensure that all exits remain unobstructed and well marked.
  10. Adequate portable fire extinguishing equipment shall be maintained within work area as defined by OSHA and/or local fire department officials.
- B. No asbestos abatement work shall occur unless the work area isolation has been found acceptable for Specification compliance by the Environmental Consultant.
- C. Isolated work area enclosure system maintenance. The Contractor shall be responsible for daily documentation of the following:
1. Prior to the first use and at the beginning of each shift during abatement work, containments shall be given a complete visual inspection by the Contractor's shift foreman and Industrial Hygienist. This shall include inspection of the HEPA air-purification system and associated filters. A smoke tube test by the shift foreman shall then be made of the worker decontamination enclosure system and other critical areas to verify that the isolated area is under negative air pressure. Work shall not begin until all defects have been repaired.
  2. Periodic inspections shall be made as required during each shift to assure continued proper functioning of the containment and HEPA system.

### 3.02 NON-ISOLATED WORK AREA PREPARATION

- A. Contractor shall perform the following procedures in the order in which they are presented and describe procedures for glove bag work and other work in non-isolated work areas. Any alternative control measures considered for Class II work shall be performed in accordance with 29 CFR 1926.1101.
1. Shut down HVAC systems. Coordinate with building users and the Owner prior to shutdown.
  2. Restrict access to work area and post warning signs. Do not perform glove bag work or any abatement work in an occupied area.
  3. Completely pre-clean entire work area using HEPA vacuum equipment or wet cleaning methods.
  4. Set up the worker decontamination enclosure system. Once this system is installed and abatement commences, it shall be utilized in the specified manner for the ingress and egress of all personnel, except in emergency situations. All personnel shall sign the Worksite Entry Logbook each time they pass in or out of the

decontamination enclosure.

5. At the direction of the Environmental Consultant, install HEPA exhaust fan in work area. Duct fan intake to immediate area of work in such a manner that any fibers released will be drawn away from the worker and into intake duct.
  6. Cover floor and other surfaces below work area with 6-mil plastic sheeting. Seal openings and install curtained doorways and air locks as directed by the Environmental Consultant.
  7. Have emergency cleanup equipment and supplies, including HEPA vacuum, amended water, disposal bags, mop, buckets, towels and sponges, on hand prior to start of abatement work.
- B. No asbestos abatement work shall occur unless the work area has been found acceptable for Specification compliance by the Environmental Consultant or Industrial Hygiene Technician.

### **3.03 REMOVAL OF ASBESTOS-CONTAINING MATERIALS IN FULL ISOLATION WORK AREAS**

- A. Contractor shall isolate work area as specified.
- B. Contractor shall remove all asbestos-containing pipe insulation, surfacing material and other asbestos-containing materials as defined in the project-specific scope of work.
1. Contractor shall spray the asbestos material with amended water. A fine spray of this solution shall be applied to prevent fiber disturbance preceding the removal of the asbestos material. The asbestos shall be sufficiently saturated to prevent emission of airborne fibers in excess of specified fiber levels.
  2. Contractor shall remove asbestos material while damp and pack in sealable plastic bags (6-mil minimum thickness). Move bags to bag load out facility or equipment room in the worker decontamination system. Wash outside surface and place inside a second plastic bag (6-mil minimum thickness) bearing DEQ warning label and name of waste generator and location from which waste was generated.
  3. After completion of stripping work, Contractor shall clean all surfaces from which asbestos has been removed by brushing and/or wet sponging or cleaning by an equivalent method to remove all visible material. During this work the surfaces being cleaned shall be kept wet. Avoid using wire brushes if possible.
  4. Contractor shall collect all water used in the removal and cleaning process and dispose of as contaminated waste or filter to remove all fibers more than five microns in length before disposal in the municipal sewer system, or as required by local regulations. Water filters shall be disposed of as asbestos-contaminated material.
- C. Removal of non-friable materials such as floor tiles shall be accomplished by such manner as to minimize breakage and to maintain non-friability. Do not drop, throw, saw or scrape non-friable materials during removal, handling or disposal. The use of spud bars to remove floor tiles is an acceptable practice.
- D. Contractor shall maintain a safe and uncluttered work area, worker decontamination system, and bag load out facility on a daily basis.



### 3.04 REMOVAL OF ASBESTOS-CONTAINING MATERIALS IN NON-ISOLATED AREAS

- A. Contractor shall apply spray coat of amended water to material to be removed. Keep material damp during entire removal process.
- B. Glove bag work shall be as follows. All removal using the glove bag method shall be performed strictly according to regulations, manufacturer's printed instructions, and as demonstrated by the manufacturer's representative or as further specified in this section. Workers are not to smoke or wear hand or wrist jewelry while using glove bags.
  - 1. Contractor shall coordinate the shutoff of all sources of heat to objects to be worked on. Do no work on objects above 150°F.
  - 2. Contractor shall install port for hose of HEPA vacuum to create reduced pressure inside glove bag. Installing of fresh air intake and/or bridging to prevent collapse of bag are acceptable. Reduced pressure shall be maintained throughout entire abatement procedure.
  - 3. During the removal phase, Contractor shall utilize amended water to reduce potential for airborne fibers.
  - 4. After completion of insulation removal and cleaning, but prior to removal of glove bag, Contractor shall apply a single "tack" coat of penetrating encapsulant to surface of pipe and any remaining non-asbestos insulation, within the glove bag.
  - 5. After the pipe has been sealed, but prior to removal of glove bag, Contractor shall thoroughly wash the upper chamber of the glove bag and seal the contents of the bag in the lower chamber.
  - 6. Contractor shall seal flap if used and, utilizing a HEPA vacuum, remove all contaminated air in the upper chamber.
  - 7. Follow procedures set forth in Section 02 82 13.11 in case of a spill or if air analysis indicates a fiber count in excess of limits.
  - 8. Contractor shall promptly double-bag the glove bag after removal is complete, place into a sealed container and remove to the bag holding enclosure.
  - 9. Contractor shall cover ends of remaining existing insulation with rewettable lagging cloth. Extend lagging cloth a minimum of 6" back along existing insulation.
- C. Wrap and Cut Method shall be as follows: At intervals determined by the Contractor, glove bag-remove two to three feet of asbestos-containing pipe insulation as specified. Seal remaining pipe, with asbestos-containing pipe insulation intact, in two separate layers of 6-mil plastic sheeting. Cut pipe wrap sections at ends, taking care to not damage adjacent wrapped or unwrapped insulated sections. Label double-wrapped pipe as specified for disposal. Obtain approval of landfill prior to utilizing this method. Dispose as contaminated waste in accordance with Specifications and approved landfill requirements.
- D. Removal of cement asbestos board and similar material shall be as follows: Material shall be removed one sheet or piece at a time. Material shall be kept continuously wet. Cut or remove fasteners one at a time while running HEPA vacuum at the point where work is being done so as to collect all dislodged particles and fibers.
  - 1. When all fasteners have been removed, carefully remove entire sheet or piece and wrap in 6-mil plastic sheeting while still wet. Do not drop, throw, break, saw or scrape cement asbestos board during removal, handling or disposal.

2. Label, transport, and dispose of wrapped sheets as specified in the Disposal section.
3. Clean entire substrate with HEPA vacuum or wet cleaning methods and leave ready for application of replacement material.

### 3.05 CLEANUP IN FULL ISOLATION WORK AREAS

- A. At the conclusion of removal in the isolated work area, conduct cleanup in the sequence described below. Windows, doors, HVAC vents, etc. shall remain sealed and HEPA-filtered pressure differential fan systems shall remain in service.
  1. REMOVE MATERIAL AND EQUIPMENT. Contractor shall remove visible accumulations of material and debris (including filters removed from HVAC equipment and HEPA air-purification equipment). Contractor shall include all sealed containers and equipment used in the work area in the cleanup and remove them from work area, after decontamination of outer surfaces.
  2. FIRST CLEAN. Contractor shall clean all surfaces in the work area and any other contaminated areas with water and/or with HEPA-filtered vacuum equipment.
  3. WAIT 24 HOURS. After the first cleaning of the work area, wait 24 hours to allow for settlement of dust. During this settling period, no entry to the work area shall be allowed.
  4. SECOND CLEAN. Wet-clean or clean with HEPA-filtered vacuum equipment all surfaces in the work area. After completion of the second cleaning operation, perform a complete visual inspection of the work area to ensure that the work area is free of visible debris.
  5. FINAL VISUAL INSPECTION. Prior to application of post- removal encapsulant, contact the Environmental Consultant for a visual observation of the work area. The work area shall be free of visible debris. Observation by the Consultant does not alleviate the Contractor of responsibility to provide work in compliance with Specifications. Contractor shall contact Environmental Consultant at least twenty-four hours prior to desired inspection time.
  6. REMOVE PLASTIC SHEETING. After visual observation by the Consultant, Contractor shall apply a coat of approved encapsulant to all surfaces in the work area where asbestos has been removed and to disposable plastic sheeting as a post-removal encapsulant. Encapsulant application shall follow all applicable manufacturer's recommendations and shall provide a compatible bonding agent for application of new material. Encapsulant shall be applied using an airless sprayer.
  7. FINAL CLEAN. After the encapsulation is complete, the Contractor shall remove all noncritical plastic and clean all floors, walls, fixtures and other surfaces within the work area with only critical barriers in place using wet methods or HEPA-filtered vacuum equipment. Plastic sheeting over carpets may remain in place.
  8. CONTACT ENVIRONMENTAL CONSULTANT. Contact the Environmental Consultant for a visual observation of the work area. The work area shall be free of visible debris. Observation by the Consultant does not alleviate the Contractor of responsibility to provide work in compliance with Specifications. Contractor shall contact Environmental Consultant at least twenty-four hours prior to desired inspection time. Consultant shall conduct final air monitoring as specified after work area has been allowed sufficient time to dry.
  9. CARPETS AND TEARDOWN. When the final observation by the Environmental

Consultant and air sampling test results are satisfactory, steam-clean and HEPA-vacuum carpet left in place during abatement. Contractor shall then remove the decontamination systems and remaining barriers.

10. DISPOSAL. Contractor shall properly dispose of all waste materials. All polyethylene material, tape, cleaning material, and contaminated clothing shall be double-bagged, sealed and labeled as described above for asbestos waste material.

### **3.06 CLEANUP IN NON-ISOLATED WORK AREAS**

- A. FIRST CLEAN. Contractor shall remove visible accumulations of asbestos material and debris. Clean all surfaces within the affected work area. Cleaning shall be with amended water and/or HEPA-filtered vacuum equipment. In a large open area, the affected work area shall include the immediate work area and an area that encompasses at least six feet in all directions or as defined by the Environmental Consultant. In small work areas, the affected work area shall include the entire room.
- B. AFFECTED AREA. The affected work area may be further defined in the scope of work by the Environmental Consultant. During the work, high fiber levels as indicated by air monitoring results may increase the area to be cleaned. The increase in affected area due to high fiber levels or other indications of fiber dispersal will be defined by the Owner and Environmental Consultant, and the Contractor shall bear all costs of additional cleaning.
- C. FINAL VISUAL INSPECTION. After completion of the cleaning operation, the Environmental Consultant shall perform a visual observation of the affected work area to ensure that the affected work area is free of visible dust and debris. Observation by the Consultant does not alleviate the Contractor of responsibility to provide work in compliance with Specifications. Contractor shall contact Environmental Consultant at least twenty-four hours prior to desired inspection time.
- D. ENCAPSULANT. After visual observation by the Environmental Consultant, Contractor shall spray-apply encapsulant to the material substrate, all temporary plastic sheeting and other temporary protective materials. Encapsulant shall be applied using an airless sprayer.
- E. CLEARANCE SAMPLING. Post-abatement air sampling shall be at the discretion of the Environmental Consultant and will be determined by the ongoing sample results.
- F. TEARDOWN. When the final observation by the Environmental Consultant and air sampling test results (if required) are satisfactory, the temporary plastic sheeting and other temporary protective materials shall be removed by the Contractor.
- G. DISPOSAL. Contractor shall properly dispose of all waste materials, all polyethylene material, tape, cleaning material, and contaminated clothing shall be double-bagged, sealed and labeled as described for asbestos waste material.

### **3.07 RE-ESTABLISHMENT OF OBJECTS AND SYSTEMS**

- A. When cleanup is complete, Contractor shall:
  1. Relocate objects moved to temporary locations in the course of the work to their former positions. Coordinate with the Owner.
  2. Clean, repair and/or repaint all surfaces soiled, discolored or damaged by removal

of tape, adhesive or other work of this contract to match existing surfaces. The Contractor shall bear all costs associated with damage incurred during the abatement, which includes but is not limited to gypsum board, windows, mullions, and elevator cars.

3. If the Contractor uses caulking to seal cracks in concrete floor the caulking must be removed to Owner's satisfaction at completion of project.
4. Return mechanical, electrical, and other systems shut down by the Contractor to complete and functional operation.
5. Re-secure objects removed in the course of work in their former positions, including air dampers in plenums, and adjust for proper operation.
6. Clean, repair and/or repaint all surfaces soiled, discolored or damaged by removal of tape, adhesive or other work of this contract to match adjacent surfaces.

### 3.08 DISPOSAL

- A. Contractor shall affix warning labels having waterproof print and permanent adhesive, to the lid and sides of all containers. Warning labels shall be conspicuous and legible, and contain the following words:

**DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD  
AVOID BREATHING AIRBORNE ASBESTOS FIBERS**

- B. The Contractor shall determine current waste handling, transportation, and disposal regulations for the work site and for each waste disposal landfill. The Contractor must comply with these regulations and all U.S. Department of Transportation, DEQ and EPA requirements. Double-bagged material in containers shall be delivered to the pre-designated disposal site for burial. Labels and all necessary signs shall be in accordance with DEQ, LRAPA, and OSHA standards.
- C. Contractor shall remove decontaminated containers from site as soon as possible. Notify disposal site in advance of delivery of material to assure immediate burial of containers.
- D. If the bags are broken or damaged, or the container is contaminated, the Contractor shall clean and decontaminate the entire container for reuse.
- E. Contractor shall submit three copies of written proof of disposal at approved disposal site to the Environmental Consultant prior to completion of the abatement work specified in this Section. Use copies of the DEQ Waste Shipment Record ASN-4, completely filled out and signed, and accompanied by tickets and/or receipts from disposal site.

**END OF SECTION 02075**