

 **AIA® Document A133® – 2019**

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the [redacted] day of [redacted] in the year Two Thousand Twenty-
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Oregon State University
644 SW 13th St
Corvallis, 973334238
5417374261

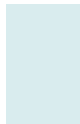
and the Construction Manager:
(Name, legal status, address, and other information)



for the following Project:
(Name, location, and detailed description)

UHDS Dining Support Facility CMGC Services

The Design Professional:
(Name, legal status, address, and other information)



The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:
The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as “not applicable” or “unknown at time of execution.”)

§ 1.1.1 The Owner’s program for the Project, as described in Section 4.1.1:

The Project consists of _____

§ 1.1.2 The Project’s physical characteristics:
(Identify or describe pertinent information about the Project’s physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

§ 1.1.3 The Owner’s budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

- .1** Design phase milestone dates, if any:

[REDACTED]

.2 Construction commencement date:

[REDACTED]

.3 Substantial Completion date or dates:

[REDACTED]

.4 Other milestone dates:

[REDACTED]

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

[REDACTED]

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

See <https://fa.oregonstate.edu/sustainability/requirements-sustainability-development> for Owner's requirements

§ 1.1.6.1 [Intentionally Deleted]

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

[REDACTED]

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Bruce Daley, Associate Vice President University Facilities, Infrastructure and Operations - Owner Designated Representative/Signatory

Christina Vinson, Owner Project Manager

Matt Hausman, Owner Contract Administrator

[REDACTED]

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

[REDACTED]

§ 1.1.10 The Owner shall initially retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

§ 1.1.11 The Design Professional's representative:

(List name, address, and other contact information.)



§ 1.1.12 The Construction Manager identifies the following Representative in accordance with Article 3:
(List name, address, and other contact information.)



The Construction Manager's Representative shall not be replaced without the consent of the Owner. If the Owner approves replacement of the Construction Manager's Representative, the Owner shall have the right to approve the replacement Construction Manager's Representative. The Owner shall have the right, which shall be exercised in a reasonable fashion, to require replacement of the Construction Manager's Representative.

§ 1.1.12.1 The Construction Manager's personnel shall include those described in Construction Manager's staff chart in attached Exhibit C (the "Key Personnel"). Construction Manager shall use best efforts to keep the Key Personnel assigned to the Project and performing in accordance with Owner's expectations and shall not assign to the Project any other senior personnel without Owner's prior written approval. Construction Manager shall promptly replace any personnel assigned to the Work upon Owner's objection to such personnel. In the event Construction Manager no longer employs any of the Key Personnel, Construction Manager shall promptly notify Owner and shall use best efforts to provide a permanent replacement suitable to Owner within ten (10) calendar days after such event.

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services:
(List any Owner-specific requirements to be included in the staffing plan.)



§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

See other Sections of this Agreement, including but not limited to Section 3.3.2.1 and the General Conditions.

§ 1.1.15 Other Initial Information on which this Agreement is based:



§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

§ 1.4 Owner intends to use Project management platform – e-Builder. Construction Manager shall utilize e-Builder as the Project management platform. Construction Manager, will communicate and interact with the Design Professional and Owner via e-Builder. Construction Manager is required to become proficient with, and fully utilize e-Builder for Project information, including but not limited to, providing an accessible storage location for meeting minutes, requests for

information, construction documents, photos, proposal requests, pay applications, invoices, contingency usage requests, and change orders. Owner will hold the license for e-Builder, and Construction Manager will not be required to pay hosting fees. Construction Manager shall comply with all e-Builder security requirements. The e-Builder Project management software platform facilitates Project information sharing between the Construction Manager, Design Professional and Owner, including but not limited to, providing an accessible storage location for meeting minutes, requests for information, construction documents, photos, proposal requests, pay applications, invoices, contingency usage requests and change orders. The Construction Manager is required to take an active role with applicable Project management tasks in e-Builder, responding to or initiating many of the tasks, and working in collaboration with the Design Professional, Owner, and other Project stakeholders. All Construction Manager requests, changes and applications for payments shall be submitted, revised and reviewed via e-Builder.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, General Conditions, Drawings, Specifications, Addenda (but only those Addenda issued prior to the execution of this Agreement), other documents listed in this Agreement, and Modifications issued after execution of this Agreement. A “Modification” is (1) a written amendment to the Contract signed by both parties (including but not limited to any Early Work Amendment and the Guaranteed Maximum Price Amendment (“GMP Amendment”)), (2) a Change Order signed by both parties, or (3) a construction change directive issued by Owner (a “Construction Change Directive”). Upon the Construction Manager’s and Owner’s execution of the GMP Amendment, the Contract Documents will also include the documents incorporated by reference in the GMP Amendment. The Contract Documents form the Contract for Construction (the “Contract”) and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior and contemporaneous negotiations, representations or agreements, either written or oral. Any conflicts, inconsistencies, discrepancies or ambiguities between or among the Contract Documents will be resolved as set forth in Sections 1.2.4 and 1.2.5 of the General Conditions.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Design Professional and exercise the Construction Manager’s skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests, including but not limited to the Construction Documents. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 The general conditions of the Contract shall be as set forth in A201–2017, as modified (the “General Conditions”), which document is incorporated herein by reference. The term “Contractor” as used in the General Conditions shall mean the Construction Manager.

§ 2.4 The Owner’s Reliance on the Construction Manager and the Subcontractors

The Owner and Construction Manager acknowledge and agree that (1) all Work performed by the Construction Manager and Subcontractors at all tiers shall be performed in the interests of the Owner and for its benefit, (2) the Construction Manager and Subcontractors at all tiers are authorized by the Owner to exercise their own independent, professional and trade judgments in performing their contractual obligations pursuant to this Section 2.4 on behalf of the Owner, (3) the Owner will be relying on the Construction Manager and Subcontractors at all tiers to perform their obligations consistent with this Section 2.4, and (4) as a result, the Construction Manager and Subcontractors at all tiers shall owe a duty to the Owner to exercise reasonable care and to avoid negligence in performing their obligations under the Contract and on the Project. The Construction Manager shall incorporate and shall cause to be incorporated into all subcontracts with Subcontractors a provision equivalent to this Section 2.4.

ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES

The Construction Manager shall fully execute the Work described in the Contract Documents and incidental, necessary and reasonably inferable therefrom, except as specifically indicated in the Contract Documents to be the responsibility of others. The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the General Conditions. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3

and in the General Conditions. The Owner and Construction Manager may agree, in consultation with the Design Professional, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

The date of commencement of the Preconstruction Services shall be the date of this Agreement. The Construction Manager shall perform Preconstruction Services diligently and continuously until either the Construction Manager's commencement of construction (other than Early Work) or the Owner's termination of the Contract, at which time the Construction Manager's performance of Preconstruction Services shall be deemed completed.

§ 3.1.1 Extent of Responsibility

In the performance of the Preconstruction Services, the Construction Manager shall exercise that professional standard that prevails in major metropolitan areas of the United States of America among construction and construction management firms experienced with, and performing the construction and construction management of, projects similar to the scope, quality, and complexity of the Project. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report in writing to the Design Professional and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Design Professional may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Design Professional and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Design Professional on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Design Professional, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.1.3.3 If required by the Owner, the Construction Manager shall assist the Owner and Design Professional in establishing building information modeling and digital protocols to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.3.4 The Construction Manager shall review and advise on the Drawings and Specifications, each time they are released by Design Professional for Construction Manager's review, regarding completeness and clarity, suitability for supporting proper cost estimating, suitability for proper bidding, constructability and work sequence issues, and impact to the Project schedule.

§ 3.1.4 Project Schedule

The Construction Manager shall prepare and submit a monthly updated Project schedule using the critical path method for the Design Professional's and Owner's review. This monthly update shall include submission to Owner of the electronic file generated by the Construction Manager's scheduling program. The Construction Manager shall obtain the Design Professional's approval for the portion of the Project schedule relating to the performance of the Design Professional's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Design Professional's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner. The schedule shall not have any single activity with a duration of more than 10 days, and shall include all procurement activities including critical submittals.

§ 3.1.5 Construction Manager's Plans

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues. The Construction Manager shall develop and comply with a Conduct of Construction Plan that addresses phasing and scheduling, public safety, neighborhood interaction, and community relations.

§ 3.1.5.1 The Construction Manager shall prepare and submit a Safety Plan for use during construction.

§ 3.1.5.2 The Construction Manager shall prepare and submit a Cost Control Plan for use prior to and during construction. The Cost Control Plan shall include without limitation a description of how the Construction Manager shall monitor the Cost of the Work throughout construction, provide the necessary substantiation for monthly Pay Applications, substantiate all costs incurred, and organize its accounting records such that, if Owner elects to conduct an audit, Owner's auditors will be able to efficiently review Construction Manager's accounting and cost records.

§ 3.1.5.3 The Construction Manager shall prepare and submit a Quality Control Plan for use during construction.

§ 3.1.5.4 The Construction Manager shall develop and implement an Erosion Control Plan for use during construction that complies with governmental erosion control requirements for construction.

§ 3.1.5.5 If required by Owner, the Construction Manager shall develop and comply with a Sustainable Development Plan that establishes a reuse and recycling objective that complies with Owner's Requirements for Sustainable Development.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Design Professional, the Construction Manager shall prepare preliminary detailed estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques for the Owner's and Design Professional's review. If the Design Professional or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 At the conclusion of the schematic design phase, the Construction Manager shall provide a construction cost estimate and comparable for potential design solutions for, including but not limited to, structural systems, envelope systems, mechanical systems, electrical systems, plumbing systems, fire protection systems, fire alarm systems and finishes as requested by Owner. As the Design Professional progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Design Professional, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design, price escalation, impact of existing and anticipated market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Owner's and Design Professional's review and be in such detail and include such substantiation as requested by Owner. The Construction Manager shall inform the Owner and Design Professional if any estimates of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action. In preparing such estimates, Construction Manager shall use CSI or other format acceptable to Owner. The Design Professional may also provide a construction cost estimate that will be reviewed and reconciled with the Construction Manager's cost estimate. If the preliminary construction cost estimate is exceeded, Construction Manager shall identify feasible cost reducing options, including projected cost savings offset with any additional design costs, to bring construction costs within the estimate.

§ 3.1.7 Value Engineering

§ 3.1.7.1 The Work also shall include the obligation on the part of the Construction Manager to make an affirmative, good faith effort during the Preconstruction Phase and the course of construction to identify and propose for review and decision by the Owner value engineering and other deductive changes to the Work with the aim of lessening the overall cost of the Project without any or significant diminution in the overall value of the Project. Estimates shall be accompanied by a detailed list of cost saving and value engineering recommendations. The Construction Manager will meet with the Owner and Design Professional and explain the details of the Construction Manager's list of cost saving and value engineering recommendations. The Construction Manager will note causes for cost changes from the previous estimate including such items as design changes, scope changes, or changes in the market conditions.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Design Professional regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 [Intentionally deleted.]

§ 3.1.10 [Intentionally deleted.]

§ 3.1.11 Subcontractors

The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.1 The Construction Manager shall be responsible to the Owner for acts and omissions of the Construction Manager's employees, Subcontractors at all tiers, design professionals performing services on behalf of the Construction Manager or Subcontractors, and their respective agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Construction Manager or any of its Subcontractors. The Construction Manager shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Design Professional in its administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Construction Manager.

§ 3.1.11.2 The Construction Manager shall enter into written contracts with Subcontractors as provided in Section 5.2 of the General Conditions. Under no circumstances shall Construction Manager enter into subcontracts or any other agreement with itself.

§ 3.1.11.3 The Construction Manager shall prepare, for the Design Professional's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to directly procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner may assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.11.4 The Construction Manager shall cooperate with the Owner to: recommend division of the Work to facilitate bidding and award of trade subcontracts; recommend which work, if any, should be procured through value-based competitive selection in lieu of low bid; identify work which the Construction Manager proposes to self-perform and how competitive pricing will be accomplished.

§ 3.1.12 Compliance with Laws

The Construction Manager shall comply with applicable Owner policies and standards, laws, statutes, ordinances, codes, rules and regulations, licensing requirements and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for the inclusion in the Contract Documents.

§ 3.1.13 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.1.14 Early Work

Construction Manager and Owner may enter into one or more amendments (each, an "Early Work Amendment") identifying specific Work that shall be performed prior to the Project's first GMP Amendment and subject to a not-to-exceed amount for the relevant Cost of the Work stated in such Early Work Amendment. If the Owner and Construction Manager reach agreement on the terms of an Early Work Amendment, Owner and Construction Manager shall execute the Early Work Amendment amending this Agreement using the form attached hereto as Exhibit A, a copy of which the Owner may provide to the Design Professional. Construction Manager shall be paid the Cost of the Work for all executed Early Work plus Construction Manager's Fee for such Work, subject to the not-to-exceed amount. All Work under an Early Work Amendment shall be performed and Owner shall pay for the same in accordance with the terms of

the Contract Documents and the terms of the applicable Early Work Amendment. The Cost of the Work for all Early Work shall be included in the Guaranteed Maximum Price of the applicable GMP Amendment and Construction Manager's obligation to develop its GMP Amendments shall not be deferred or waived by any Early Work Amendment.

§ 3.1.15 Design-Build Work

The Work shall include design professionals services provided on a design-build basis for the fire protection and fire alarm portions of the Work and other design/build items as specifically identified in the Construction Documents. Such services shall be performed by design professionals licensed, registered and otherwise legally authorized to perform such services in Oregon, to the extent such licensure, registration and authorization are required by law to perform such services on such portions of the Work. Such services shall be performed by one or more employees or consultants of the Construction Manager or a Subcontractor. The Construction Manager shall ensure that all such design services and documents, during both the design and construction phases, are coordinated with the services and documents of the Design Professional and its consultants in the interests of the Owner and the Project.

§ 3.1.15.1 Drawings, specifications, and all other documents furnished by Construction Manager or Construction Manager's design-build Subcontractors, including those in electronic form ("Design-Build Work Product") to the extent prepared specifically for this Project shall be provided to the Owner by request, be considered the exclusive property of Owner and all copyrights and other rights shall hereby be assigned to Owner. If any of the Design-Build Work Product contains intellectual property of the Construction Manager or the design-build Subcontractors that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Construction Manager hereby grants Owner a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so for the benefit of Owner, all such Design-Build Work Product. The Owner shall have all common law, statutory and other reserved rights, including copyrights. Submission or distribution of the Design-Build Work Product to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the Owner's rights. Upon execution of this Agreement, the Construction Manager grants to the Owner a limited, irrevocable and non-exclusive license to use the Design-Build Work Product to the extent not prepared specifically for this Project solely and exclusively in connection with the Project, including but not limited to the Project's further development by Owner and others retained by Owner for such purposes. Such license shall extend to those parties retained by Owner for such purposes, including but not limited to other design professionals. Construction Manager shall obtain ownership rights in any Design-Build Work Product prepared by design-build Subcontractors, including but not limited to copyrights and licenses, from the Construction Manager's design-build Subcontractors that will allow the Construction Manager to satisfy its obligations to the Owner under this Section. Construction Manager will cause a provision equivalent to this Section 3.1.15.1 to be included in all contracts, purchase orders and similar agreements with design-build Subcontractors.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 The Construction Manager will provide the Owner with a Guaranteed Maximum Price proposal for the entire scope of the Project at the time when the Drawings and Specifications are at least 100% complete or at such other time agreed to by Owner and Construction Manager. The Guaranteed Maximum Price proposal will be provided in writing with all back-up line item costs attached supporting the proposed Guaranteed Maximum Price. The Guaranteed Maximum Price proposal shall be reviewed by the Owner and the Design Professional. The proposed Guaranteed Maximum Price shall include all fees and percentages as well as the estimated Cost of the Work for all Work and services required to complete the Project in accordance with the Contract Documents.

§ 3.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Design Professional, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto;
- .2 A list of the alternates, allowances, unit prices, clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;

- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances contingency; and the Construction Manager's Fee in such detail as may be requested by the Owner;
- .4 An additional statement of the proposed Guaranteed Maximum Price organized into Owner's asset categories and in such detail as may be requested by Owner;
- .5 The anticipated date of Substantial Completion specified in Section 1.1.4.3, upon which the proposed Guaranteed Maximum Price is based;
- .6 Construction Manager's construction schedule and submittal schedule (in accordance with Section 3.10 of the General Conditions); and
- .7 Such other information as the Owner may require.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include an agreed-upon amount for contingency for the Construction Manager's use with Owner's prior written approval to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order. In no event shall Construction Manager's contingency exceed FIVE (5) percent (5%) of the estimated Cost of the Work. Construction Manager may apply contingency funds to cover minor scope gaps (as agreed to between Construction Manager and Owner) between Subcontractor work scopes, overtime for acceleration to maintain project schedule, minor changes in the Work, unexpected cost escalation due to changes in market conditions and Subcontractor default if Construction Manager establishes to Owner's satisfaction that Construction Manager took reasonable steps to cause each such defaulting Subcontractor or Subcontractor's surety to perform its Work; provided, however, available insurance would not cover such default. The Owner's Project Manager, in its sole discretion, may approve contingency use for unique circumstances if in the opinion of the Project Manager, the use is justified and necessary. Contractor shall submit to the Owner back up cost information in such form and detail as Owner may require and obtain Owner's written approval prior to authorizing the Work covered by contingency funds. Contractor shall maintain a written contingency log and deliver it to Owner no less often than monthly. Contingency may not be used to correct defective work, bid misses, or costs incurred from performing work out of sequence work performed without authorization or submittal approval, rework due to contractor sequencing, or cost escalation due to untimely execution of subcontract (more than 30 days of the signed GMP Amendment). In no event shall contingency be used to pay liquidated damages.

§ 3.2.5 The Construction Manager shall meet with the Owner and Design Professional to review the Guaranteed Maximum Price proposal. In the event that the Owner or Design Professional discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both, within ten (10) days from the date of such notification.

§ 3.2.6 If the Owner and Construction Manager reach agreement on the terms of the GMP Amendment, Owner, and Construction Manager shall execute the GMP Amendment amending this Agreement using the form attached hereto as Exhibit B, a copy of which the Owner shall provide to the Design Professional. The GMP Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based. Under no circumstances shall the Construction Manager's Guaranteed Maximum Price proposal form part of the GMP Amendment, except to the extent it is explicitly incorporated by reference.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 Regardless of whether the final permit set of Drawings and Specifications is incorporated by reference into the Contract in the GMP Amendment or otherwise, the Construction Manager agrees to perform the Work in accordance with such final permit Drawings and Specifications and, before commencing the Work, shall notify Owner and Design Professional of any inconsistency between those Drawings and Specifications and the Drawings and Specifications incorporated by reference into the GMP Amendment.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use, excise, corporate activity (including but not limited to Oregon's Corporate Activity Tax) and similar taxes.

§ 3.2.10 If Construction Manager's proposal (including but not limited to a Guaranteed Maximum Price proposal) is incorporated into this Contract in an amendment or otherwise, the Work will also include, without limitation, the scope of services identified in the proposal, provided such scope does not conflict or diminish the Work required under the Drawings and Specifications and other scope information set forth in the Contract Documents. Further, if Construction

Manager's (or a Subcontractor's) proposal is included as an exhibit to this Contract or any amendment to this Contract, only the supplemental services in the proposal are included in the Contract Documents and any other provisions, including but not limited to any provision which conflicts with or diminishes the scope of Work described in the Contract Documents, shall be disregarded (including, but not limited to, any limitations of liability or remedy or disclaimers of liability or remedy). Any inconsistency between this Contract and any such proposal shall be resolved in favor of this Contract, which means that, in the case of limitations and disclaimers, no such limitations or disclaimers shall be allowed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of the General Conditions the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the earlier of the Owner's authorization of the Construction Managers performance of specified early work or the date determined pursuant to the GMP Amendment.

§ 3.3.1.3 Constraints on Operations at the Project Site

§ 3.3.1.3.1 In addition to its other obligations under the Contract, the Construction Manager shall perform the Work and conduct its operations at the Project site and elsewhere so as to not interfere with the Owner's operations, the occupancy and use of other spaces and sidewalks, parking, roads, thoroughfares, delivery and access areas, and other common areas at the Project site.

§ 3.3.2 Administration

§ 3.3.2.1 Solicitation and Selection of Subcontractors

§ 3.3.2.1.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate written agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids.

§ 3.3.2.1.2 Absent a written justification prepared by the Construction Manager and approved in writing by the Owner, the Construction Manager's subcontractor selection process should include publicly-advertised subcontractor solicitations and be based on a low-bid competitive method, a low-quote competitive method for contracts in a specified dollar range agreeable to Owner, or a method whereby both price and qualifications of the subcontractors are evaluated in a competitive environment consistent with the requirements of the Contract and the Request for Proposals to which the Construction Manager responded.

§ 3.3.2.1.2.1 If the Construction Manager or a bidder that may be considered a "related party" according to Section 7.8. will be included in the subcontractor selection process to perform particular construction Work on the Project, the Construction Manager must disclose that fact in the selection process documents and announcements. In such an event, the Construction Manager shall also notify the Owner in writing of its intent to submit a bid, and the Owner shall assume responsibility for selecting the successful bidder for that particular construction Work on the Project.

§ 3.3.2.1.3 The Construction Manager shall be responsible for soliciting and selecting prospective subcontractors and resolving any protests in connection with such solicitations and selections. Notwithstanding the foregoing the Owner reserves the right to monitor the subcontracting process in order to protect the Owner's interests and to confirm the Construction Manager's compliance with the Contract. Furthermore, the Owner shall have final authority to approve all subcontract awards, but the Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection. No later than ten (10) days after selecting a subcontractor-bidder for award, the Construction Manager shall notify all subcontract bidders in writing that the subcontract has been awarded.

§ 3.3.2.1.4 For all portions of the Work (including those the Construction Manager proposes to self-perform), whose contract value is expected to exceed \$25,000, Construction Manager shall solicit and make a good faith effort to obtain bids from no fewer than three (3) independent Subcontractor bidders, unless the Owner agrees in advance to fewer than three (3) bids, for particular subcontracted or supplied Work. The Construction Manager shall solicit and make a good faith effort to obtain bids from no fewer than two (2) independent Subcontractor bidders, unless the Owner agrees in advance to fewer than two (2) bids, for portions of the Work that the Construction Manager desires to self-perform with its own personnel. In the event the Construction Manager provides bids for self-performed Work, such bids shall be prepared and submitted to Owner one (1) day in advance of receipt of competitor's bids and considered in the same

manner as if they were bids from Subcontractors. For the purposes of this Section, references to the Construction Manager's "own personnel" shall be construed to mean both (1) the Construction Manager's own personnel per se and (2) the Construction Manager's affiliated or associated firms or companies, including but not limited to firms or companies owned or controlled by officers of the Construction Manager.

§ 3.3.2.1.5 If Construction Manager intends to perform a non-competitive selection process for a particular portion of the Work, the Construction Manager must prepare and submit a written justification to the Owner explaining the circumstances that support the proposed non-competitive selection process, including, but not limited to, emergency circumstances, the Construction Manager's need to utilize a key subcontractor member of the Construction Manager's project team consistent with the Construction Manager's proposal, the need to meet other specified Contract requirements, the continuation or expansion of an existing subcontractor agreement that was awarded through a competitive process consistent with Section 3.3.2.1.2 along with facts supporting the continuation or expansion of the subcontractor agreement, or a sole source justification. Non-competitively selected subcontractors often are called "trade partners" and, for purposes of this agreement, the terms "subcontractor" and "trade partner" are synonymous. The Owner reserves the right to condition the award of any non-competitively selected subcontractor on the subcontractor's agreement to use a subcontract with a cost-plus a fee with a guaranteed maximum price compensation method pursuant to Section 3.3.2.3.

§ 3.3.2.1.5.1 The Construction Manager must (1) provide an independent cost estimate for the portion of the Work that will be subject to a non-competitive process, and (2) fully respond to any questions or comments submitted by the Owner.

§ 3.3.2.1.5.2 The Construction Manager shall not pursue a non-competitive procurement without obtaining Owner's Contract Administrator's prior written approval.

§ 3.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may propose that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 3.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee with or without a guaranteed maximum price unless required by or with the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis with or without a guaranteed maximum price, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10. Under any such subcontract or other agreement awarded on the basis of cost plus fee, the "costs" to be paid shall include only items included in the Cost of the Work under Article 6 and all savings shall devolve one hundred percent (100%) to Owner and zero percent (0%) to the subcontractor. As provided in Section 3.11 of the General Conditions, Construction Manager shall maintain current copies of such subcontracts or other agreements at the Project site for the Owner's and Design Professional's review. Construction Manager shall notify Owner of any amendments to such subcontracts or other agreements.

§ 3.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 7.8, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 7.8.

§ 3.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Design Professional.

§ 3.3.2.6 [Intentionally deleted.]

§ 3.3.2.7 The Construction Manager shall record the progress of the Project. On at least a monthly basis, or otherwise as agreed to in writing by the Owner, the Construction Manager shall submit written progress reports to the Owner and Design Professional, showing percentages of completion and other information required by the Owner.

§ 3.3.2.8 The Construction Manager shall also keep, and make available to the Owner and Design Professional, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner.

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. In addition, the Construction Manager's cost control system shall provide for allocation of the Cost of the Work into Owner's asset categories. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Design Professional, and shall provide this information in its monthly reports to the Owner and Design Professional, in accordance with Section 3.3.2.7 above.

§ 3.3.3 In no event shall the Construction Manager be authorized to self-perform any portion of the Work unless it provides to Owner a detailed proposal for performance of the Work, which is supported by at least one independent cost estimate prior to the Work being included in the Contract.

§ 3.3.4 Construction Manager shall keep Owner informed of the progress of the Work, including the Preconstruction Services. Before submitting each Pay Application, Construction Manager shall submit to Owner and Design Professional monthly progress reports ("Progress Reports"), which shall include: (i) estimated percentages of completion; (ii) Work completed for the reporting period; (iii) an updated construction schedule; (iv) an updated Submittal log including a summary of outstanding Submittals; (v) pending changes and executed Change Orders; (vi) test and inspection reports; (vii) Project site progress photos and videos; (viii) incident reports, and (ix) MWESB usage/status update report. Construction Manager shall keep and make available to Owner at the Project site a daily record of Project site conditions and activities such as weather, number of workers, Work performed, problems encountered, and other relevant data.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including at Owner's option a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Design Professional. The Owner and the Design Professional, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.3 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to reasonably rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.3.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.3.2 The Owner shall furnish to the Construction Manager, after receipt of written request, surveys describing known physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information may include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data

with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Construction Manager shall confirm indicated dimensions and other aspects of existing conditions at the Project site as necessary for the proper performance of the Work.

§ 4.1.3.2.1 Notwithstanding the provisions of Section 4.1.3.2, the Construction Manager shall be responsible for determining, prior to commencement of the Work, the locations of all underground utility lines, cables, pipelines and similar such underground public service installations within and serving the Project site, utilizing utility locating services or other means permitted by law. The Construction Manager shall coordinate with utility and other involved third-party representatives regarding utility locations and related issues, and shall hand excavate or otherwise take special precautions so as to perform the Work in such a manner as to avoid damaging or interrupting the operation of all utility lines, cables, pipelines and similar public service installations within and serving the Project site, whether above ground or underground.

§ 4.1.3.3 The Owner, when such services are requested in writing by Construction Manager, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall make its requests for such information or services so as to allow the Owner a reasonable time to respond without delaying the performance of the Work.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project (the "Owner's Designated Representative"). The Owner's Designated Representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Changes to the Contract involving modification to the Contract Time or Contract Sum must be signed by the Owners Designated Representative. Changes to the Contract involving modification to the Contract Time or Contract Sum may not be signed by the Design Professional, Owner's Contract Administrator or the Owner's Project Manager.

§ 4.2.1 Legal Requirements. The Owner shall furnish all its own legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Design Professional

The Owner shall retain an Design Professional to provide services, duties and responsibilities as described in the agreement between Owner and Design Professional. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Design Professional, and any further modifications to the Design Professional's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows: based on the hourly billing rates set forth in Section 5.1.2 multiplied by the actual amount of time those individuals spend performing the Preconstruction Services up to a not-to-exceed amount of \$ _____.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit C – Construction Manager's Hourly Rates

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the

Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, overhead, profit and any other markup and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within [REDACTED] ([REDACTED]) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after receipt of the invoice shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

(Insert rate of monthly or annual interest agreed upon.)

1.5% per month [REDACTED]

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES; LIQUIDATED DAMAGES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

[REDACTED] % of the Cost of the Work. Construction Manager's Fee shall be inclusive of all overhead, other than the costs that are expressly reimbursable hereunder, and profit to be paid to Construction Manager on the Project.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

See Exhibit I

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

See Exhibit I

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100%) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated Damages

§ 6.1.6.1 The Construction Manager acknowledges that the Owner will incur significant damages if the Project is not completed within the Contract Time, including without limitation, damages in the form of: inability to use the Project and all related facilities (i.e. "loss of use"); delay costs for completion of portions of the Project or related projects to be constructed by the Owner or the Owner's separate contractors; or costs of extended services of the Owner's project management staff, outside construction management firms, Design Professional, any separate contractors and consultants, and others performing work or services related to the Project. In consideration of the factors set out in this Section 6.1.6.1, the Construction Manager acknowledges and agrees that time is particularly of the essence in the Construction Manager's performance of the Work in accordance with the agreed date of commencement of the Work, the agreed dates of Substantial Completion and Final Completion of the Work, and the approved construction schedule.

§ 6.1.6.2 Loss of Use Liquidated Damages; Final Completion Liquidated Damages

§ 6.1.6.2.1 The Owner and Construction Manager acknowledge and agree that if Substantial Completion of the Work is not achieved by the Contract Time for Substantial Completion, the amount of the Owner's actual loss of use damages (as described in Section 6.1.6.1 above) will be difficult, impractical or impossible to determine. Accordingly, the parties agree that if Substantial Completion is not achieved by the agreed date of Substantial Completion as may be adjusted

pursuant to the Contract Documents, the Construction Manager shall pay to the Owner as liquidated damages for the loss of use of the Project the following amounts: the sum of **TO BE DETERMINED BY TIME OF GMP AMENDMENT** for each partial day or full day of delay beyond the deadline for Substantial Completion.

§ 6.1.6.2.2 The parties further acknowledge and agree that the Construction Manager's obligation to pay liquidated damages under this Section 6.1.6 shall be in lieu of the obligation to pay actual delay damages for the loss of use damages. The parties agree that the daily rate agreed to above is reasonable in comparison to the approximate scope of actual delay damages for loss of use that the parties anticipate as of the time of execution of this Agreement, and that the payment of such liquidated damages is not intended to be a penalty or forfeiture. The parties further acknowledge that these liquidated damages are meant to reimburse the Owner only for loss of use delay damages and that Owner reserves the right to claim other types of damages against Construction Manager resulting from delays, including but not limited to the other delay damages described in Section 6.1.6.1.

§ 6.1.6.2.3 Final Completion Liquidated Damages

The parties agree that if Final Completion is not achieved by the agreed date of Final Completion as may be adjusted pursuant to the Contract Documents, the Construction Manager shall pay to the Owner as liquidated damages the following amounts: the sum of **TO BE DETERMINED BY TIME OF GMP AMENDMENT** for each partial day or full day of delay beyond the deadline for Final Completion.

§ 6.1.6.2.4 Withholding of Liquidated Damages

Owner may withhold liquidated damages from any progress or final payment.

§ 6.1.6.3 Acceleration of Work

Without limiting the Owner's rights and remedies as set forth in Section 8.3.2.2 of the General Conditions, in the event the Construction Manager, at any time, is behind the schedule for the completion of the Work, the Owner shall have the right to accelerate the completion date of the Work.

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.2.1 In the event the sum of the final Contract Sum shall be less than the final Guaranteed Maximum Price, the savings shall devolve one hundred percent (100%) to the Owner. In the event of any such savings, upon the making of final payment, the Guaranteed Maximum Price shall be deemed reduced by the amount of any difference between the Guaranteed Maximum Price and the Cost of the Work plus the Construction Manager's Fee so that the final amount of the Guaranteed Maximum Price is equal to the Cost of the Work plus the Construction Manager's Fee as of the date of such final payment.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing; no oral changes shall be binding on Owner. The Construction Manager may be entitled to an adjustment in the Contract Time as a result of changes in the Work. Notwithstanding any other provision of the Contract to the contrary, the Construction Manager agrees that no additional or different Work shall be allowed or compensated unless prior written approval is given by the Owner for the specific Work at issue.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of the General Conditions. Construction Manager shall present requests for adjustment of the Guaranteed Maximum Price using the form set forth in Exhibit I, Change Pricing Form.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of the General Conditions, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of the General Conditions shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

§ 6.3.6 A Change Order shall be a written amendment to the Contract between Owner and Construction Manager. A Construction Change Directive requires written direction by Owner and may or may not be agreed to by Construction Manager. In order to be binding upon Owner, all Change Orders and Construction Change Directives must be properly completed in writing before commencement of the altered or additional Work, and before Construction Manager incurs any additional time or expense. Owner will not be responsible for additional costs, fees, or time associated with any altered or additional Work unless a corresponding Change Order or Construction Change Directive is properly and timely prepared and executed as required by the Contract Documents in advance of the extra or different Work. Construction Manager hereby waives any argument that Owner’s conduct (including, but not limited to, orally approving changes or extras) amounts to a waiver of the prior written change requirements of the Contract Documents.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior written approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior written approval of the Owner.

§ 7.1.4 In the event of conflict or ambiguity between this Section 7 and Exhibit C Cost Matrix, Section 7.0 shall govern.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior written approval, at off-site workshops. This cost category includes without limitation fire watch costs.

§ 7.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site and performing Work, subject to the following limitations: (a) Wages and salaries are limited to only those personnel listed on the Owner-approved organizational chart; (b) Wages and salaries shall not exceed that portion of each person’s time (on a percentage basis) allocated to the Project as set forth on the Owner-approved organizational chart; and (c) Wages and salaries for project manager, superintendents, project/field engineers, coordinator, scheduler, cost estimator, safety, quality control, administrator, Project accountant, and other Project-specific personnel, with the Owner’s prior written approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work in accordance with Exhibit C.

§ 7.2.3 With Owner’s prior written approval, wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work. For the avoidance of doubt, this Section does not permit Construction Manager to seek reimbursement for the costs associated with its personnel and workers commuting to and from their homes to the Project site.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the Project site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, fuel, lubrication, and removal of such temporary facilities, machinery, equipment, and hand tools. This category of costs includes without limitation temporary toilets; drinking water, ice, and cups; temporary stairs and scaffolding; temporary building heating; project signs and bulletin boards; temporary covered walkways; temporary barricades; dewatering equipment; radio equipment; lifts; small equipment; cranes; and temporary elevators. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of removal and other debris from the site of the Work and its proper and legal disposal and recycling.

§ 7.5.3.1 Costs of housekeeping and final cleaning.

§ 7.5.3.2 Costs of dust control and street cleaning.

§ 7.5.3.3 Costs of snow and ice removal.

§ 7.5.3.3 Costs of surveying.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior written approval.

§ 7.5.6 Costs of temporary utilities set up, including but not limited to temporary electricity and water systems.

§ 7.5.7 Costs of construction progress photos.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of builder's risk insurance and bonds required by the Contract Documents that can be directly attributed to this Contract, provided, however, that Construction Manager's Fee shall not be applied to such costs.

§ 7.6.2 Sales, use, or similar taxes (excluding Oregon's Corporate Activity Tax), imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of the General Conditions or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.6 Costs for electronic equipment, document management program and software, directly related to the Work and located at the site, with the Owner's prior written approval.

§ 7.6.7 Costs of document reproductions, printing and delivery charges during construction.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Costs of personal protective equipment, fire extinguishers and first aid supplies.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior written approval in each instance.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work, with the Owner's prior written approval in each instance.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work if, and to the extent, (1) approved in writing in advance by Owner as a Cost of the Work or (2) expressly identified as a Cost of the Work in the Contract.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of the General Conditions.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of the General Conditions which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction

Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior written approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office, including but not limited to general, administrative and support staff who provide corporate management oversight, corporate accounting, corporate safety, corporate quality control, corporate administration, corporate information technology, legal services, corporate payroll and benefits accounting/administration;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs of commuting to and from the Project site (including trucks, shuttles, corporate vehicles and their operation and maintenance), travel, per-diem, food, parking or related access;
- .10 Costs of insurance, including but not limited to commercial general liability, worker's compensation, business auto, excess/umbrella liability, and professional liability;
- .11 Communication devices, computer, tablet, project specific software, and professional development; and
- .12 Safety and ceremony lunches.

§ 7.9.1.1 The Cost of the Work shall not include costs incurred before the Owner's written approval thereof, when such prior approval is required by the Contract Documents, and costs incurred in excess of the Owner's limitations or contrary to the Owner's limitations or instructions, when such limitations or instructions are imposed by the Owner pursuant to the Contract Documents.

§ 7.9.1.2 The Cost of the Work shall not include costs expressly excluded from the Cost of the Work by the Contract Documents.

§ 7.9.1.3 The Cost of the Work shall not include fees and costs of business licenses and contractor, design professional and other licenses or registrations.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the

Owner, and the Construction Manager shall make provisions so that they can be obtained. The Construction Manager shall inform the Owner and Design Professional in a timely manner of opportunities for cash discounts under this Section.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 The Owner has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Design Professional and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Design Professional, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.2 Subcontracts or other agreements including bid scope shall be delivered to Owner upon request within (7) seven days.

ARTICLE 10 ACCOUNTING RECORDS

§ 10.1 The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, including but not limited to those records necessary to clearly document (1) its performance; and (2) any claims arising from or relating to its performance under the Contract. The Construction Manager shall exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. In addition, Construction Manager shall maintain and permit Owner and its agents to audit all records necessary to document Construction Manager's performance of the Work and all claims arising from or relating to Construction Manager's performance. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders and other similar agreements, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of ten (10) years after final payment, or for such longer period as may be required by law. The term "Owner's auditors" as used in this Contract shall mean, at the Owner's discretion, "Owner's accountants", "Owner's internal audit department", or "Owner's Designated Representative".

§ 10.2 The Owner shall have the right to conduct an independent audit of the Construction Manager's records, books and other documents referenced in Section 10.1 at any time during the performance of the Work and thereafter until the end of the period referenced in Section 10.1. If such audit determines that the Construction Manager has submitted Applications for Payment for more than the amount actually due under the Contract Documents or has been paid pursuant to Applications for Payment for more than the amount actually due under the Contract Documents, the Construction Manager shall (1) issue a credit to the Owner in the amount of the overage, if the overage has not been paid, and (2) pay the amount of the overage and accumulated interest thereon, if the overage has been paid.

§ 10.3 If the amount of the overage determined by the audit referenced in Section 10.2, whether paid or not, is one hundred two percent (102%) or more of the amount actually due under the Contract Documents, the Construction Manager shall pay the cost of the audit. Such cost shall not be included in the Cost of the Work.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Owner by the Construction Manager, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Owner not later than the twenty-fifth day of a

month, the Owner shall make payment of the amount certified to the Construction Manager not later than 14 days after receipt of a progress payment application and not later than the 7 days after receipt of final payment application. If an Application for Payment is received by the Owner receives the complete Application for Payment for progress payments and not later than seven (7) days after the Owner receives the Application for Payment for final payment. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work as divided into standard CSI categories and a separate schedule of values using Owner's asset categories; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. Owner may require asset tracking on this Project, and, if required by Owner, Contractor shall submit a schedules of values and draft billing prior to any billings being submitted that align with the Owner's asset category tracking requirements for the Project. Contractor acknowledges that this asset category tracking is important to Owner and may require additional spreadsheets to track the assets. The schedules of values will be reviewed by Owner and after they are approved, the Construction Manager may submit its first Application for Payment.

§ 11.1.5.2 Except for amounts allocated to allowances, the allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 Before the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall obtain advance written approval from and submit supporting documentation to the Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. At no point may a portion of the work (or a schedule of values line item) be billed over 100%. Any adjustments to the schedules of values shall be subject to Owner's prior written approval.

§ 11.1.7 In accordance with the General Conditions and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum 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 writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Owner reasonably determines is justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee

is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Owner has previously withheld payment as provided in Article 9 of the General Conditions;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Owner may withhold payment, or nullify a previous payment in whole or in part, as provided in Article 9 of the General Conditions;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Final Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five percent (5%) of each progress payment.

§ 11.1.9 If Final Completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of the General Conditions.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Owner has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Owner has made exhaustive or continuous on-site inspections; or (3) that the Design Professional has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum including accrued retainage, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of the General Conditions, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 an audit has been conducted by the Owner in accordance with Section 11.2.2 and its subsections.

§ 11.2.2 Without limiting Owner's right to audit Construction Manager at any time, within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner may elect to conduct an audit of the Cost of the Work.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner may prepare a written report based upon the auditors' findings.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, if any, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Owner will either issue a final payment, or notify the Construction Manager in writing of the Owner's reasons for withholding payment as provided in Article 9 of the General Conditions. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of the General Conditions.

§ 11.2.2.3 If the Owner's auditors' conclude that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount pursuant to Article 15 of the General Conditions. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of notice from the Owner. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount due.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 7 days after completion of the audit.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the legal rate pursuant to Section 5.2.2.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 [Intentionally deleted]

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of the General Conditions, the method of binding dispute resolution shall be as follows:

[] Litigation in a court of competent jurisdiction pursuant to Article 15 of the General Conditions.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price within a time period determined by the Owner in Owner's sole discretion, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the amount set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in the General Conditions.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction

Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination. In no event shall Owner be obligated to pay the Construction Manager for overhead, profit or other markup on unperformed Preconstruction Services or Work, or both.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of the General Conditions.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of the General Conditions, the amount, if any, to be paid to the Construction Manager under Article 14 of the General Conditions shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of the General Conditions.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of the General Conditions, then the Owner shall pay the Construction Manager as set forth in those provisions.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of the General Conditions; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of the General Conditions, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in the General Conditions. Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2 of the General Conditions, neither party to the Contract may assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.3 Insurance and Bonds

For all phases of the Project, the Construction Manager shall purchase and maintain insurance as set forth in Article 11 of the General Conditions and Exhibit F. The Construction Manager shall furnish a payment bond and a performance bond in accordance with Section 11.6 of the General Conditions.

§ 14.4 The Construction Manager represents and warrants to the Owner, in addition to the other representations and warranties contained in the Contract Documents and as an inducement to the Owner to execute the Agreement, which representations and warranties shall survive the execution of this Agreement and the Final Completion of the Work, as follows:

- .1 that the Construction Manager is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to perform and complete the Work as described in the Contract Documents and to otherwise perform its obligations under the Contract Documents;
- .2 that the Construction Manager is able to furnish the labor, services, materials, equipment, facilities, supervision, project management and other services necessary and required to perform and complete the Work as described in this Agreement and to otherwise perform its obligations under the Contract Documents, and has sufficient experience and competence to do so;
- .3 that the Construction Manager is authorized to do business in the state where the Project is located and is properly licensed and registered by all necessary governmental and quasi-public authorities having jurisdiction over the Construction Manager, the Work and the Project; and
- .4 that the Construction Manager’s execution of this Agreement and its performance of the Contract is within its duly authorized powers.

§ 14.5 Construction Manager hereby agrees that the Project will be completed substantially in accordance with building permits and any other permits related to development of the Project, the Contract Documents and unless otherwise provided in the Contract Documents all manufacturers’ or suppliers’ recommended installation procedures so as to preserve any warranties with respect thereto, free and clear of all liens or encumbrances and within the time set forth in the Contract Documents. Construction Manager does further agree that on the date of Substantial Completion, the Project shall comply with all applicable building laws, ordinances, rules and regulations known, or which should in the exercise of reasonable care be known, to Construction Manager, and that all utility services necessary for the operation of the Project shall have been provided to the Project within the time for completion of construction.

§ 14.6 The Contract Documents have been carefully reviewed and negotiated by both parties at arm’s length, and they shall be given fair and reasonable interpretation in accordance with the words contained in them without any weight being given to whether a provision was drafted by one party or its counsel. Section headings are for convenience only and shall not be a part of the Contract Documents or considered in their interpretation. The Exhibits attached hereto are made a part hereof.

§ 14.7 If the Construction Manager fails, neglects or refuses to make prompt payment for labor, materials, equipment or other services furnished to the Construction Manager or a Subcontractor by any person in connection with the Project as such claim becomes due, the Owner may pay the claim and charge the amount of the payment against funds due or to become due the Construction Manager under this Contract. Payment of claims in this manner shall not relieve the Construction Manager or the Construction Manager's surety from obligation with respect to any unpaid claims.

§ 14.8 Construction Manager shall cooperate with Owner to incorporate into the Project's design and construction works of art from the Project's 1% for Art program. Construction Manager's costs to handle and install such art are properly included in Cost of the Work. However, cost of the included art objects themselves, is not a Cost of the Work, and is not otherwise part of the Guaranteed Maximum Price.

§ 14.9 Construction Manager shall obtain and deliver payment and performance bonds in the form attached as Exhibit D and as required by the General Conditions.

Prevailing Wage Requirements

§ 14.10 This Contract is subject to the State of Oregon BOLI Prevailing Wage Rates, and Construction Manager shall pay or cause to be paid all workers accordingly.

§ 14.10.1 The Project is a public works project subject to the prevailing wage rate requirements in ORS 279C.800 to 279C.870. Construction Manager and the Subcontractors shall comply with ORS 279C.840. Workers in each trade or occupation required for the Work of the Project shall not be paid less than the minimum hourly rate of wage for such workers as detailed in the Specifications for the Contract.

§ 14.10.2 Before starting the Work, Construction Manager and every Subcontractor shall file with the Construction Contractors Board a public works bond in accordance with ORS 279C.836, unless the Construction Manager or Subcontractor has elected not to file a public works bond under ORS 279C.836(7) or (8) or is exempt under ORS 279C.836(4) or (9). Before permitting a Subcontractor to start the Work, Construction Manager shall verify that the Subcontractor has filed a public works bond as required by ORS 279C.836, has elected not to file a public works bond under ORS 279C.836(7) or (8) or is exempt under ORS 279C.836(4) or (9). Construction Manager shall also ensure that each subcontract entered into by a Subcontractor for the Project shall include a clause obligating each Subcontractor to comply with the requirements of this Section 14.10.2, such that all subcontracts at all tiers include a requirement to comply with this Section 14.10.2.

§ 14.11 Construction Manager shall not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, or political affiliation in programs, activities, services, benefits, or employment. Construction Manager shall not discriminate against minority-owned, women-owned, or emerging small businesses. Construction Manager shall also include a provision in each subcontract requiring Subcontractors to comply with the requirements of this Section 14.11.

§ 14.12 The Construction Manager shall not be relieved from its obligations to perform the Work pursuant to the Contract Documents, or from responsibility for defects or nonconformities in the Work, either by observations, reviews, inspections or approvals of the Work by the Owner or Design Professional or other persons or entities or by other observations, reviews, inspections, tests or approvals of the Work by any person, entity or agency.

§ 14.13 Remedies Cumulative

§ 14.13.1 The Owner may, at its discretion, avail itself of any or all rights or remedies set forth in these rules, in the Contract, or available at law or in equity.

§ 14.14 Apprenticeship Requirements

§ 14.14.1 If the Guaranteed Maximum Price exceeds \$3,000,000.00, the Construction Manager shall (i) employ apprentices (as that term is defined in ORS 660.010) to perform twelve percent (12%) or more of the work hours that workers in apprenticeable occupations (as that term is defined in ORS 660.010) perform; and (ii) require in each subcontract with a value of \$750,000 or more that the Subcontractor employ apprentices to perform twelve percent (12%) or more of the work hours that workers in apprenticeable occupations perform on the subcontract. Construction Manager acknowledges and agrees that this Section 14.14 is a material provision of this Contract.

§ 14.14.2 The Construction Manager shall establish and implement a plan for outreach to and recruitment and retention of women (as that term is defined in ORS 200.005), minority individuals (as that term is defined in ORS 200.005) and veterans (as that term is defined in ORS 408.225) to perform work under this Contract, with an aspirational target of having individuals in one or more of these groups to compose at least fifteen percent (15%) of the total number of workers who perform work under the Contract. The Construction Manager must have a written plan for outreach, recruitment and retention of women, minority individuals and veterans and the Construction Manager shall: (i) advertise employment opportunities available under this Contract in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minority individuals, women or veterans; (ii) follow up on the Construction Manager's initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial solicitation to determine with certainty whether the minority individual, woman or veteran is interested in the opportunities described in (i) above; (iii) provide all persons who express continued interest with adequate information about hiring qualifications, pay rates, benefits, the expected duration of employment, work hours and other conditions of employment under this Contract; (iv) make efforts to encourage minority individuals, women and veterans to seek employment under the public improvement contract that the contractor may reasonably expect will produce a level of participation that meets the aspirational target described in this Section; and (v) use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the Construction Manager with outreach, recruitment and retention.

§ 14.14.3 The Construction Manager shall demonstrate adequate good faith efforts to comply with the requirements of Section 14.14.2.

§ 14.14.4 The Construction Manager shall require any Subcontractor with a subcontract value of \$750,000 or more to comply with the requirements set forth in Sections 14.14.2 and 14.14.3 to the same extent as the Construction Manager is required to comply with such requirements.

§ 14.14.5 No less often than weekly, the Construction Manager shall report to Owner the extent of compliance with this Section 14.14, and the compliance of all Subcontractors described Section 14.14.4, to the Owner using the Bureau of Labor and Industries' Enhanced Payroll and Certified Statement form, Enhanced WH-38.

§ 14.14.6 With each Application for Payment, the Construction Manager shall submit for this Contract and each subcontract the report described in Section 14.14.5 as part of, or as a supplement to, certified statements required under ORS 279C.845. Construction Manager shall preserve the reports in the same manner as provided for certified statements in ORS 279C.845 (5).

§ 14.15 Owner and Construction Manager acknowledge and agree that ORS 654.150 (relating to sanitary facilities at construction projects) applies and Construction Manager will be responsible for complying with ORS 654.150 and any costs incurred related to such compliance. This requirement is included in this Agreement in accordance with ORS 654.160(1).

§ 14.16 The notice of claim required by ORS 279C.600 must be sent by registered or certified mail or hand delivered no later than 180 days after the day the person last provided labor or furnished materials or 180 days after the worker listed in the notice of claim by the Commissioner of the Bureau of Labor and Industries last provided labor. The notice may be sent or delivered to the Construction Manager or Subcontractor at any place the Construction Manager or Subcontractor maintains an office or conducts business or at the residence of the Construction Manager or Subcontractor. If the claim is for a required contribution to a fund of any employee benefit plan, the notice required by ORS 279C.600 must be sent or delivered within 200 days after the employee last provided labor or materials. The notice shall be in the form of a signed writing substantially as follows:

To (here insert the name of the Construction Manager or Subcontractor and the name of the Owner):

Notice hereby is given that the undersigned (here insert the name of the claimant) has a claim for (here insert a brief description of the labor or materials performed or furnished and the person by whom performed or furnished; if the claim is for other than labor or materials, insert a brief description of the claim) in the sum of (here insert the amount) dollars against the (here insert public works bond or payment bond, as applicable) taken from (here insert the name of the principal and, if known, the surety or sureties upon the public works bond or payment bond) for the work of (here insert a brief description of the work concerning which the public works bond or payment

bond was taken). Such material or labor was supplied to (here insert the name of the Construction Manager or Subcontractor).

_____ *(here to be signed by the person making the claim or giving the notice)*

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price as modified herein
- .2 General Conditions
- .3 Exhibits incorporated into this Agreement by this reference:
 - Exhibit A: Early Work Form
 - Exhibit B: GMP Amendment Form
 - Exhibit C: Construction Manager’s Pre-Construction Services Proposal and Key Personnel & Construction Manager’s Hourly Rates CMGC Fee Matrix
 - Exhibit D: RESERVED
 - Exhibit E: Owner’s Standard Requirements
 - Exhibit F: Insurance
 - Exhibit G: Bond Forms
 - Exhibit H: Change Order Form
 - Exhibit I: Change Pricing Form

This Agreement is entered into as of the day and year first written above.

OREGON STATE UNIVERSITY

OWNER *(Signature)*

(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

AIA[®] Document A201[®] – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

UHDS Dining Support Facility

THE OWNER:

(Name, legal status and address)

Oregon State University
644 SW 13th St
Corvallis, 973334238

THE DESIGN PROFESSIONAL:

(Name, legal status and address)



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ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503[™]–2017, Guide for Supplementary Conditions.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES



ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents consist of the Standard Form of Agreement between the Owner and Contractor (the “Agreement”) the General Conditions, Drawings, Specifications, Addenda issued prior to execution of the Contract, Contractor’s Proposal, if attached (as to scope only, and only to the extent the stated scope of services is greater than stated in the other Contract Documents), other documents listed in the Agreement, and Modifications issued after execution of the Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, or (3) a Construction Change Directive.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction (this or the “Contract”). The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior or contemporaneous negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Design Professional or the Design Professional’s consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Design Professional or the Design Professional’s consultants, or (4) between any persons or entities other than the Owner and the Contractor. Nothing in this Section 1.1.2 shall be interpreted or applied so as to negate, abridge, or reduce the status or rights of the Owner as a third-party beneficiary of subcontracts, purchase orders and similar agreements between the Contractor and its Subcontractors and between Subcontractors at all tiers and their Sub-subcontractors.

§ 1.1.3 The Work

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor or Subcontractors to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including but not limited to plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services and obligations.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design Professional and the Design Professional’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, plans, Drawings, Specifications, and other similar materials.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.1.2 This Contract incorporates all provisions as required by law. Such incorporated provisions will have priority over any conflicting provision herein. Should any provision of the Contract, at any time, be in conflict with any law, statute, code, ordinance, rule, regulation or lawful order of a public authority, or be unenforceable or inoperative for any reason, then the remaining provisions of the Contract nonetheless shall continue in full force and effect and the court shall give the offending provision the fullest meaning and effect allowed by law.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.3.1 The Owner and Contractor agree that no additions, deletions or other revisions shall be made to these General Conditions except by means of a written Modification executed by the Owner and Contractor. With respect to any provision of the Contract Documents requiring written approval or written Modification by the Owner, Contractor expressly waives any argument or right, and agrees not to assert, that Owner's alleged knowledge of the circumstances, or other conduct of Owner (including, without limitation, making oral approvals) before, during or after the Project amounts to a waiver by Owner of the written Modification or written approval requirements of the Contract Documents.

§ 1.2.3.2 Reference in the Specifications to an article, device, or piece of equipment in the singular number shall apply to as many such articles as are shown on Drawings or required to complete the installation. Mention in the Specifications or indication on the Drawings of articles, products, materials, operations, or methods requires the Contractor to provide and install such items including but not limited to all necessary plants, labor and appurtenances. Notes on Drawings are considered Specifications, equal in force to those in the printed text.

§ 1.2.4 In the event of conflicts, inconsistencies, discrepancies or ambiguities between or among the Contract Documents, interpretations shall be based on the following order of precedence:

- .1 Modifications of the Contract with those of a later date having precedence over those of an earlier date.
- .2 All statutory contract provisions required by ORS chapter 352 and other applicable statutes and regulations and permits.
- .3 AIA A133–2019 Standard Form of Agreement between Owner and Construction Manager as Constructor as modified.
- .4 AIA A201-2017 General Conditions of the Contract for Construction as modified.
- .5 The Drawings with larger scale having precedence over smaller scale, and with notes and schedules thereon having precedence over the remainder.
- .6 Specifications.
- .7 Contractor's proposal (as to scope only, and only to the extent the stated scope of services is greater than stated in the other Contract Documents).

§ 1.2.5 In the event of conflicts, inconsistencies, discrepancies or ambiguities between or among the Drawings, or between or among the Specifications, remaining after application of Section 1.2.4. those Drawings or Specifications of later date shall have precedence over those of earlier date. If a conflict, inconsistency, discrepancy or ambiguity nonetheless remains, the Contractor shall provide written notice thereof to the Design Professional and Owner. Thereafter, the Contractor shall proceed as ordered in writing by the Design Professional. Thereafter, unless otherwise ordered in writing by the Design Professional, the Contractor shall provide the better quality of, and the greater quantity of, the Work. The provisions of this Section 1.2.5 shall apply only to conflicts, inconsistencies, discrepancies

or ambiguities in express requirements of the Drawings and Specifications and not to interpretations thereof by the Owner or Design Professional.

§ 1.2.6 The Owner and Contractor acknowledge their intent and agreement that there shall be no binding revisions to the provisions of the Agreement or of these General Conditions made in the Specifications or other Contract Documents as of the time of execution of the Agreement. The Owner and Contractor expressly agree that in the event of conflicts or inconsistencies between or among the Contract Documents, interpretations shall be based on the order of precedence set forth in Section 1.2.4.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Design Professionals.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Design Professional and the Design Professional’s consultants shall be deemed the authors and the Owner is the owner of the Instruments of Service, including but not limited to the Drawings and Specifications, and Owner owns all common law, statutory and other reserved rights in their Instruments of Service, including but not limited to copyrights. The Contractor, Subcontractors and Sub-subcontractors shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Owner’s reserved rights.

§ 1.5.2 The Contractor and Subcontractors are authorized to use and reproduce the Drawings and Specifications provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor and Subcontractors may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, all notices given under the Contract Documents shall be in writing to the designated representative of the party to whom the notice is addressed and shall be deemed properly given when delivered in person, e-mailed, delivered by commercial messenger or courier of four (4) days after its sent postage prepaid by registered or certified mail return receipt requested as follows:

.1 if to the Owner:

Bruce Daley, Owner’s Designated Representative
Oregon State University
850 SW 35th Street
Corvallis, OR 97333

With a cc to: Project Manager Name, Owner’s Project Manager
Oregon State University
850 SW 35th Street
Corvallis, OR 97333

And with a CC to: Construction Contracts Administration
Oregon State University
644 SW 13th Street
Corvallis, OR 97333

.2 if to the Contractor:

.3 if to the Design Professional:

or to such other address, telecopy number or addressee as any party entitled to receive notice hereunder shall designate to all other parties in the manner provided herein for the service of notice.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Relationship of the Parties

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Design Professional and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization, provided, however, that changed to the Contract involving Modifications to the Contract Time or Guaranteed Maximum Price must be signed by Owner's Designated Representative. The Design Professional does not have such authority.

§ 2.1.1.1 The Owner's Designated Representative initially shall be Bruce Daley. The Owner shall provide prompt written notice to the Contractor of the designation of a different individual as the Owner's Designated Representative.

§ 2.2 [Intentionally deleted.]

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor or Subcontractors under the Contract Documents or applicable law, including but not limited to those required under Section 3.7.1, the Owner shall secure and pay for the building permit and other necessary permits, approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Design Professional in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Design Professional terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Design Professional.

§ 2.3.4 The Owner shall, after receipt of written request, furnish to the Contractor surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to reasonably rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. However, the Contractor shall confirm indicated dimensions and other aspects of existing conditions at the Project site as necessary for the proper performance of the Work.

§ 2.3.4.1 Notwithstanding the provisions of Section 2.3.4, the Contractor shall be responsible for determining, prior to commencement of the Work, the locations of all telephone, data, video and internet lines and cables, sewer lines, water pipes, gas pipes, electrical lines and other utility lines, cables, pipes and pipelines, including but not limited to all those that are buried, within and serving the Project site, utilizing utility locating services or other means. The

Contractor shall coordinate with utility and other involved third-party representatives regarding utility locations and related issues, and shall hand excavate or otherwise take special precautions so as to perform the Work in such a manner as to avoid damaging, or interrupting the operation of, all utility lines, cables, pipelines and similar public service installations within and serving the Project site, whether above ground or underground.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor shall make its requests for such information or services so as to allow the Owner a reasonable time to respond without delaying the performance of the Work. The Owner shall furnish to the Contractor one (1) reproducible copy of the Drawings and Specifications at no cost to the Contractor. The Owner also shall make available to the Contractor and Subcontractors copies of the Drawings and Specifications. The Contractor's cost of obtaining up to ten (10) additional copies of the Drawings and Specifications as is required for the performance of the Work shall be included in the Guaranteed Maximum Price; the Contractor's cost of obtaining any additional copies beyond the ten (10) copies shall be at the Contractor's expense without reimbursement by the Owner, unless the Owner provides prior written approval for additional copies.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly or substantially fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4.1 The Owner's exercise of its right to stop Work pursuant to Section 2.4 shall not relieve the Contractor from any of its responsibilities and obligations under the Contract Documents.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or substantially fails or neglects to carry out all or a portion of the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor for the reasonable cost of correcting such deficiencies, including but not limited to the Owner's attorney's fees and related costs, disbursements and expenses and compensation for the Design Professional's additional services made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. The right of the Owner to correct deficiencies in the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

§ 2.6 Extent of Owner's Rights

§ 2.6.1 In no event shall the Owner have control over, charge of, or any responsibility for the construction means, methods, techniques, sequences, or procedures or for the safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted to the Owner in the Contract Documents.

§ 2.7 Review or Approval by Others

§ 2.7.1 Review or approval by Owner or its agents of Contractor's means, methods, techniques, procedures or submittals, or of any other aspect of Contractor's work or services shall not relieve Contractor of its sole liability for any damages resulting from or arising out of defects or deficiencies in the Contractor's means, methods, techniques, procedures or submittals, or of any other aspect of Contractor's work or services.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the

Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Design Professional in the Design Professional's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor shall prepare and submit to the Owner and Design Professional, no less frequently than monthly, written reports on the progress of the Work in such form and in such detail as reasonably required by the Owner. Within seven (7) days of Owner's request, Contractor shall execute and deliver to Owner a certificate addressed to Owner concerning the compliance of the Work with the Contract Documents and applicable laws and regulations, the status of the completion of the Work, and the status of payments and defaults.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the GMP Amendment by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents and has notified the Design Professional of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. Contractor shall promptly notify the Design Professional and Owner in writing of any errors, inconsistencies, omissions, or ambiguities in the Contract Documents discovered by or the Contractor. The Contractor shall be responsible for any additional costs to Owner resulting from the Contractor's failure to verify existing conditions related to any portion of the Work or to report to the Design Professional and Owner any errors, inconsistencies, omissions, or ambiguities in the Contract Documents discovered by, or which should have been discovered by, Contractor. The Contractor understands that it is obligated to review all Contract Documents during the Preconstruction Phase and that it is required to have noted any and all inconsistencies in the quality or quantity of the Work as indicated in the Contract Documents prior to executing the GMP Amendment. After Contractor executes the GMP Amendment, Contractor assumes the risk of any mistakes in its proposal and will not be entitled to an increase in the Guaranteed Maximum Price therefor. The Contractor shall not be entitled to receive any increase or adjustment in the Guaranteed Maximum Price or Contract Time due to the failure of the Contractor, or any of its Subcontractors, to fully and adequately review all Contract Documents, all soils reports, existing site conditions, and the complete nature and full scope of the Work as represented in the Contract Documents. Contractor acknowledges that it has had the opportunity to visit the site to ascertain existing conditions, that it has been provided full access to all Contract Documents, and that this provision is a material provision of the Contract.

§ 3.2.2.1 The Contractor shall notify the Design Professional and Owner in writing of materials, systems, procedures, or methods of construction either shown on the Drawings or specified in the Specifications that Contractor discovers are incorrect or inappropriate for the purpose intended, or for which Contractor objects to furnishing the warranties required by the Contract Documents. The Design Professional and Owner will make a determination of such matters in writing. The Contractor shall be responsible for any additional costs to Owner resulting from Contractor's failure to notify the Design Professional and Owner of incorrect or inappropriate materials, systems, procedures, and methods that Contractor knows or should know are incorrect or inappropriate. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Owner and Design Professional, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Owner and Design Professional in writing any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Design Professional may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Design Professional issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

§ 3.2.5 Neither the Owner nor the Design Professional assumes responsibility for an understanding or representation made by their agents or representatives prior to the execution of the Agreement unless such understanding or representation is expressly stated in the Contract Documents.

§ 3.2.6 Should the Specifications and Drawings fail to particularly describe the material or kind of goods to be used in the performance of the Work, then it shall be the duty of the Contractor to request interpretation or information from the Design Professional.

§ 3.2.7 The Contractor and designated Subcontractors shall attend and participate with the Owner, designated separate consultants or contractors of the Owner, Design Professional, designated consultants of the Design Professional and others deemed necessary by the Owner in a pre-construction meeting scheduled and conducted by the Owner.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 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. 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. If the Contractor knows or should know that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Design Professional, and shall not proceed with that portion of the Work without further written instructions from the Owner or Design Professional. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Contractor shall not be responsible for any loss or damage resulting from its proper adherence to the written instructions.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors. It is understood and agreed that the relationship of the Contractor to Owner shall be that of an independent contractor. Nothing contained in this Contract shall be deemed or construed to (1) make Contractor or any Subcontractor the agent, servant, or employee of the Owner, or (2) create any partnership, joint venture, or other association between Owner and Contractor or any Subcontractor.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The furnishing of surveys and other information regarding the Project site by the Owner shall not relieve the Contractor from its duties under the Contract Documents.

§ 3.3.5 The Contractor and designated Subcontractors shall attend and participate with the Owner, designated separate consultants or Separate Contractors of the Owner, Design Professional, designated consultants of the Design Professional and others deemed necessary by the Owner in periodic construction meetings to be held at the Owner's discretion.

§ 3.4 Labor and Materials

§ 3.4.1 The Contractor shall provide and pay for supervision, labor, materials, equipment, tools, construction equipment and machinery, water, heat, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.1.1 The Contractor's obligations under Section 3.4.1 shall include, without limitation, the obligation to pay all Subcontractors and any other person or entity having lien or bond rights regarding the Project due to their performance of the Contractor's obligations under the Contract. The Contractor agrees to keep the Project and the Project site free and clear of any and all Subcontractor claims (lien claims, bond claims or otherwise) filed or served by any person or entity at any tier performing the Work or the Contractor's obligations under the Contract.

§ 3.4.1.2 To the fullest extent permitted by law, the Contractor agrees to indemnify, defend, reimburse, and hold harmless (with counsel approved by the Owner) the Owner and the Design Professional from, for, and against any and all claims referenced in Section 3.4.1.1, and any actions, suits, or proceedings related to such claims, and any and all related costs and expenses incurred by the Owner or Design Professional, including, without limitation, attorneys' fees and expert witness and consultant fees.

§ 3.4.2 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Design Professional and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 If the Contractor makes requests for substitutions, the Contractor thereby:

- .1 represents that the Contractor and involved Subcontractor(s) has (have) personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
- .2 represents that the Contractor and the involved Subcontractor(s) will provide the same warranties for the substitution as would have provided for that specified;
- .3 certifies that the cost data presented is complete and includes all related costs under this Contract, including but not limited to Design Professional's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent;
- .4 agrees to coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects;
- .5 agrees to be responsible for any redesign costs related to the substitution;
- .6 will install all substantial products in accordance with applicable manufacturer's recommendations; and
- .7 agrees to be responsible for all other costs related to the substitution.

§ 3.4.3 The Contractor shall enforce strict discipline and good order and civil and appropriate conduct among the Contractor's and Subcontractors' employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Contractor shall only employ labor on the Project or in connection with the Work capable of working harmoniously with all trades, crafts, and any other individuals associated with the Project. Contractor shall be responsible for labor peace on the Project and shall at all times make its best efforts and use its best judgment as an experienced contractor to adopt and implement policies and practices designed to avoid work stoppages, slowdowns, disputes, or strikes where reasonably possible and practical under the circumstances, and shall at all times maintain Project-wide labor harmony. Except as specifically provided in Section 8.3.1, Contractor shall be liable to Owner for all damages suffered by Owner occurring as a result of work stoppages, slowdowns, disputes, or strikes. The Contractor shall not permit at the site of the Work the use of alcohol or tobacco, illegal use of drugs or other controlled substances, verbal or other harassment, lewd or obscene language or behavior, or disregard for the property, privacy, or personal or business interests of the Owner or other occupants of adjacent or nearby parcels, the personnel, visitors, customers, vendors, contractors or suppliers of any of them, or members of the public, or their respective contractors. The Contractor agrees to take prompt and effective corrective action in the event of violations of these standards of conduct. Nothing in this Section 3.4.8 shall establish or imply an employment relationship between the Owner, on the one hand, and the Contractor's and Subcontractors' employees and other persons performing the Work, on the other.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Design Professional that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the materials and equipment to be selected by the Contractor or its Subcontractors will be suitable for the purposes intended by the Contract Documents, that the Work will be performed in a workmanlike manner, and will conform to the standards and requirements of the Contract Documents and generally recognized standards of the construction industry, whichever provides the higher standard, and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit and that all

materials and equipment selected by the Contractor and Subcontractors will be suitable for the purposes indicated in the Contract Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Design Professional, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 Contractor shall obtain for Owner's benefit the same warranty as is set forth in Section 3.5.1 from all Subcontractors. Warranties in the Contract Documents shall survive termination, completion, acceptance and final payment.

§ 3.5.4 The Contractor hereby assigns to the Owner, effective upon the written demand of the Owner, upon the insolvency, bankruptcy, dissolution or other incapacity of the Contractor, or automatically upon Final Completion of the Work, any and all Subcontractors' warranties relating to the Work, and further agrees to perform the Work in such manner so as to preserve any and all such warranties.

§ 3.5.5 In accordance with the Contract Documents, including but not limited to the Drawings and Specifications, the Contractor shall collect, assemble in an electronic folder, and submit to the Owner written warranties and related documents provided by Subcontractors, including but not limited to suppliers of equipment, appliances and other components of the Project, at all tiers. All benefits under such written warranties shall extend to the Owner.

§ 3.6 Taxes

The Contractor shall pay all sales, consumer, use corporate activity, and other similar taxes that are applicable by law to the Work or the Contract or portions thereof.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 The Owner shall secure and pay for all plan review fees, building permits, system development charges, and other fees and permits required for issuance of building or right-of-way permits related to the use of the particular site for the Project and the construction of the Project as a whole. The Contractor and Subcontractors shall secure and shall pay for the mechanical, electrical, plumbing and other similar trade permits as well as licenses required for the performance of the Work by the Contractor and Subcontractors, including but not limited to any licenses required for the handling and disposal of asbestos-containing and hazardous materials. The Contractor's and Subcontractors' costs incurred under this Section 3.7.1, except for the cost of construction contractor registration and licensure fees incurred by the Contractor and Subcontractor, shall be included in the Guaranteed Maximum Price. Upon Final Completion, the Contractor shall deliver to the Owner all original permits, licenses and certificates related to the Work procured by the Contractor and Subcontractors, with photocopies to the Design Professional.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction and such other costs and damages to the Owner as would have been avoided if the Contractor had performed its obligations.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Design Professional before conditions are disturbed and in no event later than twenty-one (21) days after first observance of the conditions. The Owner will promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time

required for, performance of any part of the Work, will propose that an equitable adjustment be made in the Granted Maximum Price or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Contractor in writing, stating the reasons. If Contractor disputes the Owner's determination or proposal, Contractor may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Design Professional. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Guaranteed Maximum Price and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Guaranteed Maximum 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, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents, allowances shall cover:

- .1 the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts; and
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, supervision not included in management line items of the initial schedule of values and other direct expenses contemplated for stated allowance items.

Whenever such costs for allowance items are more than or less than allowances, the Guaranteed Maximum Price shall be adjusted accordingly by Change Order. The amount of the Change Order executed by both parties before any excess costs are incurred. With respect to allowances, the Contractor agrees (1) allowance costs must be separately tracked for each allowance item; (2) Contractor shall include in its monthly reporting an allowance log reporting costs incurred for all allowances in a form to be approved by Owner before any allowance Work is performed; (3) Contractor shall notify Owner in writing when the allowance costs exceed 90% of the amount of the allowance; (4) Contractor must obtain a Change Order increasing the amount of the allowance before incurring costs in excess of the allowance amount; and (5) Contractor must obtain Owner's written approval before including allowance amounts in any Application for Payment.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent approved by the Owner and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 [Intentionally deleted.]

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's approval an initial Contractor's construction schedule for the Work. The schedule shall use the critical path method and contain detail appropriate for the Project, including but not limited to (1) the date of commencement of the Work, interim

schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; (3) the time required for completion of each portion of the Work; and (4) identification of critical path(s), provide for the orderly progression of the Work to final completion and shall not exceed time limits current under the Contract Documents. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. If approved by Owner, Contractor's Construction Schedule shall be attached to the GMP Amendment. The critical path(s) shall be continually monitored and reflected in the schedule throughout the duration of the Project. The Contractor's construction schedule shall be reviewed at each progress meeting, with any changes to the schedule or delays shall be identified. The Contractor shall promptly adjust the construction schedule to reflect the changes/delays, and implement recovery measures necessary to compensate for the changes/delays to bring back the Project milestone completion to original scheduled dates or dates otherwise approved by Owner. The Contractor is responsible for informing all Subcontractors to ensure they are ready to complete their part of the Work as scheduled. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project and shall provide for expeditious and practicable execution of the Work. During the course of the Work, and not less often than monthly, the Contractor shall submit to the Owner a current, updated version of the initial Contractor's construction schedule. Each updated Contractor's construction schedule shall be in the same form and provide the same detail as the initial Contractor's construction schedule, unless approved otherwise by the Owner. Contractor's schedules shall be submitted in electronic format if requested by Owner. The Contractor's construction schedule shall not be modified without the written approval of the Owner, and otherwise shall conform to any changes in the Contract Time set out in Change Orders. For the purposes of whether any Change Orders or Construction Change Directives shall extend the contractual dates for Substantial Completion and Final Completion, any unused "float" or "slack" time for the whole or any part of the Work as provided in the Contractor's construction schedule shall belong to neither the Owner nor the Contractor but shall be equitably allocated in the interests of the Project. In no event will Contractor be entitled to make an "Early Completion" claim.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Owner and Design Professional's approval. The Owner and Design Professional's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Design Professional reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Guaranteed Maximum Price or extension of Contract Time based on the time required for review of submittals. The Contractor's submittal schedule shall assume that major materials/equipment submittals will require at least two submittals/review periods.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules approved by the Owner and Design Professional. Any updated schedule that provides for achievement of Substantial Completion of the Work beyond the date set forth in the Contract Documents shall not constitute a waiver or modification of the required Substantial Completion date unless so authorized by Owner in a Change Order.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall maintain at the Project site for the Owner and Design Professional one (1) copy of the Drawings, Specifications, Addenda, Change Orders, Construction Change Directives, and other Modifications in good order and marked currently to indicate field changes and selections made during construction, and otherwise marked to depict the as-built nature and configuration of the Work, and one (1) copy of approved Shop Drawings, Product Data, Samples, and similar required submittals. The Contractor also shall maintain at the Project site for the Owner and Design Professional one (1) current copy of all subcontracts with Subcontractors, RFIs, DCVRs, RFPs, Requests For Change Proposals and Change Proposals. All documents and items referenced in this Section 3.11 shall be available to the Owner and Design Professional and shall be delivered to the Owner and Design Professional and as a condition of, Final Completion of the Work as a record of the Work as constructed. Failure to deliver the complete, record copies shall result in Owner withholding Contractor's retainage until the complete, record copies are delivered.

§ 3.11.2 The marked as-built Drawings and Specifications referenced shall be marked to show field decisions and selections affecting the Work, including but not limited to information regarding (1) approved or directed deviations from the Drawings and Specifications made during construction, (2) details of Work not previously shown or indicated, (3) changes to existing conditions or existing conditions found to differ from those shown on the Drawings or Specifications and (4) other information that the Design Professional or Owner reasonably requests. The final set of marked Drawings shall be delivered to Owner in accordance with the Contract Documents, with each hardcopy sheet

stamped “As-Built” and signed by the Contractor. The marked Specifications shall be delivered to Owner in accordance with the Contract Documents, with each hardcopy page stamped “As-Built” and signed by the Contractor.

§ 3.11.3 The Contractor shall duly note Addenda, Change Orders, Construction Change Directives and other Modifications in the appropriate referenced location in the Drawings and Specifications for ease of reference during construction.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor to illustrate some portion of the Work.

§ 3.12.2 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.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Design Professional is subject to the limitations of Section 4.2.7. Informational submittals upon which the Design Professional is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Design Professional without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Owner and Design Professional, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, 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 Design Professional without action.

§ 3.12.6 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Design Professional that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 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 Design Professional.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Design Professional’s or Owner’s approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically informed the Design Professional and Owner in writing of such deviation at the time of submittal and a Change Order or Construction Change Directive has been issued 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 Design Professional’s approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Design Professional on previous submittals. In the absence of such notice, the Design Professional’s and Owner’s approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of

architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Design Professional will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Design Professional. The Owner and the Design Professional shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Design Professional have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Design Professional will review, approve or take other appropriate action on submittals only for the limited purpose (unless Owner requests otherwise) of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents; however, the Contractor shall notify the Design Professional if additional performance or design criteria are required.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Design Professional at the time and in the form specified by the Design Professional.

§ 3.12.11 The Owner shall be entitled to deduct from the Guaranteed Maximum Price amounts paid to the Design Professional for evaluation of any additional resubmittals by Contractor to the extent such resubmittals are not the fault of Owner or Design Professional.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas and times permitted by applicable laws, statutes, ordinances, codes, permits, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site or adjacent or nearby parcels with materials or equipment.

§ 3.13.1 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Owner before using any portion of the site.

§ 3.13.2 If Owner makes temporary facilities, including but not limited to power, water, sanitation, scaffolding, storage, and security available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.13.3 If the Owner intends to occupy parts of the site or existing building adjacent to the Project site, the Contractor is responsible, at its sole expense, for erection and maintenance of barriers between Work area and the Owner-occupied areas of the building, to protect safety of the occupants and to conform with all requirements of the Contract Documents. The Contractor shall maintain existing (new or temporary) building systems fully functional in the Owner-occupied areas for the duration of the Work according to the Contract Documents. These shall include, but not be limited to, the indoor environment quality suitable for occupancy, and in accordance with requirements of all applicable codes temperature control, building automation, fire alarm, fire protection, data network, phone and security systems. All costs associated with maintaining such building systems in fully functional condition for the duration of the Work are included in the Guaranteed Maximum Price and are not subject to further increase through the Change Order or claims processes.

§ 3.13.4 Contractor acknowledges that Owner may have ongoing activities involving students, academic and professional faculty, and other staff near the Project when the Work is being performed. Contractor shall schedule and perform its Work in such a manner as will avoid disruption to such activities.

§ 3.13.5 The Contractor shall reimburse the Owner for all costs and damages that the Owner incurs because of the Contractor's failure to comply with this Section 3.13 and its subsections.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area as well as contiguous roads, streets and sidewalks free from accumulation of waste and excess materials, rubbish, excavated materials and "tracking" caused by operations under the Contract. At completion of the Work, the Contractor shall remove from the surrounding area and contiguous roads, streets and sidewalks waste materials, rubbish, excavated materials, "tracking," the Contractor's and Subcontractors' tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 The Contractor's obligations under this Section 3.15 shall include the proper disposal of all such waste materials, rubbish and disposable surplus materials consistent with and in compliance with all applicable laws, statutes, ordinances, codes, and rules and regulations, including without limitation those relating to hazardous materials and the environment.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Design Professional and their consultants with access to the Work in preparation and progress wherever located.

§ 3.16.1 As used in Section 3.16, the term "Owner" shall mean and be limited to the Owner's Designated Representative, Owner's Contract Administrator, and Owner's Project Manager and other persons and parties authorized by the Owner's Designated Representative to have access to the Work.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall indemnify, reimburse and hold harmless the Owner and Design Professional from, for, and against any loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Design Professional. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Design Professional and Owner.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, hold harmless, reimburse and defend the Owner and Owner's agents, employees, officers and directors from, for and against suits, actions, awards, penalties, liabilities, claims, damages, losses, and expenses, whether actual or merely alleged and whether directly incurred or from a third party, including but not limited to attorneys' and expert witnesses' fees and related costs, disbursements, and expenses, arising out of or resulting from performance of the Work, including, but not limited to, any such suit, action award, penalty, liability, claim, damage, loss, or expense attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligence,

breach of contract, or other wrongful acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they are responsible, or by failure of any such person or entity to perform as required by this Agreement; provided, however, to the extent that Contractor provides architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or related services (as the term “related services” is defined under ORS 279C.100), Contractor has no duty to defend Owner against a claim for professional negligence and relating to the professional services provided by the Contractor, except to the extent that Contractor’s liability or fault is determined by adjudication or alternative dispute resolution or otherwise resolved by settlement agreement, and not to exceed the proportionate fault of the Contractor, the applicable Subcontractor(s), or anyone directly or indirectly employed by them.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 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 3.18 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.

§ 3.18.3 To the fullest extent permitted by law, the Contractor’s obligations under this Section 3.18 (i) shall apply whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder, (ii) 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 3.18 and (iii) shall not be limited to Damages arising from third-party claims.

§ 3.18.4 Contractor shall require each Subcontractor, by subcontract or other agreement, to indemnify, hold harmless, reimburse and defend the Indemnitees to the same extent as required of the Contractor in this Section 3.18.

§ 3.19 Owner-Furnished-Contractor-Installed Items

Contractor acknowledges that the Owner may purchase certain materials, supplies and equipment as indicated in the Contract Documents and that the Contractor shall install such items, including but not limited to _____. These items are referred to herein as “OFCI” items. Among other things, Contractor shall: (i) verify mounting and utility requirements for OFCI items; (ii) provide mounting and utility rough ins for OFCI items, including but not limited to rough-in locations, sizes, capacities and similar type shall be as indicated and required by product manufacturers; (iii) review and provide written comments on any vendor submittals, such as shop drawings, for OFCI items; (iv) coordinate delivery of OFCI items and provide any and all hoisting necessary to place the OFCI items in their final location; (v) receive OFCI items at site and give written receipt for product at time of delivery, noting visible defects and omissions; if such declaration is not given, the Contractor shall assume responsibility for such defects and omissions; (vi) store OFCI items until ready for installation and protect from loss and damage; (vii) uncrate, assemble and set OFCI items in place; (viii) install OFCI items in accordance with manufacturer’s recommendations, instructions and shop drawings under supervision of manufacturer’s representative where specified, supplying labor and material required and making mechanical, plumbing and electrical connections necessary to operate equipment; (ix) prior to commencing installation of OFCI items, Contractor shall verify that preceding Work has been properly completed and installed as specified to allow for the proper installation of all OFCI items (if unsatisfactory conditions exist, Contractor shall not commence installation until such conditions have been corrected); (x) commission and test or cooperate in the commissioning and testing of OFCI items in accordance with the manufacturer’s recommendations, instructions and shop drawings.

ARTICLE 4 DESIGN PROFESSIONAL

§ 4.1 General

§ 4.1.1 The Design Professional is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Design Professional as set forth in the Contract Documents may be restricted, modified, or extended as provided or allowed under the agreement between the Owner and the Design Professional.

§ 4.2 Administration of the Contract

§ 4.2.1 The Owner will provide administration of the Contract as described in the Contract Documents during construction until Final Payment to the Contractor. The Contractor acknowledges that the Design Professional has no

authority to act on behalf of the Owner.

§ 4.2.2 The Design Professional will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Design Professional will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Design Professional will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.2.1 The Contractor acknowledges that the Design Professional does not have authority to make any decision or give any direction to the Contractor that would impact the Guaranteed Maximum Price or Contract Time.

§ 4.2.3 On the basis of the site visits, the Design Professional will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Design Professional will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Design Professional will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications Facilitating Contract Administration

The Contractor shall address in all communications to the Owner's Designated Representative with copies to the Owner's Project Manager, Owner's Contract Administrator and Design Professional. The Design Professional's and Owner's communications by and with Subcontractors shall be through the Design Professional. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. Owner and Contractor may communicate with each other directly, provided they endeavor to keep the Design Professional informed and apprised of all communication. The Contractor shall copy the Owner on all correspondence from the Contractor to the Design Professional, and the Design Professional shall copy the Owner on all correspondence to the Contractor.

§ 4.2.5 [Intentionally deleted.]

§ 4.2.6 The Owner shall have and the Design Professional, after consultation with the Owner in each instance, has authority to reject Work that is defective or does not conform to the Contract Documents. Whenever the Design Professional considers it necessary or advisable, and after obtaining the Owner's permission in each instance, the Design Professional will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Design Professional nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Design Professional to the Contractor, Subcontractors, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Design Professional will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose (unless Owner requests otherwise) of checking for conformance with information given and the design concept expressed in the Contract Documents. The Design Professional's action will be taken in accordance with the submittal schedule approved by the Design Professional or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Design Professional's professional judgment to permit adequate review. Unless Owner requests otherwise, review of such submittals 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, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Design Professional's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Design Professional's review is undertaken solely to satisfy its obligations to the Owner and shall not give rise to any claim by the Contractor or Subcontractors

against the Design Professional or Owner. The Design Professional's shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Design Professional, of any construction means, methods, techniques, sequences, or procedures. The Design Professional's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Owner will prepare Change Orders and Construction Change Directives. The Owner and Design Professional will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Design Professional will conduct observations to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner information sufficient for the Owner to issue a formal letter regarding Substantial Completion; and forward for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10.

§ 4.2.10 The Design Professional will review and respond to requests for information about the Contract Documents. The Design Professional's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Design Professional will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a contract with the Contractor to perform labor or services for all or a portion of the Work at the site or offsite or to furnish materials or equipment incorporated into or utilized in performing the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or subcontractors of a Separate Contractor, but does include all subcontractors, suppliers and consultants of the Contractor at all tiers. A subsidiary, affiliate or related entity of Contractor, if it otherwise qualifies under this Section 5.1.1, may be a Subcontractor.

§ 5.1.2 For ease of reference only, as it is otherwise included within the definition of Subcontractor, a Sub-subcontractor is a person or entity who has a contract with a Subcontractor to perform labor or services for all or a portion of the Work at the site or offsite or to furnish materials or equipment incorporated into or utilized in performing the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 The Contractor, as soon as practicable after execution of the Agreement, shall furnish in writing to the Owner a list of names of the persons or entities (including but not limited to those who are to furnish materials or equipment fabricated to a special design proposed for each principal portion of the Work. The Owner may reply within fourteen (14) days to the Contractor in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Owner to reply within the fourteen (14) day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Design Professional has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection. The Contractor shall only retain and employ qualified and competent Subcontractors who shall be fully insured and shall be properly licensed, if required, in the jurisdiction where the Project is located. The Contractor shall promptly remove all employees and Subcontractors or Subcontractor's employees, if the Owner provides a reasonable basis for the objection to the suitability of the same to continue on the Project.

§ 5.2.3 If the Owner has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Guaranteed Maximum Price and Contract Time shall be increased or

decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Guaranteed Maximum Price or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including but not limited to the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Design Professional, (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner, (3) include an express provision that such contract shall be assigned to the Owner, at the Owner's discretion, in the event the Owner terminates the Contract and takes over the Work pursuant to Article 14 and (4) state that the Owner is and shall be a third-party beneficiary of such contract. The Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 Each subcontract shall state that the Subcontractor agrees to the contingent assignment of the subcontract to the Owner, consistent with Section 5.4.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Subcontractor's portion of the Work has been suspended for more than 30 days, through no fault of Subcontractor, that Subcontractor's Sub-subcontractors, or any of their respective agents or employees, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on

the site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Contractor shall provide for coordination of the activities of the Owner’s own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Owner shall require its own forces and Separate Contractors to cooperate with Contractor with respect to such coordination. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor’s construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor’s Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify om writing the Design Professional and Owner of any apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so report shall constitute an acknowledgment that the Owner’s or Separate Contractor’s completed or partially completed construction is fit and proper to receive the Contractor’s Work, except as to defects not then reasonably discoverable.

§ 6.2.2.1 If part of the Contractor’s Work requires that any work being performed by the Owner or any of its Separate Contractors be performed before the Contractor can proceed, the Contractor shall give the Owner and Design Professional reasonable advance written notice of when such work must be done. In the absence of such written notice, the Contractor shall not be entitled to any additional costs or time arising out of delay caused by the Owner or its Separate Contractors in completing such Work.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor’s delays, improperly timed activities or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner’s Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Design Professional will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, only by Amendment, Change Order, or Construction Change Directive, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. Any Change Order or Construction Change Directive changing the materials, layout, configuration or other physical characteristics of the Work as set out in the Construction Documents shall reference and be accompanied by a written modification of the Construction Documents prepared and issued by the Design Professional.

§ 7.1.1.1 The Owner and Contractor expressly and explicitly acknowledge and agree that no employee or consultant of the Owner or any other person or entity shall have authority to order, request, approve, cancel, disapprove or take any other binding action on behalf of the Owner with respect to Change Orders, Construction Change Directives and any

other documents changing the Work, whether pursuant to this Article 7 or otherwise, except the Owner's Designated Representative named or determined pursuant to Section 2.1.1.1. This Section 7.1.1.1 shall not negate, abridge or reduce the authority of the Design Professional under Section 7.4.

§ 7.1.2 Owner will not be responsible for additional costs, fees, or time associated with any altered or additional Work unless a Modification is properly and timely prepared and executed as required in the Contract Documents. Contractor hereby waives any argument that Owner's conduct (including, but not limited to, orally approving changes) amounts to a waiver of the prior, written change requirements of the Contract Documents. A Change Order shall be based upon agreement among the Owner, Contractor, and Design Professional; a Construction Change Directive requires agreement by the Owner and Design Professional and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive.

§ 7.1.4 In determining the cost or credit to the Contractor in performing changed Work under this Article 7, a Subcontractor's compensation shall include markups for "general conditions" costs, overhead and profit pursuant to Exhibit I Change Pricing Form.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Owner and signed by the Owner and Contractor, stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Guaranteed Maximum Price;
- .3 The extent of the adjustment, if any, in the Contract Time; and
- .4 Any other changes to the Contract.

§ 7.2.2 The form of Change Orders shall be as set forth in Exhibit H. Contractor shall submit for review any proposed change (contingency change or Owner change) within a reasonable time not to exceed 30 days after receiving any documentation of the change.

§ 7.2.3 The Change Order must include all changes to Guaranteed Maximum Price and Contract Time, whether direct or indirect. The Contractor must determine full impact of the change on the Contractor's construction schedule and the required date for achievement of Substantial Completion. If the Contract Time is not changed in the Change Order, no additional Contract Time will be allowed, and no additional cost will be added to maintain the Project schedule, after the Change Order is executed.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared and signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the Guaranteed Maximum Price or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Guaranteed Maximum Price and Contract Time being adjusted accordingly. A Construction Change Directive may state a proposed basis for adjustment, if any, in the Guaranteed Maximum Price or Contract Time, or both.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of an amount properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Guaranteed Maximum Price, the Owner shall determine the adjustment on the basis of reasonable cost expenditures and cost savings of those performing the Work attributable to the change, including, in case of an increase in the Guaranteed Maximum Price, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data.

§ 7.3.4.1 For the purpose of this Section 7.3.4, the term “costs” as applied to Subcontractors shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers’ compensation insurance, and other employee costs approved by the Owner;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Owner of the Contractor’s agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Guaranteed Maximum Price or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor’s agreement therewith, including but not limited to adjustment in Guaranteed Maximum Price and Contract Time, or both, or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Guaranteed Maximum Price shall be actual net cost as confirmed by the Owner. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment accompanied by a Change Order indicating the parties’ agreement, if any, with part or all of such costs. For any portion of such cost that remains in dispute, the Owner will make an interim determination for purposes of payments for those costs. That determination of cost shall adjust the Guaranteed Maximum Price on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination concerning the adjustments in the Guaranteed Maximum Price and Contract Time, or otherwise reach agreement upon the adjustments, the Owner will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.11 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials, and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized as well. In no event will a change involving over \$1,000 be approved without such itemization.

§ 7.4 [Intentionally deleted.]

§ 7.5 LIMITATIONS ON ADJUSTMENTS IN GUARANTEED MAXIMUM PRICE AND CONTRACT TIME DUE TO CHANGES IN THE WORK

§ 7.5.1 Notwithstanding the provisions of Sections 7.1 through 7.4 and other provisions of the Contract, in no event shall the Contractor be entitled to adjustments in the Guaranteed Maximum Price or Contract Time as a result of changes in the Work to the extent such changes were made necessary by the negligent or other wrongful acts or omissions of the Contractor, Subcontractors, or anyone for whose acts or omissions any of them are responsible, or by the failure of such persons or entities to perform as required by the Contract.

§ 7.5.2 Nothing in Sections 7.1 through 7.4 or other provisions of these General Conditions shall excuse the Contractor from performing its obligations under (1) Article 15 related to Claims and disputes or (2) Article 8 related to adjustments in the Contract Time. Failure of the Contractor to perform its obligations under those provisions of these General Conditions when required shall result in a waiver of any right it may have to an adjustment in the Guaranteed Maximum Price.

§ 7.5.3 Notwithstanding the provisions of Sections 7.1 through 7.4 and other provisions of these General Conditions, Contractor hereby expressly and unconditionally waives any and all claims and remedies for additional, accumulated or cumulative impacts to the Guaranteed Maximum Price and Contract Times that arise from combining the impacts of one or more changes approved by the Owner.

§ 7.6 The Contractor shall keep full and detailed cost accounts and records of all Work compensated on a cost basis pursuant to Change Orders and Construction Change Directives, and shall maintain such accounts and records for ten (10) years after final payment or longer if required by law. Without limiting Owner's audit rights and remedies under the Agreement, the Owner and its personnel, consultants and accountants shall have full access to inspect or audit such accounts and records during the course of the Project and the period referenced in this Section 7.6. In the event an audit of such accounts and records determines that the Contractor was paid more or less than the amount actually due for such Work, the appropriate payment shall be made by the appropriate party together with accumulated interest. In the event an audit determines that the Contractor submitted one or more Applications for Payment that resulted in it being paid more than one hundred and two percent (102%) of the amount actually due, the Contractor also shall pay for the cost of the audit.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including but not limited to authorized adjustments, allotted in the Contract Documents for Substantial Completion and Final Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The dates of Substantial Completion and Final Completion are the dates satisfying the requirements of Section 9.8 and 9.10.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor agrees that absent proper justification for extensions of Contract Time properly issued under the provisions of the Contract in a Change Order, the Contractor shall not be entitled to any additional time to complete the Work. The Contractor understands that it may be required to, at its sole expense,

employ extraordinary means, including overtime and second shifts, to timely complete the Work according to the Contract Documents. All costs associated with such extraordinary means are the Contractor's responsibility, unless approved in writing by the Owner.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Design Professional, or of an employee of either, or of a Separate Contractor; by changes ordered in the Work; by labor disputes, not caused or contributed to by the Contractor, Subcontractors, or any person or entity for whose acts or omissions any of them are responsible; or fire, abnormally adverse weather conditions, cessation of the Work pursuant to Section 10.3.1, by delay authorized by the Owner pending mediation, or by other causes that the Owner agrees may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may agree. No adjustment in the Contract Time will be considered or granted by Owner if written notice of delay is not received from Contractor within 7 days of the delay or when the contractor should have known of the delay.

§ 8.3.1.1 No extensions of the Contract Time shall be allowed for delays or suspensions to the extent caused by the negligent or other wrongful acts or omissions of the Contractor, Subcontractors, or anyone for whose acts or omissions any of them are responsible, or by the failure of such persons or entities to perform as required by the Contract. No adjustment of Contract Time will be considered if not submitted with a Time Impact Analysis (TIA) showing that the impact was critical path. No adjustment of Contract Time will be made for delays that do not result in delay to the Project schedule's critical path.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15. The Construction Manager and Contractor must maintain at the Site, available to the Owner and the Design Professional for their reference during the progress of the Work, a copy of the approved Contractor's construction schedule and any approved revisions thereto. The Contractor must keep current records of and mark on a copy of the approved construction schedule the actual commencement date, progress and completion date of each scheduled activity indicated on the construction schedule.

§ 8.3.2.1 The Contractor represents that its Guaranteed Maximum Price includes all costs, overhead and profit which may be incurred throughout the Contract Time and the period between Substantial Completion and Final Completion. Accordingly, the Contractor may not make any Claim for delay based in whole or in part on the premise that the Contractor would have completed the Work prior to the expiration of the Contract Time but for any claimed delay.

§ 8.3.2.2 If the Contractor's progress is not maintained in accordance with the approved construction schedule, or the Owner determines that the Contractor is not diligently proceeding with the Work or there is evidence reasonably indicating that the Contractor will not be able to conform to the most recently approved construction schedule, the Contractor must, promptly and without any increase in the Guaranteed Maximum Price, take all measures necessary to accelerate its progress to overcome the delay and ensure that there will be no further delay in the progress of the Work and notify the Owner, and the Design Professional.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Guaranteed Maximum Price

§ 9.1.1 The Guaranteed Maximum Price is stated in the Agreement and is subject to authorized adjustments, is the maximum amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.1.2.1 Unit prices are inclusive of all costs for the unit price Work, including but not limited to costs of labor, services, materials, equipment, supervision, insurance, bonds and "general conditions," as well as applicable taxes and overhead and profit for that Work.

§ 9.2 Schedule of Values

§ 9.2.1 Promptly after execution of the Guaranteed Maximum Price Amendment or preceding Early Work Amendment(s), if applicable, the Contractor shall deliver to Owner an initial schedule of values, allocating the entire Guaranteed Maximum Price or costs associated with each Early Work Amendment, as applicable, to the various portions of the Work, including a separate allocation of the entire Guaranteed Maximum Price into Owner's asset categories. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy required by the Owner. The schedule of values shall be revised by the Contractor for the Owner's approval as necessary to reflect adjustments in the Guaranteed Maximum Price, allocations of contingencies and other changes in the allocations of the Guaranteed Maximum Price. The current, approved schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment. If approved by Owner, the proposed initial schedule of values shall be attached to the GMP Amendment.

§ 9.2.2 Unless otherwise provided in the Contract Documents, the allocation of the Guaranteed Maximum Price under this Section 9.2 shall not constitute a separate stipulated sum or guaranteed maximum price for each individual line item in the schedule of values.

§ 9.3 Applications for Payment

§ 9.3.1 If requested by Owner, at least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Owner an itemized Application for Payment completed portions of the Work based upon the percentage of Work performed pursuant to the current schedule of values approved by the Owner and submitted with the Application for Payment. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner may require, such as copies of requisitions, and releases and waivers of claims and liens from Subcontractors, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor, unless such Work has been performed by others whom the Contractor intends to pay. The Contractor shall include a written notice, on Contractor's letterhead, stating the name of and amount owed to such Subcontractor which has requested payment but which has not been included on the Application for Payment.

§ 9.3.1.3 Each Application for Payment shall be accompanied by waivers and releases executed by Contractor and Subcontractors, using the forms attached as Exhibit D. The waiver and release forms shall be conditional as to the payment sought by the current Application for Payment and shall be unconditional as to the payment received pursuant to the prior Application for Payment. If the Contractor is unable to obtain such executed waiver and release forms and satisfactions from particular Subcontractors, the Contractor as a condition of payment for such Subcontractors' performance of the Work shall provide the Owner with a bond or other form of security acceptable to the Owner to protect the Owner from claims of such Subcontractors. If any such claim remains unsatisfied after payments are made, upon the Owner's demand, and without waiver of any other remedies the Owner may have under the Contract or applicable law, the Contractor shall refund to the Owner all money that the Owner pays in discharging such claim, including but not limited to the Owner's attorneys' fees and costs and disbursements resulting therefrom.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance and in writing by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner

upon physical incorporation into the construction at the site or upon Contractor's receipt of payment, whichever occurs first. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Applications for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Owner's Review of Applications for Payment

§ 9.4.1 Within seven (7) days after receipt of the Contractor's Application for Payment, the Owner will either (1) review and recommend payment in the full amount of the Application for Payment; or (2) review and recommend for payment for such amount as the Owner determines is properly due, and notify the Contractor of the reasons for withholding payment in part as provided in Section 9.5.1; or (3) review and withhold payment of the entire Application for Payment, and notify the Contractor of the reason for withholding payment in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a payment will not be a representation that the Owner has (1) made exhaustive or continuous on-site inspections or observations to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Guaranteed Maximum Price.

§ 9.5 Decisions to Withhold Payment

§ 9.5.1 The Owner may withhold a payment in whole or in part, to the extent reasonably necessary to protect the Owner. The Owner may also withhold a payment or, because of subsequently discovered evidence, may nullify the whole or a part of a payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including but not limited to loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective or nonconforming Work not remedied or incomplete Work;
- .2 third party claims, including but not limited to construction lien claims and bond claims, filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Contractor's employees or Subcontractors for labor, services, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Guaranteed Maximum Price;
- .5 damage or potential damage to the Owner that is caused by or is the responsibility of Contractor or any Subcontractor or other person or entity for which Contractor is responsible;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated or substantial failure to carry out the Work in accordance with the Contract Documents; or
- .8 determination that the Work has not progressed to the point indicated in Contractor's Applications for Payment and already paid by Owner.

§ 9.5.1.1 In withholding or nullifying payment pursuant to Section 9.5.1, the Owner shall designate one hundred fifty percent (150%) of the estimated cost to cure the reason for the withholding or nullification.

§ 9.5.2 If Contractor disputes the Owner's decision regarding a payment under Section 9.5.1, in whole or in part, Contractor may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding or nullifying payment are removed, payment will be made for amounts previously withheld.

§ 9.5.4 Notwithstanding the issuance of a payment by the Owner, the Owner may withhold payment for those reasons set forth in Items .1 through .8 of Section 9.5.1 or for any other breach of the Contract; and the Owner shall not be

deemed in breach by reason of withholding payment while any such circumstances or breaches remain uncured. If Owner withholds payment, Owner shall notify Contractor and in writing of Owner's reasons for withholding. Owner may withhold from a payment up to one hundred fifty percent (150%) of the estimated or actual cost associated with the reason for withholding. If the Owner withholds payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Contractor.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has reviewed an Application for Payment and the Owner has not yet withheld payment pursuant to Section 9.5.3, the Owner shall make payment in the manner and within the time provided in the Contract Documents, absent any material breaches by Contractor or Owner's good faith belief that a withholding of payment is necessary to protect Owner from Contractor's failure to perform its obligations hereunder.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven (7) days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.2.1 Should the Contractor withhold payment from a Subcontractor due to a bona fide dispute, the Contractor shall notify the Owner. The Owner shall then withhold such funds from the Contractor until the dispute is resolved; provided that this Section 9.6.2.1 shall not be construed or applied to prevent the Contractor from receiving payment from the Owner for Work performed by the Contractor or by another Subcontractor when such Work is the subject of a backcharge by the Contractor against the Subcontractor involved in the bona fide dispute.

§ 9.6.3 Neither the Owner nor Design Professional shall have an express or implied obligation to (1) pay or to see to the payment of money to a Subcontractor, or (2) track, monitor, or investigate Contractor's disbursement of Project funds for the benefit of any Subcontractor, surety, creditor, or any other person or entity. The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.4 Upon reasonable evidence of the unjustified nonpayment of one (1) or more Subcontractors by the Contractor, the Owner may, after giving reasonable notice and opportunity to cure to the Contractor, make payment of amounts due to Subcontractors by direct payments or by means of multiple-payee checks. Upon request of the Owner, the Contractor shall timely furnish to the Owner such information as the Owner reasonably will need to make such direct or multiple-payee check payments, including but not limited to the names and addresses of the Subcontractor payees and the amounts due to each. In no event shall any direct or multiple-payee payment be construed to create (1) any contract between the Owner and Subcontractors or (2) rights of any Subcontractor against the Owner. In addition, should Contractor neglect or refuse to pay promptly any bill or charge legitimately incurred by it, Owner shall have the right, but not the obligation, to pay the bill directly, and Contractor shall immediately reimburse Owner for same, provided Owner notifies Contractor of its intent to pay such bill directly and Contractor fails to provide Owner, within seven (7) days following Owner's written notice, of an acceptable explanation in writing regarding Contractor's failure to promptly pay the bill or charge legitimately incurred by Contractor. If Contractor does not reimburse Owner prior to the next payment by Owner to Contractor, Owner may offset the amount of the bill against amounts owed by Owner to Contractor hereunder.

§ 9.6.5 [Intentionally deleted]

§ 9.6.6 A progress payment, final payment or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work that is defective or not in accordance with the Contract Documents.

§ 9.6.7 Payments received by the Contractor for Work properly performed by Subcontractors shall be held by the Contractor for those Subcontractors who performed Work or furnished materials or equipment, or both, under contract

with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including but not limited to reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Owner does not issue a payment, through no fault of the Contractor, Subcontractors, or anyone for whose acts or omissions any of them are responsible, within fourteen (14) days after receipt of the Contractor's Application for Payment the amount approved by the Owner or awarded by binding dispute resolution, then the Contractor may, upon seven (7) additional days' written notice to the Owner, stop the Work and thereby suspend or terminate the Contract, unless within such seven (7) additional days payment is made to Contractor of all undisputed amounts and Owner's good faith basis for contesting any disputed amounts is delivered to Contractor. If Contractor so terminates the Contract, Contractor's exclusive remedies will be governed by Article 14 below.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof, which the Owner agrees in writing to accept separately, is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use without any meaningful interference or disruption.

§ 9.8.1.1 For Substantial Completion of the Work or designated portion thereof to be achieved, the Owner also must have received a temporary or final certificate of occupancy and all other governmental approvals necessary and required for the Owner to occupy or utilize the Work or designated portion for its intended purpose. The requirement shall be deemed satisfied if all construction, submittals and other performance by the Contractor required for issuance of the certificate of occupancy and other approvals have been completed but the certificate and approvals have not been issued solely because of factors beyond the reasonable control of the Contractor.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees in writing to accept separately, is substantially complete, the Contractor shall prepare and submit to the Owner and Design Professional a written punch list of items to be completed or corrected prior to final payment. Failure to include an item on such punch list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's punch list, the Owner, Contractor, and Design Professional will make an observation to determine whether the Work or designated portion thereof, which the Owner agrees in writing to accept separately, is substantially complete. If the Owner's and Design Professional's observation discloses any item, whether or not included on the Contractor's punch list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Owner's formal letter acknowledging Substantial Completion, complete or correct such item upon notification by the Design Professional or Owner. In such case, the Contractor shall then submit a request for another observation by the Owner, Contractor, and Design Professional to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof, which the Owner agrees in writing to accept separately, is substantially complete, the Owner will determine the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall include a punch list of items remaining to be completed or corrected notwithstanding achievement of Substantial Completion, and shall fix the time within which the Contractor shall finish all items on the punch list accompanying the formal letter from Owner. Warranties required by the Contract Documents shall commence on the date of

Substantial Completion of the Work or designated portion thereof; provided that with respect to components or portions of the Work for which Substantial Completion is achieved after the date of Substantial Completion of the Work as a whole, such warranties shall commence on the dates of Substantial Completion of such components or portions.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a punch list to the Owner and Design Professional as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Design Professional.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Design Professional shall jointly observe the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, 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.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt by the Owner of the Contractor's written notice that the Work, or designated portion thereof which the Owner agrees in writing to accept separately, is ready for final observation and acceptance and upon receipt of a final Application for Payment (including retention), the Owner, Contractor and Design Professional will promptly make such observation and, when the Owner and Design Professional find the Work acceptable under the Contract Documents and the Contract fully performed, the Owner will promptly issue a final payment. Should it become necessary for the Owner and Design Professional to conduct additional observations because of acts or omissions of the Contractor, Subcontractors, or anyone for whose acts or omissions any of them are responsible, the Owner and Design Professional will conduct such observations at the Design Professional's standard hourly rate and such costs will be deducted from monies due to the Contractor.

§ 9.10.1.1 For Final Completion of the Work or designated portion thereof to be achieved, (1) Substantial Completion of the Work or designated portion thereof must have been achieved, (2) the Owner must have received a final certificate of occupancy and all other governmental approvals necessary and required for the Owner to occupy or utilize the Work or designated portion thereof for its intended purpose, (3) the Contractor must have submitted all warranties, operating and maintenance manuals, As-Built Drawings and Specifications, keys and other submittals required for the Work or designated portion thereof and (4) the Contractor otherwise must have fully performed and completed all of its other obligations required for Final Completion under the Contract Documents with respect to the Work or designated portion thereof. Notwithstanding the foregoing, Final Completion shall be deemed achieved if all construction, submittals and other performance by the Contractor required for issuance of the certificate of occupancy and other approvals have been completed but the certificate and approvals have not been issued solely because of factors beyond the reasonable control of the Contractor.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) 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, (3) 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, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such

as manufacturers' warranties or specific Subcontractor warranties, (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of claims arising out of the Contract, to the extent and in such form as may be designated by the Owner, (7) the grounds for Owner's withholding of payment under Section 9.5.1 or under Section 9.5.4 have been removed or no longer exist, and (8) completion of the Work in compliance with the Contract Documents. 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 claims. If a such claim 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 claims, including all costs, disbursements, expenses and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Contractor, Subcontractors, or anyone for whose acts or omissions any of them are responsible, or by issuance of Change Orders affecting Final Completion, and the Owner or Design Professional so confirms, the Owner shall, upon application by the Contractor, and without terminating the Contract, make payment of the balance due for that portion of the Work that is fully completed and accepted. If the remaining balance for Work that is not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Owner. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.3.1 The Owner shall retain an amount equal to two hundred percent (200%) of the estimated costs of finally completing the Work as determined by the Owner, if the Owner makes payment in advance of Final Completion pursuant to Section 9.10.3.

§ 9.10.4 The making of final payment shall not constitute a waiver of Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor or a Subcontractor 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.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract and the entirety of the Work.

§ 10.1.1.1 The Contractor's safety obligations under this Article 10 shall apply, without limitation, to the areas of the Owner's property where the Work is performed, or which are used for any purpose in connection with the performance of the Work, by the Contractor or Subcontractors.

§ 10.1.1.2 The Contractor shall coordinate its safety program with the safety programs of the Separate Contractors and of any other contractors working at the site.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 those performing labor or services or furnishing materials or equipment at the Work site and other persons who may be affected thereby, including, but not limited to, licensees, trespassers, and persons on adjacent or adjoining properties;
- .2 the Work and materials and equipment to be incorporated or utilized therein, whether in storage on or off the site, under care, custody, or control of the Contractor, or Subcontractors;
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction;

- .4 other structures contiguous to the Work site and otherwise located at or contiguous to the premises, and trees, shrubs, lawns, walks, pavements, roadways and utilities serving such structures and premises; and
- .5 the work, materials, equipment, tools, machinery and facilities of or being utilized by the Owner's own forces or their separate design professionals, consultants or contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by, and otherwise shall comply with, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including but not limited to posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and give the Owner and Design Professional reasonable prior notice.

§ 10.2.5 The Contractor shall promptly remedy damage and loss to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Design Professional or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Design Professional.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons, property damage, or contamination of air, water, soil, materials for the Work or other property resulting from a material or substance, including but not limited to asbestos, lead paint, mold, or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Design Professional by telephone or other appropriate means followed by prompt confirmation in writing .

§ 10.3.2 Upon receipt of the Contractor's notification, the Owner, in consultation with the Design Professional and Contractor, shall obtain the services of a licensed laboratory or other consultant to verify the presence or absence of the hazardous material or substance reported and, in the event such hazardous materials are found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Design Professional the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the hazardous materials or who are to perform the task of removal or safe containment of the hazardous materials. The Contractor and the Design Professional will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Design Professional has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Design Professional have no reasonable objection. When the hazardous materials has been rendered harmless, Work in the affected area shall resume upon directive of

the Owner. By Change Order, the Contract Time shall be extended appropriately and the Guaranteed Maximum Price shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the hazardous materials present the risk of bodily injury or death as described in Section 10.3.1 and have not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property but only to the extent that such damage, loss, or expense is not due to the fault or negligence or other wrongful acts or omissions of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances, or by the failure of Contractor to perform as required by this Section 10.3.

§ 10.3.5 The Contractor shall indemnify, hold harmless, reimburse, and defend the Owner from, for and against suits, actions, awards, penalties, liabilities, claims, damages, losses, and expenses, including but not limited to attorneys' fees and expert witness fees and related costs, arising out of or related to (1) remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) the Contractor's failure to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without fault or negligence or other wrongful acts or omissions on the part of the Contractor, Subcontractors, or anyone for whose acts or omissions any of them are responsible, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Spill Responsibility

§ 10.4.1 The Contractor is responsible for any and all releases of hazardous substances or materials or environmental pollutants during performance of the Contract which occur as a result of, or are contributed by, actions of its agents, employees, or Subcontractors. The Contractor agrees to promptly remediate such releases to satisfaction of the Owner and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Owner.

§ 10.4.2 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 federal, state, or local statutes, rules or ordinances. Notwithstanding such written consent from the Owner, the Contractor, at all times, shall:

- .1 properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all applicable federal, state, or local statutes, rules, or ordinances;
- .2 be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials that the Contractor has brought onto the Work site; and
- .3 promptly clean up, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances.

§ 10.4.3 The Contractor shall be liable for any and all costs, expenses, damages, claims, and causes of action, or any of them, related to or arising out of a spill, release, discharge, or leak of (or from) any environmental pollutant or hazardous substance or material, to the extent such spill, release, discharge, or leak was caused or contributed to by the Contractor's (i) fault or (ii) failure to perform in accordance with the Contract Documents. Nothing in this Section 10.4.3 shall limit the Contractor's liability or responsibility under any other provision of the Contract Documents.

§ 10.4.4 The Contractor shall report all reportable quantity releases described in this Section 10.4 to applicable federal, state, and local regulatory and emergency response agencies. Upon discovery, regardless of quantity, the Contractor must telephonically report all releases to the Owner. A written follow-up report shall be submitted to the Owner within forty-eight (48) hours of the telephonic report. Such written report shall contain, at a minimum:

- .1 Description of items released (identity, quantity, manifest number, and all other documentation required by law);
- .2 Whether amount of items released is EPA/DEQ reportable and, if so, when it was reported;
- .3 Exact time and location of release, including a description of the area involved;
- .4 Containment procedures initiated;
- .5 Summary of communications about the release the Contractor has had with members of the press or state officials other than the Owner;
- .6 Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue; and
- .7 Personnel injuries, if any, resulting from, or aggravated by, the release.

§ 10.5 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

§ 10.5.2 If Contractor does, or omits to do, anything where safety may be endangered or where damage or injury may result to person or property (including the Work itself), Owner may, in its sole discretion, after one (1) day written notice to the Contractor, or in case of imminent danger, immediately after delivery of written notice to Contractor, make good all Work, material, omissions, or deficiencies to remove the dangerous condition(s) and prevent damage or injury. Owner may deduct Owner's costs incurred under this Article 10 from the amount included in the Guaranteed Maximum Price due or which may thereafter become due to Contractor. No action taken by Owner under this Section 10.5 shall affect any of the other rights or remedies of Owner granted by the Contract or by law, or relieve Contractor from any consequences or liabilities arising from such acts or omissions. Contractor shall not be responsible for costs of emergency work, unless the emergency was due to the negligence or other misconduct of the Contractor or any Subcontractors, or anyone for whose acts any of them may be liable.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 Contractor and Subcontractors shall comply with the terms of Exhibit F.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. If requested by Contractor, Owner will provide to Contractor copies of all relevant policies.

§ 11.2.2 Property Insurance

§ 11.2.2.1 The Owner may purchase and maintain from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis subject to self-insurance retention and deductibles. The Owner's property insurance coverage shall be no less than the amount of the initial Guaranteed Maximum Price, plus the value of subsequent Modifications and labor performed or materials or equipment supplied by others. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.2.2.1 to be covered, whichever is later. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds.

§ 11.2.2.1.1 The Contractor shall be responsible for property losses to the Work not paid by the insurance discussed in Section 11.2.2.1 due to self-insurance retention and deductibles, to a maximum of Twenty-Five Thousand Dollars (\$25,000) per occurrence, except to the extent such losses are caused by (1) the negligent or other wrongful acts or

omissions of the Owner, Design Professional or its consultants, Owner's separate consultants or contractors, or their respective agents or employees or (2) Acts of God.

§ 11.2.2.3 Waiver of Subrogation

§ 11.2.2.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; and (2) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered and paid by property insurance obtained pursuant to this Agreement, if any, or other property insurance applicable to the Project, (a) except such rights as they have to proceeds of such insurance and (b) except to the extent such damages are covered by Commercial General Liability or other insurance of the Contractor or one or more Subcontractors. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Separate Contractors, Subcontractors, and sub-Subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.2.2.3 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.2.2.4 A loss insured under the Owner's property insurance be adjusted by the Owner and made payable to the Owner for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Owner shall pay the Design Professional and Contractor their just shares of insurance proceeds received by the Owner, the Contractor shall make payments to its Subcontractors, and by appropriate written agreements shall require its Subcontractors to make payment to their sub-subcontractors in similar manner.

§ 11.3 [Intentionally deleted.]

§ 11.4 [Intentionally deleted.]

§ 11.5 [Intentionally deleted.]

§ 11.6 Performance Bond and Payment Bond

§ 11.6.1 Contractor shall furnish separate bonds covering the faithful performance of the Contract and the payment of obligations arising thereunder. The amount of each bond shall be equal to one hundred percent (100%) of the Guaranteed Maximum Price, and such amount shall be adjusted as the Guaranteed Maximum Price is adjusted pursuant to the Contract Documents. The form of the bonds and the identity of the surety shall be in the form attached as Exhibit G. The surety on such bonds shall be authorized to do business in the State of Oregon and shall have an A.M. Best Financial Strength Rating of A or better.

§ 11.6.2 The Contractor shall deliver the required bonds to the Owner before the Owner's execution of the GMP Amendment or an Early Work Amendment.

§ 11.6.3 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

§ 11.6.4.1 Any Change Order, Construction Change Directive, or other Modification under the Contract shall not be subject to inspection or approval by any surety on any required bond. The surety on such bond, by issuing the bond, expressly waives its right to approve, and consents to, any such Change Order, Construction Change Directive, order or Modification.

§ 11.6.4.2 The surety on any required bond shall be bound to mediate and litigate any disputes between and among it, the Owner, Owner's separate consultants and contractors and their subconsultants and subcontractors, Contractor, Subcontractors, Subcontractors' sureties, Design Professional, Design Professional's consultants, and other persons or entities under contract or otherwise engaged to furnish labor, services, materials or equipment for the Project, in the same way and to the same extent that the Contractor shall be bound to mediate and litigate any disputes between and among such parties. The surety shall be bound by the decisions and award/judgment of the court in the same way and to the same extent that the Contractor shall be bound.

§ 11.6.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.6.6 With the Owner's prior written approval, the Contractor may require one (1) or more Subcontractors to furnish payment and performance bonds covering faithful performance of the particular subcontract and payment of obligations arising thereunder.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Owner's or Design Professional's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Owner or Design Professional, be uncovered for the Owner's or Design Professional's examination and be replaced at the Contractor's expense without change in the Contract Time or Guaranteed Maximum Price.

§ 12.1.2 If a portion of the Work has been covered that the Owner or Design Professional has not specifically requested to examine prior to its being covered, the Owner or Design Professional may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Guaranteed Maximum Price and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Design Professional or Owner as defective or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including but not limited to additional testing and inspections, the cost of uncovering and replacement, and compensation for the Design Professional's services and expenses and the Owner's attorneys' and consultants' fees and related costs, disbursements and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under the Contract Documents (including but not limited to Section 3.5), and without limiting Owner's other rights and remedies under the Contract Documents or at law, if, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof or which the Owner agrees in writing to accept separately, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. If the Contractor fails to correct defective or nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Design Professional, the Owner may correct it in accordance with Section 2.5 provided that if payment of the Contract Sum has already been made by the Owner then upon demand the Contractor shall reimburse the Owner pursuant to Section 2.5.

§ 12.2.2.2 The one (1) year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion of the Work as a whole by the period of time between Completion of the Work as a whole and the actual completion of that portion of the Work.

§ 12.2.2.3 The one (1) year period for correction of Work performed by the Contractor pursuant to this Section 12.2 shall only be extended for that period of time that equals the amount of time after Substantial Completion of the Work as a whole that the corrected portions of the Work were defective or nonconforming. Such extensions shall be applicable only to corrected portions of the Work.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are defective or not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is defective or not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents or applicable law. Establishment of the one (1) year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time nor shall otherwise be deemed to limit the time within which the obligation to comply with the Contract Documents or applicable law 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.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is effective or not in accordance with the requirements of the Contract Documents, the Owner may do so in writing instead of requiring its removal and correction, in which case the Guaranteed Maximum Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. Contractor may not rely upon any non-written statements that purport to accept non-conforming Work.

§ 12.4 No earlier than ten (10) months and no later than eleven (11) months after the date of Substantial Completion of the Work, the Owner, Design Professional and Contractor at a time reasonably determined by the Owner shall jointly observe the Project to identify defective or nonconforming Work to be corrected pursuant to Section 12.2, if any. Neither the Contractor's performance of its obligation under this Section 12.4 nor its correction of defective or nonconforming Work identified during the observation required by this Section 12.4 shall negate, abridge or reduce the Contractor's obligations to otherwise correct the same or other defective or nonconforming Work identified either before or after the observation required by this Section 12.4.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Contractor shall not assign its rights or obligations under the Contract as a whole without written consent of the Owner. If Contractor attempts to make such an assignment without such consent, Contractor shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign its rights under the Contract to any person or entity (the "Assignee"). If Owner assigns all of its rights and delegates all of its duties and gives written notice of the assignment to Contractor, Contractor agrees: (a) to regard the Assignee as Owner's successor for all purposes of this Contract, with all of the rights and duties that Owner had before the assignment was made; (b) not to look further to Owner for payment under this Contract; (c) not to look further to Owner for satisfaction of any claims it may have asserted or will assert with regard to the Work; (d) without deleting Contractor's continuing indemnity obligation to Owner, Contractor will include the Assignee as a beneficiary of the indemnity obligations that Contractor owes to Owner under this Contract; and (e) without deleting Owner's additional insured status under this Contract, Contractor will include Assignee as an additional insured under Contractor's liability insurance policies. The Contractor shall execute all consents reasonably required to facilitate such assignment. If requested by Contractor, Owner will provide reasonable evidence that Assignee has made financial arrangements or otherwise has the ability to fulfill the payment obligations under the Contract.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by

law, in equity, or by any other agreement, and any such rights or remedies shall survive the acceptance of the Work and termination or expiration of the Contract.

§ 13.3.2 No action or failure to act by the Owner, Design Professional, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. 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. The Contractor shall give the Owner and Design Professional timely notice of when and where tests and inspections are to be made so that the Owner and Design Professional may be present for such procedures. The Owner shall bear costs of all such tests, inspections, or approvals; provided that if defective or nonconforming Work or other fault of the Contractor or one or more Subcontractors results in repeat tests, inspections or approvals of portions of the Work, the contractor shall reimburse the Owner for the cost of such repeat tests, inspections, or approvals.

§ 13.4.2 If the Design Professional, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Owner and Design Professional will instruct the Contractor to make arrangements for such additional testing, inspection or approval, by an entity acceptable to the Owner and Design Professional, and the Contractor shall give timely notice to the Owner and Design Professional of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal 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 Design Professional's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 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 and Design Professional.

§ 13.4.5 [Intentionally deleted.]

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.4.7 The conducting of any inspection, test, or observation and the receipt of any approval shall not operate to relieve the Contractor from its obligations under the Contract Documents unless specifically so stated by Owner, in writing. The Owner's and Design Professional's observations, reviews, or approvals of tests and inspections shall not relieve the Contractor from its responsibility for construction means, methods, and techniques, nor shall it relieve Contractor of its responsibility to strictly adhere to the Contract Documents.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the entire Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for

any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 The Owner has not made a required payment within the time stated in the Contract Documents; or
- .4 The Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the critical progress of the Work.

§ 14.1.2 [Intentionally deleted.]

§ 14.1.3 If a basis for termination described in Section 14.1.1 exists, the Contractor may, upon seven (7) days' written notice to the Owner, and if the Owner fails to cure such reason during the seven (7) day period, terminate the Contract whole or in part and recover from the Owner payment for Work executed at the Contract rate.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract, in whole or in part pursuant to Section 14.2.2, if the Contractor

- .1 substantially refuses or fails to supply enough properly skilled workers or enough proper materials or equipment;
- .2 fails to make payment to its employees or fails to make payments to its Subcontractors for materials, services, equipment or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 substantially disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 fails to carry out the Work pursuant to the Contract Documents;
- .5 fails to comply with the current Contractor's construction schedule;
- .6 submits one (1) or more Applications for Payment in which the Contractor overstates the amount to be paid, by the Owner, or fails to complete punch list and/or corrective work within reasonable time; or
- .7 otherwise is guilty of material breach of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' notice, terminate the Contract in whole or in part and may:

- .1 Exclude the Contractor from the site and take possession of all or a portion of materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of some or all subcontracts, purchase orders and similar agreements pursuant to Section 5.4; and
- .3 Finish the Work or a portion thereof by whatever reasonable means and method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract in whole or in part for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment for the terminated Work until that Work is finished.

§ 14.2.4 If the unpaid balance of the Guaranteed Maximum Price exceeds costs of finishing the Work, including but not limited to compensation for the Design Professional's services and expenses made necessary thereby, and other damages incurred by the Owner, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall survive termination of the Contract. In no event, however, shall Contractor be entitled to payment of overhead, profit, markup, or any other payment on account of Work not performed.

§ 14.2.5 In the event the Owner terminates the Contract for cause and such termination subsequently is determined in a final judgment to have been wrongful, the termination shall automatically be converted to a termination for the Owner's convenience pursuant to Section 14.4.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, with or without cause or prior notice, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include application of the reasonable overhead and profit on actual costs incurred. No adjustment shall be made to the extent

- .1 that performance is, was or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, and also except for Work not covered by the termination, terminate all existing subcontracts and purchase orders and similar agreements and enter into no further subcontracts and purchase orders, and similar agreements.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed and termination expenses as follows: (1) the actual cost incurred by the Contractor to the date of termination, (2) a reasonable amount of overhead and profit based on the actual cost incurred, and (3) reimbursement of the Contractor's reasonable demobilization costs and other costs directly incurred relating to the termination which are not otherwise included in the actual cost incurred under Item (1). In no event, however, shall Contractor be entitled to payment of overhead, profit, markup, or any other payment on account of Work not performed.

§ 14.5 TERMINATION AND SUSPENSION BY THE OWNER

§ 14.5.1 In the event the Owner terminates or suspends the Contract, the Contractor shall cooperate with the Owner and all other persons and entities performing work or services on the Project as necessary and required to facilitate the efficient and proper performance and completion of (1) the overall Project, if the Owner completes the entire Project, or (2) the portion of the Project the Owner completes, if the Owner completes less than the entire Project. In the event of a termination, whether for cause or convenience, Owner reserves the right to recover damages arising out of or related to Contractor's performance of the Contract, regardless of whether (a) such performance occurred before or after the effective date of termination or (b) Owner provided Contractor with the opportunity to cure.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements

of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. For all claims by Owner against Contractor, the applicable period of limitations shall not commence to run and any alleged cause of action shall not be deemed to have accrued, whether such claims or actions involve strict liability, indemnity, intentional tort or other tort, breach of contract, breach of implied or express warranty, or any other legal or equitable theory, unless and until the party making the claim is fully aware of all three (3) of the following: (a) the identity of the party(ies) responsible; (b) the magnitude of the damage or the injury; and (c) the cause(s) of the damage or injury. The discovery rule provided herein applies in lieu of any other applicable statute or related case law. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor must be initiated by written notice to the Owner within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the Contractor first recognizes or reasonably should have first recognized the condition giving rise to the Claim, whichever is later. Failure of Contractor to deliver the notice within the time set out in this Section 15.1.3.1 shall result in a complete and final waiver of the Claim and all rights and remedies arising therefrom.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments in accordance with the Contract Documents.

§ 15.1.5 Claims for Additional Cost

If the Contractor knows or has a reason to know before performing a particular portion of the Work that it will have a Claim for an increase in the Guaranteed Maximum Price for performing that portion of the Work, written notice as provided herein shall be given by the Contractor before proceeding to execute that particular portion of the Work. Otherwise, a Claim for an increase in the Guaranteed Maximum Price shall be made as required by Section 15.1.3. Notice under this Section 15.1.5 shall contain sufficient detail and substantiating data to permit evaluation of the Claim by the Owner. No such Claim shall be valid unless so made. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.5.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given to the Owner. Such notice shall include detailed documentation of the cause or event resulting in the need for the extension of time, and a schedule analysis based upon the approved Contractor's construction schedule, showing the impact of the cause or event on the critical path of the approved Contractor's construction schedule. No Claim under this Section 15.1.6 shall be valid unless so made. If a Claim for additional cost related to this Claim is to be asserted, it shall be made shall be given.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.2 Mediation

§ 15.2.1 Any Claim, dispute or other matter in question arising out of or related to this Contract shall be subject to mediation as a condition precedent to institution of legal or equitable proceedings by either party.

§ 15.2.2 Request for mediation shall be filed in writing with the other party to this Contract. The request may be made concurrently with the institution of legal or equitable proceedings but, in such event, mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 15.2.3 If the parties cannot agree on the choice of a mediator, the parties shall apply to the local state court to appoint a mediator.

§ 15.2.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place

where specified in Section 15.4, unless another location is mutually agreed upon. Written and signed agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.3 Litigation

§ 15.3.1 If the parties are unable to resolve a dispute in accordance with Section 15.2, either party may pursue any rights or remedies it may have at law or in equity

§ 15.4 Jurisdiction/Forum

§ 15.4.1 Any mediation or trial court suit or action arising out of or relating to this Agreement shall be commenced and conducted in Benton County Circuit Court in Benton County, Oregon. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

§ 15.4.1 Notwithstanding Section 15.4, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section applies to a claim brought against the Owner only to the extent the United States Congress has appropriately abrogated the Owner's sovereign immunity and is not consent by the Owner to be sued in federal court. This Section is also not a waiver by the Owner of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.5 Attorneys' Fees

§ 15.5.1 Should any legal proceeding or court action be commenced in connection with any Claim, dispute or other matter in question arising out of or relating to the Contract or the breach thereof, to obtain a construction of or to enforce any provision of the Contract, to rescind the Contract, or to enforce or collect any judgment, order or decree of any court relating to the Contract, the prevailing party shall be entitled to recover its attorneys' and expert witnesses' fees and related costs, disbursements and expenses incurred prior to and during the trial, on review for appeal, on appeal, on review for or on reconsideration, regardless of when such reconsideration should be sought or granted, as the court shall adjudge reasonable.

§ 15.6 Miscellaneous

§ 15.6.1 Operation and Maintenance Manuals

As part of the Work, Contractor shall submit one (1) hard copy and two (2) electronic media copies (on memory stick, CD or DVD and in standard Microsoft or Adobe format) completed operation and maintenance manuals for review by the Owner's Project Manager prior to any pay request for retainage. No retainage payments will be made by the Owner until the O & M Manual has been received. The O & M Manual shall contain a complete set of all submittals; all product data as required by the Specifications; training information; a telephone list of consultants, manufacturers, installers and suppliers; manufacturer's printed data; balance reports; record and shop drawings; schematic diagrams of systems; appropriate equipment indices; warranties; bonds; and other information and documents relevant to operations or maintenance of the Project. The Owner's Project Manager shall review and return one (1) O & M Manual for any modifications or additions required. Prior to submission of its final Application for Payment, complete and approved sets of O & M Manuals shall be delivered to the Owner's Project Manager by the Contractor.

§ 15.6.2 Training

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Owner's Project Manager training sessions for all equipment and systems related to the Work, as required in the Specifications. The Contractor shall schedule training sessions at least two (2) weeks in advance of the date of training to allow the Owner's personnel adequate notice. The O & M Manual shall be used as a basis for training. Training shall be a formal session, held after the equipment or system is completely installed and operational in its normal operating environment.

§ 15.6.3 Other Contractor Responsibilities

The Contractor shall be responsible for returning to the Owner all items issued during construction such as keys, security passes, site admittance badges, and all other pertinent items. The 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, at Owner's discretion, may not be until Final Completion.





AMENDMENT NO. XXXX (X)
PROJECT NAME:

This Amendment No. SEVEN ("AMD") to the above named Agreement entered into between Oregon State University ("Owner"), and CONTRACTOR ("Contractor"), individually the "Party" and collectively the "Parties", shall become effective on the date this Amendment has been signed by all the Parties (the "Effective Date").

1. SECTION 6 – EARLY WORK AMENDMENT

The "Services" shall be modified to add, delete or change the following as more specifically set out in ATTACHMENT 1, which is attached hereto and incorporated herein to this Amendment:

In accordance with Section 6.3 of the Agreement, you are hereby authorized to commence the Early Work described below and shall be paid for such Early Work in accordance with the Agreement, subject to the not to exceed price set forth below. In accordance with Section 6.3 of the Agreement, the amount paid on account of this Early Work Amendment Number XXXX (X) shall be included in the Pricing Amendment applicable to the Deliverable Portion of Work to which the Early Work relates.

The Early Work of this Early Work Amendment Number XXXX (X) consists of the following:

The not to exceed price for the Early Work of this Early Work Amendment Number XXXX (X) shall be: \$XXX,XXX.XX

Table with 2 columns: EARLY WORK AMENDMENT, COMPENSATION. Rows include PCO XX, Amendment total, Original Agreement Price, and New Agreement Price (maximum compensation amount).

Unless expressly modified in this Amendment or prior Amendments, all terms and conditions of the Agreement remain unchanged and in full force and effect.



In witness whereof, Oregon State University executes this Amendment and the Contractor does execute the same as of the Effective Date.

CONTRACTOR NAME, CONTRACTOR

Oregon State University, OWNER

Signature

Date

Printed Name

Title

Bruce Daley

Date

Associate Vice President
University Facilities, Infrastructure and
Operations

AIA[®] Document A133[®] – 2019 Exhibit B

Guaranteed Maximum Price Amendment

This Amendment dated the [] day of [] in the year [], is incorporated into the accompanying AIA Document A133TM–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the [] day of [] in the year [] (the “Agreement”)
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and address or location)

Testing Importing
644 SW 13th St
Corvallis, OR 97333

THE OWNER:
(Name, legal status, and address)

Oregon State University
644 SW 13th St
Corvallis, 973334238

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)



TABLE OF ARTICLES

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ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed [] (\$ []), subject to additions and deductions by Change Order as provided in the Contract Documents.

ADDITIONS AND DELETIONS:
The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201TM–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager’s contingency; alternates; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.

(Provide itemized statement below or reference an attachment.)

§ A.1.1.3 The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager’s Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
------	-------

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ A.1.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

The date of execution of this Amendment.

Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than _____ (_____) calendar days from the date of commencement of the Work.

[] By the following date: []

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

[]

Section	Title	Date	Pages

§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

[]

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner’s Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner’s and Construction Manager’s roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)



§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)



ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)



This Amendment to the Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

(Printed name and title)

EXHIBIT C

Cost Matrix

Project Name:



CMGC/DB Fee _____%

CMGC/DB Preconstruction Fee \$ Lump Sum

CMGC/DB General Conditions Monthly Charge \$ Per Month

CMGC/DB General Conditions Duration # of Months

Cost Responsibility Matrix for CMGC/DB

Subject to CMGC/DB Fee Mark Up

CMGC Fee

Precon Fee

General Conditions

Direct Cost of Work

Owner

Construction Staff (For Project Specific Time)

In response to the evaluative sections of the solicitation, hourly rates for the staff listed below must be attributable to actual costs - base hourly wage paid to employee including fringe benefits, vacation, health care, insurance and payroll taxes only. DOES NOT include standard compensation bonus.

1	CM/GC or DB Project Manager and all on-site CM/GC or DB personnel based upon OSU approved CM/GC organization chart and percentage of time that each person is dedicated to the Project. On-Site personnel may include construction project manager, superintendents, project/field engineers, coordinator, scheduler, cost estimator, safety, quality control, administrator, Project accountant, and other Project specific personnel deemed necessary for the Project and Costs related to transportation (including trucks, shuttles, parking, corporate vehicles and their operation and maintenance, owned or rented) for all staffing in Item 1.			X		
2	Communication devices, computer, tablet, project specific software, vehicle, gas, prof. development. Commuting to and from Project site and any other misc. cost associated with labor.	X				
3	Standard Compensation Bonuses	X				
4	CM/GC home (or main), branch and/or regional office general, administrative and support staff who provide corporate management oversight, corporate accounting, corporate safety, corporate quality control, corporate administration, corporate IT, legal services, corporate payroll and benefits accounting/administration.	X				
5	CM/GC Profit on all Work	X				
Temporary Facilities						
6	Office/Trailer Rental, Furnishings, and Cleaning			X		
7	Copy/Fax/Printer & Supplies			X		
8	PPE Safety Equipment, Fire Ext & First Aid			X		
9	Fire Watch				X	
10	Temporary Toilets			X		
11	Water/Ice/Cups			X		
12	Temporary Stairs/Scaffolding				X	
13	Temporary Enclosures/Weather Protection				X	
14	Temporary Building Heating			X		
15	Project Signs & Bulletin Boards			X		
16	Temporary Fencing			X		
17	Covered Walkways			X		
18	Barricades				X	
Overhead, Fee, Insurance and Bonds						
19	Profit and Overhead	X				

		CMGC Fee	Precon Fee	General Conditions	Direct Cost of Work	Owner
20	Builder's Risk Insurance				X - No Mark up	
21	General Liability	X				
22	Excess Liability Coverage	X				
23	Performance & Payment Bonds				X - No Mark up	
24	Subcontractor Bonds/Subcontractor Default Insurance				X - No Mark up	
On-Site Equipment and Utilities						
25	Job Site Utility Set up			X		
26	Job Site Utility Consumption					X
27	Document Management Programs			X		
28	Safety/Ceremony Lunches	X				
29	Construction Progress Photos			X		
30	Off-Site Storage			X		
31	Housekeeping & Final Clean			X		
32	Trash & Recycling			X		
33	Dust Controls/Street Cleaning				X	
34	Snow and Ice Removal				X	
35	Dewatering Equipment				X	
36	Temporary Roads (if required)				X	
37	Radio equipment			X		
38	On Site Storage			X		
39	Lifts (Rented or Contractor owned)			X		
40	Lift Operators			X		
41	Fuel, Repairs, Maintenance for Lifts			X		
42	Small Tools Purchase	X				
43	Small Equipment Rental			X		
44	Crane and Hoisting				X	
45	Temporary Elevator Rental				X	
46	Elevator Operator				X	
Reproduction and Printing						
47	Reproduction and Printing during construction			X		
Permits and Special Fees						
48	Craft Parking when parking lot is not already provided by Owner			X - No Mark up		
49	PIPC Permit					X
50	General Building Permit					X
51	Craft Permits			X - No Mark up		
52	Surveying				X	

EXHIBIT E

SECTION 01 11 00

SUMMARY OF WORK

PART 1 GENERAL

1.01 SUMMARY OF WORK

- A. Summary of Work and Schedule information is provided in Section 1.0 of the RFP.
- B. Work shall be started within ten (10) calendar days after signing of Contract on behalf of Oregon State University. The Contract may not be signed prior to approval of the Contractor's Certificate of Insurance by Construction Contract Administration (CCA), Oregon State University.

1.02 CONTRACTORS USE OF PREMISES

- A. Contractor shall limit use of the Premises for work and storage to allow for:
 - 1. Owner occupancy, day and night.
 - 2. Public use, day and night.
 - 3. Security.
 - 4. Safe entry and exit for vehicles and pedestrians.
 - 5. Fire egress.
- B. Coordinate all operations with the Owner's Authorized Representative during the construction period. A 96-hour notification is required prior to scheduled utility shutdowns or street closures, but more lead time is often required to schedule around other critical activities.
- C. Limit Contractor's employee parking to locations designated at the Pre-construction Conference.

1.03 OWNER OCCUPANCY

- A. The Owner will occupy the Premises during the entire period of construction for the conduct of normal operations. Cooperate with Owner's Authorized Representative in construction operations to minimize conflict and to facilitate the Owner's usage especially in the following areas:
 - 1. Restricted access and parking.
 - 2. Use of stairs.
 - 3. Storage space availability.
- B. Conduct operations in such a way to ensure the least inconvenience to the general public, including:
 - 1. Limitations and easements.
 - 2. Emergency vehicle access.
 - 3. Building access to the public, day and night.

1.04 ASBESTOS AND OTHER HAZARDOUS MATERIAL

- A. The Owner has made a reasonable attempt to locate and identify asbestos or other hazardous material that may be encountered during the course of the Work.
- B. If the Contractor observes or suspects the existence of asbestos, polychlorinated biphenyl (PCB) or other hazardous materials in the structure or components of the building, the Contractor shall immediately stop work and notify the Owner's Authorized Representative.
- C. The Owner will arrange for the removal of asbestos, polychlorinated biphenyl (PCB) or other hazardous materials as required by Facilities Services personnel or by separate contract.
- D. Schedule ten (10) days of slack or "down" time for the removal of hazardous materials without penalty to Owner for the delay of the Contract.

1.05 LEAD BASED PAINT

- A. The Owner may have tested existing paint in the project area and if levels are found the following conditions apply.
- B. Contractor shall remove paint as specified for surface preparation and capture removed material for disposal.
- C. Contractor shall follow OSHA guidelines involving exposure to workers.
- D. Owner will provide containers for Contractor's use at project site.
- E. Contractor shall comply with the requirements of DEQ and EPA and shall submit a lead abatement plan.
- F. Contractor shall separate lead contaminated material from effluent and water.
- G. Owner will dispose of lead paint and effluent resulting from stripping operation.
- H. Soil contaminated by stripping operations shall be replaced with topsoil.

END OF SECTION

SECTION 01 24 76

APPLICATIONS FOR PAYMENT

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Work of this Section includes forms and procedures for progress payments.
- B. Related work specified elsewhere.
 - 1. For the primary discussion of payments, refer to OSU General Conditions, Section E, as supplemented.
 - 2. In compliance with OSU General Conditions, Section K, no payments beyond 75% will be made by the Owner before draft Operation and Maintenance Manuals have been received for review by the Owner.

1.02 APPLICATION FORMS

- A. For applications for payment, use sample Contract Payment Request (see below), contract payment request on company letterhead, or AIA Document G702, supported by AIA Document G703, Continuation Sheet, or similar document.
- B. Prepare the Schedule of Values in such a manner that each major item of Work and each subcontracted item of Work is shown as a line item broken down in terms of material and labor costs on AIA Document G703, Application Certification of Payment, Continuation Sheet or similar format. The sample continuation sheet shall be the minimum Schedule of Values breakdown.
- C. The Schedule of Values shall be submitted for review by the Owner prior to the first application for payment; and may be used when, and only when, accepted in writing by the Owner.
- D. Payment request is to include the Contractor's Federal Tax Identification number and return address.

1.03 PAYMENTS

- A. The Owner will make progress payments on account of the Contract once monthly for the scheduled duration of the project (i.e. three (3) payments on a three-month project), based on the value of work accomplished or materials on the job site, as stated in the Schedule of Values on the Application and Certificate Payment.
- B. Complete and forward Application to the Owner on or about the 15th day of each month for work performed the previous month and include certified payroll statements as specified in the OSU General Conditions.
- C. Submit one (1) copy of forms requesting payment to the Owner.
- D. Payments will be made on protected materials on hand at the job site properly stored,

protected, and insured.

- E. Estimated quantities shall be subject to the Owner's review and judgment.

1.04 EARLY PURCHASE AND PAYMENT OF MATERIALS AND EQUIPMENT

- A. Order materials and equipment requiring a long lead or waiting time early so as not to delay progress of the Work.
- B. The Contractor will be reimbursed for early order materials or equipment upon receipt and verification of quality and quantity against submittals and shipping documents by the Owner's Authorized Representative.
- C. Receipt shall be to the job site or stored at Owner's other premises in an orderly and safe manner, secured from normal weather damage.
- D. Security remains the responsibility of the Contractor.

END OF SECTION

CONTRACT PAYMENT REQUEST

DATE: _____

TO: University Financial Services
Oregon State University
850 SW 35th Street
Corvallis, OR 97333

Payment Request No. _____ Contract No. _____ Period from _____ to _____

Project: _____

Original Contract Amount \$ _____

Change Orders (Net Amount)..... \$ _____

Contract Total to Date \$ _____

=====

Total Completed and Stored to Date \$ _____

Less Retainage (5%), if applicable \$ _____

Total Earned, Less Retainage (if applicable)..... \$ _____

Less Previous Payments..... \$ _____

Net Amount Due this Request..... \$ _____

The undersigned Contractor certifies that, to the best of his/her knowledge, information, and belief, the Work covered by this request has been completed in accordance with the Contract Documents, that all amounts have been paid for Work for which previous applications for Payment were issued and payments received from the Owner, and that the amount shown herein is now due.

Contractor: _____

By: _____ Date: _____

Federal Tax ID Number: _____

Address: _____

CONTINUATION SHEET

NOTES:

Amounts are stated to the nearest penny.

Use Column I on Contracts where variable retainage for line items may apply, or if retainage is required.

Change Orders are usually listed as the last items of the basic schedule.

Project Name: _____

Application No.: _____

Date: _____

Period To: _____

WRN No.: _____

A Item No.	B Description of work	C Scheduled Value	D Work Completed		F Materials Presently Stored (Not in D or E)	G		H Balance to Finish (C-G)	I Retainage
			From Previous Applications	This Period		TOTAL Completed & Stored (D+E+F)	% Completed (G/C)		
TOTALS									

SECTION 01 25 00

PRODUCT SUBSTITUTION PROCEDURES

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. General requirements for the Work in relation to substitutions and product options.
- B. Submit to the Owner's property insurance carrier shop drawings, samples, and product data (such as manufacturer's standard schematic drawings and other literature) when required by individual Specifications sections.
- C. Related Work Specified Elsewhere
 - 1. Instructions to Bidders.
 - 2. OSU General Conditions.

1.02 REQUESTS FOR SUBSTITUTIONS

- A. Requests for substitution of products in place of those specified shall be in accordance with Instructions to Bidders, and as specified herein.

1.03 CONTRACTOR'S RESPONSIBILITIES

- A. Investigate proposed products and determine that they are equal or superior in all respects to products specified.
- B. Provide same guarantee for accepted substitutions as for products specified.
- C. Coordinate installation of accepted substitutions into the Work, making such changes as may be required for the Work to be complete in all respects.

1.04 SUBSTITUTIONS DURING BIDDING

- A. Submit two (2) copies of the following information with each request to the Owner:
 - 1. CSI substitution request form.
 - 2. Comparison of proposed substitution with product, material or system specified.
 - 3. Complete data, substantiating compliance of proposed substitution with the Contract Documents.
 - 4. Test numbers and supporting reports, indicating compliance with referenced standards.
 - 5. Evidence that warranty requirements are acceptable.
 - 6. Details indicating specific deviations proposed for the substitution.
 - 7. Reference and applicable Specification sections.
 - 8. Applicable product samples.
- B. All substitution requests shall be received in the Owner's office no less than ten (10) calendar days before bid opening. Requests received after this date will not be considered.

1.05 SUBSTITUTIONS DURING CONSTRUCTION

- A. Substitutions will normally not be considered after date of Contract except when required due to unforeseen circumstances.
- B. Within a period of thirty (30) days after date of Contract, the Owner may, at its option, consider formal written requests for substitution of products in place of those specified, when submitted in accordance with the requirements stipulated herein.
- C. One or more of the following conditions must be documented in any such request:
 - 1. Required for compliance with final interpretation of code or insurance requirements.
 - 2. Required due to unavailability of a specified product.
 - 3. Required because of the inability of the specified product to perform properly or to fit in the designated space.
 - 4. Substitution would be substantially in the best interest of the Owner in terms of cost, time, or other considerations.

1.06 SUBSTITUTIONS NOT PERMITTED

- A. If implied on submittals without first requesting approval thereof.
- B. If acceptance will require substantial revision of the Contract Documents.

END OF SECTION

SUBSTITUTION REQUEST FORM

TO: _____

PROJECT: _____

SPECIFIED ITEM:

Section	Page	Paragraph	Description
---------	------	-----------	-------------

The undersigned requests consideration of the following:

PROPOSED SUBSTITUTION: _____

Attached data includes product description, specifications, drawings, photographs, performance and test data adequate for evaluation of the request; applicable portions of the data are clearly identified.

Attached data also includes description of changes to Contract Documents which proposed substitution will require for its proper installation.

The undersigned states that the following paragraphs, unless modified on attachments, are correct:

1. The proposed substitution does not affect dimensions shown on Drawings.
2. The undersigned will pay for changes to the building design, including engineering design, detailing and construction costs caused by the requested substitution.
3. The proposed substitution will have no adverse effect on other trades, the construction schedule, or specified warranty requirements.
4. Maintenance and service parts will be locally available for the proposed substitution.

The undersigned further states that the function, appearance and quality of the Proposed Substitution are equivalent or superior to the Specified Item.

Submitted by:

Signature _____

Firm _____

Address _____

Date _____

Telephone _____

Attachments:

For use by Design Consultant:

Accepted Accepted as noted

Not Accepted Received too late

By _____

Date _____

Remarks _____

SECTION 01 31 19

PROJECT MEETINGS

PART 1 GENERAL

1.01 PRE-CONSTRUCTION MEETING

- A. Architect/Engineer/Designer, Contractor and Owner will meet prior to start of the Work (within seven (7) days after notice to proceed) to discuss at least the following topics and any others of mutual interest.
1. Schedule of Values
 2. Permit Status/tree protection/erosion control
 3. List of sub-contractors
 4. Job inspections.
 5. Early purchase of, and/or lead time requirements for material and equipment/repurchase of equipment
 6. Monthly payment date/SOP for pay requests
 7. Portion of site to be occupied by construction.
 8. Parking/Staging areas
 9. Non-smoking campus requirements
 10. Maintenance of access and safety.
 11. Processing of field decisions and change orders
 12. Labor provisions/labor rates for subs
 13. Material submittals/deferred submittals
 14. Owner access during construction.
 15. Review of Contract Documents/review ADA requirements/cross-slopes
 16. Coordination procedures and separate contracts.
 17. Progress schedules.
 18. Critical Work sequencing.
 19. Safety and emergency procedures/24 hour contact numbers
 20. Security procedures.
 21. Hazardous materials.
 22. Progress meetings.
 23. Contract close-out.
- B. Location of Meeting: Project site

1.02 PROGRESS MEETINGS

- A. The Contractor will schedule and administer progress meetings and will:
1. Prepare agendas.
 2. Schedule progress meetings, frequency, time and day to be determined during pre-construction meeting.
 3. Make physical arrangements for and preside at meetings.

4. Record minutes and include decisions.
 5. Distribute copies of minutes to participants within four (4) days after meetings.
- B. Location of Meetings: Project site.
- C. Attendance:
1. The Owner or Owner's Authorized Representative.
 2. Contractor.
 3. Subcontractors affected by agenda.
 4. Project Architect/Engineer/as necessary.
 5. Owner will attend meeting to ascertain Work is expedited consistent with progress schedule and with Contract Documents.
- D. Minimum Agenda:
1. Review and approve minutes from previous meeting.
 2. Review Work progress since previous meeting.
 3. Discuss field observations, and problems.
 4. Review delivery schedules, construction schedule, and identify problems which impede planned progress.
 5. Review proposed changes.
 6. Material submittals.
 7. Note all new subcontractors performing Work at the job site.

END OF SECTION

SECTION 01 33 23

SHOP DRAWINGS, PRODUCT DATA, SAMPLES

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Submit to the Owner shop drawings, samples, and product data (such as manufacturer's standard schematic drawings and other literature) when required by individual Specifications sections.
- B. Related Work Specified Elsewhere
 - 1. Instructions to Bidders.
 - 2. OSU General Conditions.

1.02 SUBMITTAL SCHEDULING

- A. For items requiring review by the Owner only, submittals shall be sent to the Owner at least 15 calendar days before the date each is required for fabrication or installation.
- B. Submittals to be reviewed by Owner's consultants shall be sent to the Owner at least 20 calendar days before the date each is required for fabrication or installation.
- C. Submittals to be reviewed by Owner's property insurance carrier shall be sent to Owner as directed in individual specification sections.
- D. Submittals involving Substitution requests or other modifications requiring review by the Owner and/or the Owner's consultants shall be sent to the Owner at least 20 calendar days before the date each is required for fabrication or installation.

1.03 SUBMITTAL CONTENT AND FORMAT

- A. General Requirements:
 - 1. Shop Drawings: Submit in electronic format and, if requested by Owner's Authorized Representative, submit one reproducible transparency and 1 print of each drawing.
 - 2. Product Data: Submit electronically, and if requested by Owner's Authorized Representative, up to 6 hard copies.
 - 3. Samples: Submit the number and type stated in each Specification Section. Submit a minimum of three sets of color samples where color selection is required.
 - 4. Submittals shall include:
 - a. Date and revision dates return date requested.
 - b. Project title and number.
 - c. The names of the Contractor, subcontractor, supplier, and manufacturer.
 - d. Identification of product or material, with Specification Section number.
 - e. Relation to adjacent critical features of work or materials.
 - f. Field dimensions, clearly identified as such.

- g. Applicable standards, such as ASTM number or Federal Specification.
 - h. Identification of deviations from Contract Documents, and for products accompanied by Substitution request as required by Section 01 25 00.
 - i. Contractor's stamp legibly signed, essentially as follows:
 - 1) The undersigned, acting on behalf of the Contractor, certifies that this submittal has been reviewed and is approved; products have been verified as being as specified, field measurements and field construction criteria have been or will be coordinated, and the submittal is in compliance with Contract Documents.
5. Re-submission Requirements:
- a. Revise initial drawings as required and resubmit as specified for initial submittal.
 - b. Indicate on drawings any changes which have been made other than those requested by the Owner or the owner's consultants.
6. The Owner may return without review any submittal not meeting the requirements listed above.
- B. Shop Drawings:
- 1. Present data in a clear and thorough manner.
 - 2. Details shall be identified by reference to sheet and detail, schedule or room numbers shown on Contract Documents.
 - 3. Structural items shall be identified by location in the completed structure. Identify details by reference to contract sheet and detail numbers.
 - 4. Minimum sheet Size: 8 ½ x 11".
- C. Product Data:
- 1. Manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations and other standard descriptive data:
 - a. Clearly mark each copy to identify pertinent product or models.
 - b. Show dimensions, weights, and clearances required.
 - c. Show performance data consisting of capabilities, ROM, KW, pressure drops, design characteristics and consumption; conforming as closely as possible to the test methods referenced in the Plans and Specifications.
 - d. Show wiring or piping diagrams and controls.
 - 2. Manufacturer's standard schematic drawings and diagrams:
 - a. Modify to delete information which is not applicable.
 - b. Supplement standard information to provide information specifically applicable to the Work.
- D. Samples:
- 1. Insure that samples are of sufficient size to indicate the general visual effect or color.

2. Where samples must show a range of color, texture, finish, graining, or other property, submit sets of pairs illustrating the full scope of this range.
3. One (1) sample or one (1) set of approved samples will be retained by the Owner; final work will be measured against approved samples.

1.04 QUALITY ASSURANCE

- A. Process submittals in ample time for review, as applicable, so as to not delay the Work. All submittals shall be received by the Owner within ten (10) days after pre-construction.

1.05 DEFINITIONS

- A. The Owner will mark reviewed materials as follows:
 1. "No Exception Taken," which means fabrication, manufacture and/or installation may proceed.
 2. "Make Revisions Noted," which means fabrication, manufacture and/or installation may proceed with revisions as noted.
 3. "Revise and Resubmit," which means that fabrication, manufacture and/or installation may not proceed.
 4. "Rejected," which means do not proceed; make arrangements for the review of the proposed Work with the Owner as soon as possible.

1.06 PROCESSING

- A. Review submittals, make necessary corrections, and become familiar with the content of the submittals.
- B. Mark each item with Contractor's stamp.
- C. Accompany submittals with a transmittal letter bearing the project name, Contractor's name, number of items, and other pertinent data.
- D. Keep one copy of each reviewed submittal on the job site at all times.
- E. Be responsible for obtaining and distributing prints of shop drawings to the various suppliers, and the Owner once review process has been completed. Make prints of reviewed shop drawings only from transparencies which carry the appropriate stamp and endorsement.

END OF SECTION

SECTION 01 42 13

ABBREVIATIONS AND SYMBOLS

PART 1 GENERAL

1.01 REQUIREMENTS INCLUDED

- A. Words which may be found elsewhere in the Project Manual and Drawings are abbreviated in accordance with the standards set forth in the following table:

A/C	air conditioning	CB	catch basin
AB	anchor bolt	CEM	cement
AC	asphaltic concrete	CF	cubic foot
ACT	acoustical tile	CFOI	contractor furnished owner installed
AD	area drain	CG	corner guard
ADD	addendum	CH	ceiling height
ADD'L	additional	CI	cast iron
ADH	adhesive	CJ	control joint
AFF	above finish floor	CKBD	chalkboard
AGG	aggregate	CL	centerline
AL	aluminum	CLG	ceiling
ALLOW	allowable	CLR	clear(ance)
ALT	alternate	CM	construction manager
ANOD	anodized	CMT	ceramic mosaic (tile)
AP	access panel	CMU	concrete masonry unit
APPRX	approximate	COL	column
ARCH	architect(ural)	COM	communications
ASPH	asphalt	CONC	concrete
AUTO	automatic	CONN	connect(ion)
AVE	avenue	CONST	construction
BD	board	CONT	continuous or continue
BIT	bituminous	CONTR	contract(or)
BLDG	building	CPT	carpet
BLKG	blocking	CRS	course(s)
BM	bench mark, beam(s)	CS	countersink
BOT	bottom	CSMT	casement
BRZ	bronze	CT	ceramic tile
BS	both side	CTR	center
		CVG	clear vertical grain
		CW	cold water

CWT	ceramic wall tile	EXH	exhaust
CY	cubic yard	EXP	exposed
		EXT	exterior
D	depth	FA	fire alarm
DEMO	demolish, demolition	FAF	fluid applied flooring
DEP	depressed	FARF	fluid applied resilient floor
DF	drinking fountain	FAS	fasten, fastener
DIA	diameter	FBD	fiberboard
DIAG	diagonal	FBT	finished blowing temperature
DIM	dimension	FD	floor drain, fire damper
DISP	dispenser	FE	fire extinguisher
DIV	division	FEC	fire extinguisher cabinet
DL	dead load	FF	factory finish
DMT	demountable	FGL	fiberglass
DN	down	FHMS	flathead machine screw
DP	dampproofing	FHWS	flathead wood screw
DR	door	FIN	finish(ed)
DS	downspout	FLCO	floor cleanout
DT	drain tile	FLR	floor(ing)
DTL	detail	FLUR	fluorescent
DW	dumbwaiter	FND	foundation
DWG	drawing(s)	FOC	face of concrete
DWR	drawer	FOIC	furnished by owner/installed by contractor
EA	each	FOIO	furnished by owner/installed by owner
EB	expansion bolt	FOM	face of masonry
EF	each face	FP	fireproofing, flash point
EJ	expansion joint	FPHB	freeze-proof hose bib
EL	elevation	FR	fire resistive, fire rated
ELEC	electric(al)	FRM	frame(d), (ing)
EMBED	embedment	FS	full size
EMER	emergency	FSS	finished structural slab
ENCL	enclose(ure)	FT	foot
EP	electrical panel board	FTG	footing
EQ	equal	FTS	finished topping slab
EQUIP	equipment		
EST	estimate	GA	gage, gauge
EVT	equiviscious temperature	GALV	galvanized
EW	each way	GB	grab bar or gypsum board
EWC	electric water cooler		
EX.EXIT	existing		

GC	general contractor	LAM	lamine(d)
GI	galvanized iron	LAV	lavatory
GL	glass, glazing	LBS	pounds
GLS	glass resin wall surfacing		
GP	gypsum	LH	left hand
		LL	live load
HB	hose bib	LONGIT	longitudinal
HBD	hardboard	LP	low point
HC	hollow core	LW	lightweight
HD	heavy duty		
HDR	header	MAX	maximum
HDW	hardware	MB	machine bolt
HM	hollow metal	M. MECH	mechanic(al)
HOR	horizontal	MFR	manufacture(r)
HP	high point	MH	manhole
HR	hour	Min	minimum, minute
HT	height	MISC	miscellaneous
HTG	heating	MO	masonry opening
HVAC	heating, ventilating, air conditioning	MO#	model number
		MOD	modular
HWD	hardwood	MPH	miles per hour
HWH	hot water heater	MS	machine screw
		MTL	metal
ID	inside diameter, identification	MULL	mullion
IN	inch	MWP	membrane waterproofing
INCIN	incinerator		
INCL	include(d), ion)	NAT	natural, natural finish
INT	interior	NIC	not in contract
INV	invert	NO	number
		NOM	nominal
JB	junction box	NTS	not to scale
JC	janitor's closet		
JT	joint	OA	overall
		OBS	obscure
KD	kiln dried	OC	on center(s)
KCP	Keene's cement plaster	OD	outside diameter
KO	knockout	OF	overflow
KP	kick plate	OFCI	owner furnished contractor installed
		OFOI	owner furnished owner installed
LAB	laboratory	OHMS	ovalhead machine screw

OHWS	ovalhead wood screw		
OPG	opening	SC	solid core
OPP	opposite	SCHEM	schedule
OZ	ounce(s)	SEC	section
		SF	square feet (foot)
P	paint(ed)	SHT	sheet
PB	push button	SHTHG	sheathing
PCF	pounds per cubic foot	SIM	similar
PCP	putting coat plaster	SL	sleeve
PERF	perforate(d)	SOG	slab on grade
PL	plate, property line	SPEC	specification(s)
PLAM	plastic laminate	SQ	square
PLAS	plaster	SS	storm sewer
PNL	panel	S4S	finished 4 sides
PP	push plate	SD	storm drain
PR	pair	ST	steel, street
PREP	prepare	ST ST	stainless steel
PSF	pounds per square foot	STD	standard
PSI	pounds per square inch	STR	structural
PT	point, pressure treated	SUPP	supplement
PTN	partition	SUPT	support
PVC	polyvinyl chloride	SUSP	suspended
PWD	plywood	SV	sheet vinyl
QT	quarry tile	T	tread
		TBM	top bench mark
R	rise	T&G	tongue and groove
RA	return air	TB	towel bar
RAD	radius	TC	top of curb
RCP	reflected ceiling plan	TEL	telephone
RD	roof drain	TEMP	tempered
REF	reference	THK	thickness
REFR	refrigerator	TKBD	tackboard
REINF	reinforce(ing)	TO	top of
REQ	required	TP	top of paving
RET'G	retaining	TRANS	transverse
REV	revision(s), revised	TS	top of slab
RH	right had	TV	television
RM	room	TW	top of wall
RO	rough opening	TYP	typical
RSF	resilient sheet flooring		

UNO	unless noted otherwise	W/	with
VAT	vinyl asbestos tile	W/O	without
VB	vapor barrier	WC	water closet
VCT	Vinyl Composition Tile	WD	wood, wood finish
VERT	vertical	WP	waterproof(ing)
VG	vertical grain	WNS	wainscot
VIF	verify in field	WR	water resistant
VWC	vinyl wall covering	WS	waterstop
W	width, wide, water	WW	window wall
		WWC	wood wall covering
		WWF	woven wire fabric

B. Words which may be found elsewhere in the Project Manual and Drawings are abbreviated in accordance with the standards set forth in the following table:

&	and
λ	angle
@	at
ι	diameter, round
"	inches
:	is, shall b
'	feet
ζ	perpendicular
/	per
%	percent
#	pound, number
X	by (as in 2 by 4)

END OF SECTION

SECTION 01 42 16

DEFINITIONS

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Words which may be found elsewhere in the Contract Documents are defined in accordance with the standards set forth in the following table:

Approve:

Where used in conjunction with Architect's response to submittals, requests, applications, inquiries, reports and claims by Contractor, the meaning of term "approved" will be limited to the Architect's responsibilities and duties as specified in General and Supplementary Conditions. In no case will "approval" by Architect be interpreted as a release of Contract requirements.

As Detailed, As Shown:

Where "as detailed", "as shown" or words of similar importance are used, it shall be understood that reference to the Drawings accompanying the Specifications is made unless otherwise stated.

As Directed, As Required, As Authorized, As Reviewed, As Accepted:

Where "as directed", "as required", "as authorized", "as reviewed", "as accepted" or words of similar importance are used, it shall be understood that the direction, requirement, permission, authorization, review, or acceptance of the Architect is intended, unless otherwise stated.

As Indicated:

Where "as indicated" is used it shall be understood that reference to Drawings and/or Specifications is made unless otherwise stated.

Directed, Requested, etc.:

Terms such as "directed," "requested," "authorized," "selected," will be understood as "directed by Architect," "requested by Architect," and similar phrases shall not be interpreted to extend Architect's responsibility into Contractor's responsibility for construction supervision.

Furnish:

Except as otherwise defined in greater detail the term "furnish" is used to mean supply and deliver to project site, ready for unloading, unpacking, assembly, installation, etc., as applicable in each instance.

Indicated:

The term "indicated" is a cross-reference to graphic representations, notes or schedules on drawings, to other paragraphs or schedules in the specifications and to similar means of recording requirements in Contract Documents. Where terms such as "shown," "noted," "scheduled," and "specified" are used in lieu of "indicated," it is for purpose of helping reader locate cross-reference and no limitation of location is intended except as specifically noted.

Install:

Except as otherwise defined in greater detail, the term "install" is used to describe operations at project site including unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning and similar operations, as applicable in each instance.

Installer:

The term "installer" is defined as the entity (person or firm) engaged by Contractor, or its subcontractor or sub-subcontractor for performance of a particular unit of Work at project site, including installation, erection, application and similar required operations. It is a general requirement that such entities (Installers) be expert in operations they are engaged to perform.

Provide:

Except as otherwise defined in greater detail, term "provide" means furnish and install, complete and ready for intended use, as applicable in each instance.

END OF SECTION

SECTION 01 42 19

REFERENCE STANDARDS

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Quality Assurance.
- B. Location of References.
- C. Schedule of References.

1.02 QUALITY ASSURANCE

- A. For products or quality of work specified by association, trade, or federal standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current on date of Contract Documents.
- C. General Applicability of Standards: Except where Contract Documents include more stringent requirements, applicable standards of the construction industry have the same force and effect as if bound or copied directly into Contract Documents.
- D. Such standards are made a part of the Contract Documents by reference.
- E. Individual sections indicate which codes and standards the Contractor must keep at the project site, available for reference.
- F. Referenced industry standards take precedence over standards which are not referenced but recognized in industry as applicable.
- G. Non-referenced standards are not directly applicable to the Work, except as a general requirement of whether the Work complies with standards recognized in the construction industry.

1.03 LOCATION OF REFERENCES

- A. Valley Library, Oregon State University.

1.04 SCHEDULE OF REFERENCED ASSOCIATIONS

AIA	American Institute of Architects WWW.AIA.ORG
AISC	American Institute of Steel Construction WWW.AISC.ORG
AISI	American Iron and Steel Institute WWW.STEEL.ORG
ANSI	American National Standards Institute WWW.ANSI.ORG
APA	American Plywood Association WWW.APAWOOD.ORG
ASHRAE	American Society of Heating, Refrigerating, and Air Conditioning Engineers WWW.ASHRAE.ORG
ASTM	American Society for Testing and Materials WWW.ASTM.ORG
AWPA	American Wood Protection Association WWW.AWPA.COM
AWS	American Welding Society WWW.AWS.ORG
BIA	Masonry Institute of America WWW.MASONRYINSTITUTE.ORG
BOLI	Oregon Bureau of Labor and Industries WWW.BOLI.STATE.OR.US
CCB	Construction Contractors Board WWW.OREGON.GOV.CCB/
CDA	Copper Development Association WWW.COPPER.ORG
CISPI	Cast Iron Soil Pipe Institute WWW.CISPI.ORG
CSI	Construction Specification Institute WWW.CSINET.ORG

DEQ	Department of Environmental Quality (Oregon) WWW.OREGON.GOV/DEQ/
DHI	Door and Hardware Institute WWW.DHI.ORG
DOT	Department of Transportation WWW.DOT.GOV
EPA	U.S. Environmental Protection Agency WWW.EPA.GOV
FM	Factory Mutual System WWW.FMGLOBAL.COM
FS	Federal Specification General Services Administration Specifications and Consumer Information Distribution Section (WFSIS) WWW.GSA.GOV/PORTAL/CONTENT/103856
IBC	International Building Code WWW.ICCSAFE.ORG
ICBO	International Conference of Building Officials PUBLICCODES.CITATION.COM/ICOD/IBG/INDEX.HTM
IRS	Internal Revenue Service WWW.IRS.GOV
ISA	Instrumentation Systems and Automation Society WWW.ISA.ORG
NAAMM	National Association of Architectural Metal Manufacturers WWW.NAAMM.ORG
NBFU	National Board of Fire Underwriters WWW.NFPA.ORG
NEC	National Electric Code WWW.NECPLUS.ORG
NEMA	National Electrical Manufacturers' Association WWW.NEMA.ORG
NESC	National Electrical Safety Code WWW.IEEE.ORG

NFPA	National Fire Protection Association WWW.NFPA.ORG
NRCA	National Roofing Contractors' Association WWW.NRCA.NET
OAR	Oregon Administrative Rules ARCWEB.SOS.STATE.OR.US/404.HTML
OESP	State of Oregon Electrical Specialty Code http://www.bcd.oregon.gov/programs/online_codes.html
ORS	Oregon Revised Statutes LANDRU.LEG.STATE.OR.US/ORS/
OSHA	Occupational Safety and Health Administration WWW.OSHA.GOV
OSSC	Oregon Structural Specialty Code http://www.bcd.oregon.gov/programs/online_codes.html
PS	Product Standard STANDARDS.GOV/STANDARDS.CFM
SDI	Steel Door Institute WWW.STEELDOOR.ORG
SMACNA	Sheet Metal and Air Conditioning Contractors' National Association WWW.SMACNA.ORG
SPRI	Single Ply Roofing Institute WWW.SPRI.ORG
SSPC	Steel Structures Painting Council WWW.SSPC.ORG
SWRI	Sealing, Waterproofing and Restoration Institute WWW.SWIRONLINE.ORG
UBC	Uniform Building Code (See ICBO)
UFC	Uniform Fire Code WWW.NFPA.ORG
UL	Underwriters' Laboratories, Inc. WWW.UL.COM

UMC	Uniform Mechanical Code WWW.UBC.COM
UPC	Uniform Plumbing Code WWW.UBC.COM
WHL	Warnock Hersey Laboratories WWW.INTEK.COM/MARKS/WH/
WCLIB	West Coast Lumber Inspection Bureau WWW.WCLIB.ORG
WWPA	Western Wood Products Association WWW.WWPA.ORG

END OF SECTION

SECTION 01 45 00

QUALITY CONTROL

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Codes, regulations and permits.
- B. Procedures for quality control.

1.02 OWNER RESPONSIBILITIES

- A. Owner will employ and pay for services of an independent testing laboratory to perform inspection, sampling and testing as required by local building authority.
- B. Owner's Authorized Representative will provide on-site observation during construction.

1.03 CODES, REGULATIONS AND PERMITS

- A. All Work shall conform with the Oregon Structural Specialty Code (OSSC) based on the International Building Code (IBC), as amended by the State of Oregon Building Codes Division and the edition designated by the governing authority.
- B. Contractor shall comply with all applicable state and local construction codes.
- C. References to codes, Specifications and standards referred to in the Contract Documents shall mean, and are intended to be, the latest edition, amendment or revision of such reference standard in effect as of the date of these Contract Documents.
- D. The Owner shall be responsible for all permits and City of Corvallis plan review fees; the Contractor shall be responsible for all licenses and associated fees required for the Project.
- E. Contractor shall arrange and attend all required permit inspections and furnish evidence of approved City inspection reports per Section 01 77 00.

1.04 QUALITY OF WORK

- A. It is the true and specific intent of these Specifications that quality of Work on all phases of the construction and embracing all the trade sections shall be of high quality performed by workers skilled in their trade and performing their Work only according to the standard of best practice of the trade.
- B. All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with manufacturer's directions unless otherwise specified.
- C. If Work is required in a manner to make it impossible to produce first quality Work, or

should discrepancies appear among Contract Documents, request interpretation from Architect before proceeding with Work.

- D. Failure to secure interpretation may cause rejection by Architect or owner of installation.

1.05 LAYOUT

- A. Be responsible for properly laying out the Work and for lines and measurements for the Work.
- B. Verify the figures shown on the drawings before laying out the Work and report errors or inaccuracies to the Architect before commencing Work.
- C. Strict compliance with maximum slopes is required. Accessible parking spaces and adjacent access aisles with slope exceeding 2% in any direction, as determined by OSU, shall be removed and replaced by the contractor at their expense.
- D. Strict compliance with maximum slopes is required. New sidewalks exceeding 1:20 slope or with cross slope exceeding 2%, as determined by OSU, shall be removed and replaced by the contractor at their expense. Ramps exceeding 1:16 slope or with cross slope exceeding 2%, as determined by OSU, shall be removed and replaced by the contractor at their expense.

1.06 SUPERVISION

- A. The Contractor shall maintain effective supervision on the project at all times Work is being performed.
- B. The superintendent shall be the same person throughout the project and shall attend the preconstruction conference.

1.07 INSPECTIONS AND TESTING

- A. Contractor shall notify the Owner at least twenty-four (24) hours in advance of any required progress inspection or final inspection including final punch list inspection.
- B. Cooperate with laboratory personnel, provide access to Work and furnish incidental equipment material and labor required for field testing and sample taking.

1.08 EVALUATION OF TESTS AND INSPECTIONS

- A. Results of laboratory and/or field control tests and inspections shall be the principal basis upon which satisfactory completion of Work shall be judged.
- B. If results of tests and inspections indicate Work is below requirements of Contract Documents, that portion of Work is subject to rejection.

1.09 ADJUSTMENTS

- A. Remove and replace Work so rejected at Contractor's expense including costs of subsequent tests and inspections until Work meets requirements of Contract

Documents.

- B. The Owner reserves the right to perform any testing as may be required to determine compliance with the Contract Documents.
- C. Costs for such testing will be the Owner's responsibility unless testing indicates noncompliance. Cost for such testing indicating noncompliance shall be borne by the Contractor.
- D. Noncomplying Work shall be corrected and testing will be repeated until the Work complies with the Contract Documents.
- E. Contractor will pay costs for retesting noncomplying Work.

END OF SECTION

SECTION 01 51 00

CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. This Section specifies requirements for temporary services and facilities, including utilities, construction and support facilities, security and protection.

1.02 REQUIREMENTS OF REGULATORY AGENCIES

- A. Regulations: Comply with industry standards and applicable laws and regulations of authorities having jurisdiction.
- B. Standards: Comply with NFPA Code 241, "Building Construction and Demolition Operations", ANSI-A10 Series standards for "Safety Requirements for Construction and Demolition".
- C. Electrical Service: Comply with NEMA, NEC and UL standards and regulations for temporary electric service; install service in compliance with National Electric Code (NFPA 70).
- D. Inspections: Arrange for authorities having jurisdiction to inspect and test each temporary utility before use; obtain required certifications and permits if required.

1.03 PROTECTION

- A. Protect sidewalks, asphalt paving, concrete, trees, shrubs, and lawn areas at all times from damage resulting from construction activities.
- B. Prevent materials from clogging catch basins and yard drains; leave drains clean and in proper working condition.
- C. Protect Existing Irrigation Systems:
 - 1. In the event damage occurs to an underground irrigation system as a direct result of a Contractor's activities, the Contractor shall repair/replace or be assessed a charge at the discretion of the Owner.
 - 2. If repairs are to be made by the Contractor, the repairs will be inspected by the Owner's Authorized Representative prior to backfilling.
 - 3. Any galvanized pipe that requires repair shall be repaired at a threaded coupling, not by use of a compression coupling.
- D. Protect Existing Air Handling Systems:
 - 1. Contractor shall be responsible for protection of the cleanliness of the existing air handling system at all times. This protection shall include:
 - a. During site work or building demolition, prefilters shall be provided and maintained on all building outside air intakes at all times throughout the

- construction duration.
- b. During any interior work that may create dust in the interior space and adjacent corridor/hallways, air filters shall be provided and maintained on all affected air return and exhaust grilles. Where air flow in or out of the space is not required, all air duct openings shall be temporarily blanked off with plywood or sheet metal.
 - c. Prior to starting any work, the Contractor shall record and submit to the Owner's Authorized Representative, pressure readings across all existing air handler air filter banks before installation of new prefilters.
 - d. Upon completion of all Work affecting existing air handling systems, the Contractor shall remove all temporary filters, covers and associated parts and restore the system to its original operating condition unless otherwise stated elsewhere in the Contract Documents
- E. Clean, repair, resurface, or restore existing surfaces to their original, or better, condition, or completely replace such surfaces to match existing, where damaged by construction operations.
- F. Security is the responsibility of the Contractor.
- G. Construction Debris:
- 1. Debris shall not be allowed to remain around the buildings during performance of Work, but shall be disposed of as rapidly as it accumulates.
 - 2. On completion of Work, the buildings and grounds shall be left in a condition that is equal to or better than original condition.
 - 3. In case of failure to do so, the Owner may remove rubbish and charge the cost to the Contractor.
- H. The Contractor shall manage a safe job environment for both the safety of all the people around the Work site as well as the safety of the Owner's and general public's property.
- I. The Contractor shall provide and maintain suitable barricades, shelters, lights, and danger signals during the progress of the Work; they shall meet the requirements of the local building code and OSHA.

1.04 DRAINAGE

- A. Verify that all rain drains in the construction areas are in working order and notify the Owner's Authorized Representative in writing of any rain drains that are plugged, prior to the start of the Work.
- B. Start of Work will be considered as acknowledgment that all drains are clear and in good working order.
- C. All drains shall be left in a clean and proper working condition.

1.05 CONSTRUCTION PROJECT SAFETY FORM

UHDS DINING SUPPORT FACILITY CMGC SERVICES
JANUARY 2025

- A. Contractor shall submit to the Owner, prior to signing the Contract, the completed "Construction Project Safety Form", which is provided with instructions at the end of this Section.

1.06 TEMPORARY UTILITIES

- A. Temporary Utilities:
 - 1. Prepare a schedule indicating dates for implementation and termination of each temporary utility.
 - 2. At the earliest feasible time, when acceptable to the Owner, change over from use of temporary service to use of the permanent service.
- B. Conditions of Use:
 - 1. Keep temporary services and facilities clean and neat in appearance.
 - 2. Operate in a safe and efficient manner.
 - 3. Take necessary fire prevention measures.
 - 4. Do not overload facilities or permit them to interfere with progress.
 - 5. Do not allow hazardous, dangerous or unsanitary conditions, or public nuisances to develop or persist on the site.
- C. Electrical Service:
 - 1. Service limited to 20 amp 120V circuits will be paid for by the Owner.
 - 2. Connection to the service shall be the responsibility of the Contractor, with the Owner's approval.
 - 3. Coordinate with the Owner's Authorized Representative.
- D. Water Service:
 - 1. Service in reasonable quantities for the Project will be paid for by the Owner.
 - 2. Connection to the service shall be the responsibility of the Contractor, with the Owner's approval.
 - 3. Coordinate with the Owner's Authorized Representative.

1.07 TEMPORARY SUPPORT FACILITIES

- A. Temporary Sanitary Facilities:
 - 1. Provide and maintain an adequate number of facilities for the use of all persons employed on the Work during construction.
 - 2. Provide enclosed, weatherproof facilities with heat as required.
 - 3. Use of new or existing Owner's facilities will not be permitted.
- B. Temporary Heat and Ventilation:
 - 1. As necessary, provide temporary heat and ventilation required by construction activities, for curing or drying of completed installations or protection of installed construction from adverse effects of low temperatures or high humidity. Select safe equipment that will not have a harmful effect on completed installations or elements being installed. Coordinate ventilation requirements to produce the

ambient condition required and minimize consumption of energy.

- C. Telephone Equipment: Provide telephone communications at project site.
- D. Existing Services:
 - 1. Do not interrupt any existing service.
 - 2. Prior request and approval of the Owner's Representative will enable the Owner to shut down any utility required by the Work.
 - 3. Contractor shall not shut down utilities.

1.08 TEMPORARY BARRIERS AND ENCLOSURES

- A. Provide barriers and fencing to prevent unauthorized entry to construction areas and to protect existing facilities and adjacent properties from damage.
- B. Provide Commercial grade chain link fence construction.
- C. Provide 6 foot high fence around construction site as directed by Owner's Authorized Representative; equip with vehicular and pedestrian gates with lock.
- D. Exterior Closures: Provide temporary secured, weather-tight closures at exterior openings, to permit acceptable working conditions and protection of the Work.
- E. Interior Closures:
 - 1. Provide temporary floor to ceiling partitions (not plastic sheeting) and ceilings as required to separate work areas from Owner occupied areas, to prevent penetration of dust and moisture into Owner occupied areas, to reduce construction noise, and to prevent damage to existing materials and equipment.
 - 2. Paint surfaces exposed to view from Owner occupied areas.

1.09 ODORS

- A. Work that causes excessive odors shall be performed only after coordination with the Owner's Authorized Representative. Filtering of air intakes to units may be required to prevent odors and vapors from entering the buildings.
- B. Contractor shall provide 7 days advance notice to the Owner's Authorized Representative in order for advance notice to be forwarded to building occupants. Work stoppage may occur if advance notification has not been coordinated or odors and vapors from the work are found to generate complaints from building occupants.

1.10 FIRE SAFETY

- A. Ensure that required exit routes remain unobstructed while building is occupied.
- B. Abide by all fire safety requirements for buildings under construction, alteration or demolition as required by Article 87, of the Uniform Fire Code as adopted by the State of Oregon.
- C. An emergency telephone shall be provided on site. Cellular telephone equipment is acceptable.

D. Fire Suppression Equipment:

1. Install and maintain temporary fire protection facilities of the types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 10 "Standard for Portable Fire Extinguishers", and NFPA 241 "Standard for Safeguarding Construction, Alterations and Demolition Operations".
2. Maintain equipment in working condition with current inspection certificate attached to each.
3. Locate fire extinguishers where convenient and effective for their intended purpose, but not less than one extinguisher on each floor at or near each usable stairwell.
4. Store combustible materials in containers in fire-safe locations.
5. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire protection facilities, stairways, and other access routes for fighting fires.
- 6.
6. Provide continual supervision of welding operations, combustion type temporary heating units, and similar sources of fire ignition.
7. When possible, relocate hot work to a designated hot work area.
8. If the materials or equipment cannot be relocated to a designated hot work area, use the least hazardous form of hot work that will get the job done and prepare the area properly.
9. Manage mobile hot work using the formal hot work permit system. (mentioned in the next bullet point and also a directive in the OSU Hot Work Safety Program)
10. Make sure both fire protection and hot work equipment work properly.
11. Train all personnel involved in hot work operations and activities so that they have the understanding, knowledge, and skills necessary to safely perform their jobs.

1.11 CONSTRUCTION AIDS

- A. Scaffolding: comply with applicable OSHA requirements.
- B. Material Handling Equipment:
 1. Provide necessary cranes, hoists, towers, or other lifting devices.
 2. Use only experienced operators.
 3. Remove equipment as soon as possible after task is ended.
 4. Coordinate placement of such equipment with Owner's Authorized Representative.
 5. Obtain required permits and meet requirement of governing authorities regarding applicable regulations.
- C. Materials or debris shall not be allowed to free fall from building.
- D. The use of chutes or conveyors must be approved by Owner.

1.12 TEMPORARY CONTROLS

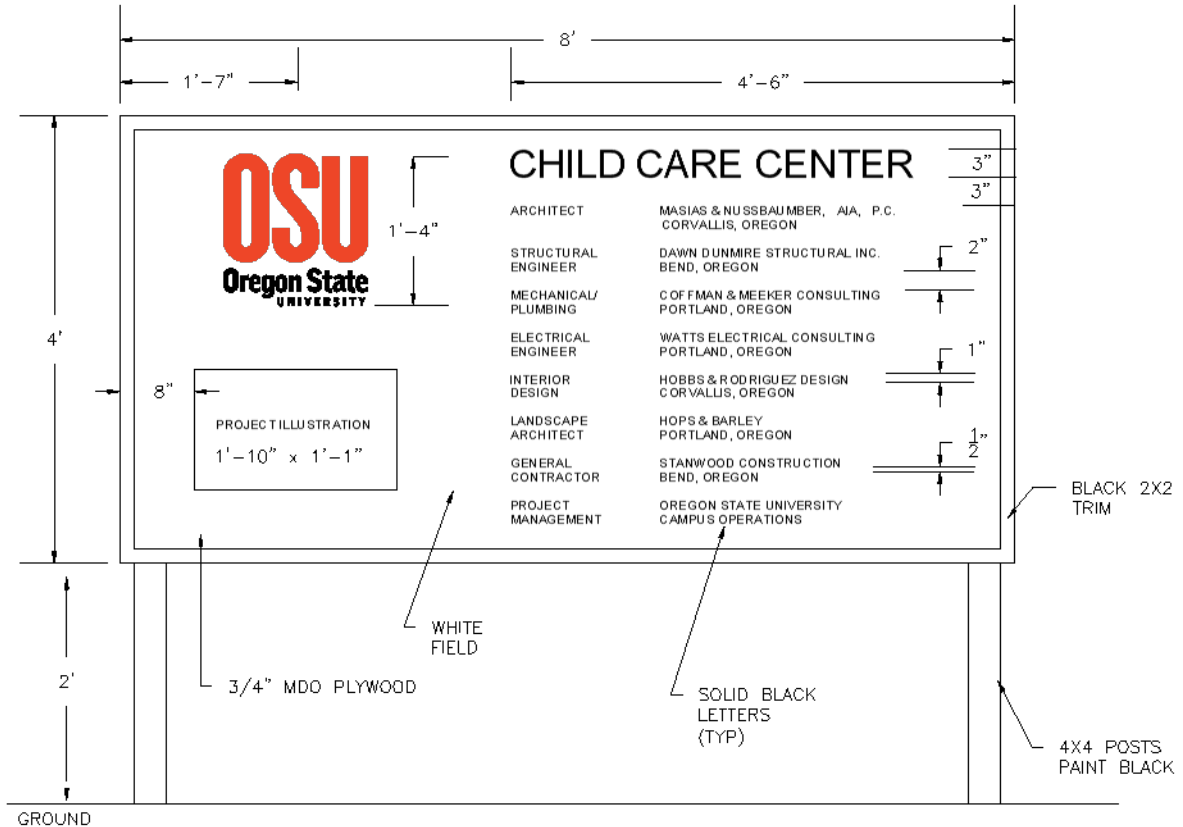
- A. Water Control:

1. Maintain excavations free of water.
 2. Provide, operate, and maintain necessary pumping equipment.
- B. Protection:
1. Protect installed Work and provide special protection where specified in individual specification sections.
 2. Prohibit traffic or storage upon waterproofed or roofed surfaces.
- C. Security:
1. Provide security and facilities to protect Work and existing facilities and Owner's operations from unauthorized entry, vandalism, or theft.
 2. Coordinate operations with Owner's Authorized Representative.
- D. Temporary Traffic Control /Pedestrian Accessibility
1. A continuous route for all pedestrians, including persons with disabilities and bicyclists, shall be maintained at all times. When existing pedestrian facilities are disrupted, closed, or relocated in a construction zone, temporary pedestrian facilities shall be provided.
 2. Temporary pedestrian facilities should be safe and accessible. There should be no curbs or abrupt changes in grade that could cause tripping or be a barrier to wheelchair use.
 3. Signage shall be provided directing people to the temporary accessible route. The signage shall include the International Symbol of Accessibility.
 4. Contractors shall not block temporary walkways with vehicles, equipment, construction materials, signs, trash, or other objects that might prohibit pedestrian passage.
 5. Construction equipment and equipment operation must be separated from any open walkways. At construction zones, pedestrian fences or other protective barriers shall be provided to prevent access into the construction zone.

1.13 PROJECT SIGNAGE

- A. Contractor is permitted to post only one project identification sign based on the following example:

OSU TYPICAL JOB SIGN



1.14 PREPARATION

- A. Consult with Owner to review jobsite areas required for field offices, material storage and stockpiles, equipment storage, access to different locations, etc.

1.15 PERFORMANCE

- A. Confine equipment, apparatus, and storage of material to work limits. The Owner will not be responsible for protection of materials and equipment from damage, pilfering, etc.
- B. Install temporary facilities in such a manner that the installed work will not be damaged.
- C. Do not use facilities of existing building unless authorized in writing by the Owner.
- D. Effective September 1, 2012, OSU became a non-smoking campus and smoking is prohibited on all Campus property.
- E. Keep facilities well maintained.

- F. Relocate temporary facilities as required during job progress.
- G. At Substantial Completion, clean and renovate permanent facilities that have been used during the construction period, including but not limited to:
 - 1. Replace air filters and clean inside of ductwork and housings.
 - 2. Replace significantly worn parts and parts that have been subject to unusual operating conditions.
 - 3. Replace lamps that are burned out or noticeably dimmed by substantial hours of use.

END OF SECTION

Oregon State University Construction and Maintenance Safety Requirements

EH&S, 130 Oak Creek Building, Corvallis, OR 97331-7405, (541) 737-2505,
FAX (541) 737-9090

Complete OSU Construction and Maintenance Safety Form - Send completed documents (including Site Safety Plan and all separate answer pages) to Construction Contract Administration along with the signed contract and bonds.

Project Isolation - All construction and remodeling activities regardless of size and/or scope must be fenced, barricaded, or otherwise protected to restrict entrance and to ensure the safety of those in the general area. See isolation requirements.

Site Safety Plan - A site safety plan will be required and will address:

- General Information
- Emergency Information
- Key Organization Personnel
- Hazard Evaluation/Facility Impact
- Emergency Procedures
- Work Zones
- Security Measures
- Fire Protection

A model plan is attached. This form can be used if another plan has not already been prepared. Contact OSU Environmental Health & Safety for more information 737-2505.

Isolation Requirements

General: All construction, maintenance, and remodeling activities, regardless of size or scope, must be fenced, barricaded, or otherwise isolated to restrict entrance and to ensure the safety of those in the general area.

Outdoor Activities: Outdoor projects require the following perimeter isolation:

- A six foot chain-link fence, with controlled access points, extending in all directions around the excavation or building site such that no area of the construction is accessible to pedestrians or unauthorized personnel or vehicles.
- Isolation area will include vehicle loading and unloading areas.
- At the University's option, other barricading plans may be accepted. These may apply to projects such as road resurfacing, parking lot striping, exterior building water proofing, deliveries, etc. Contact EH&S regarding other barricading plans.

Overnight: Any excavation across or adjacent to sidewalks or pathways which must be left open overnight, must be identified with working, blinking construction lights in addition to solid barricades

Indoor Activities: Indoor construction or maintenance projects which will create dust, potentially hazardous fumes or vapors, or offensive odors are subject to the following isolation:

- Areas where existing doors can provide isolation will be labeled "Construction Area--Authorized Personnel Only".

- All other areas will be isolated by a solid barrier. The minimum barrier allowed is 4 mil poly sheeting sealed to prevent migration of dust.
- Mechanical ventilation may be required.
- A solid wall is required if building envelope is opened to the outside.

Contractor Responsibilities

- The contractor will provide all barricading, isolation, and fencing material. OSU will not provide any materials.
- The contractor will also provide all appropriate warning and detour signs when sidewalks, exits, or roads are closed.
- Contractor will provide all other construction area signs.

OSU Construction and Maintenance Safety Form

Send completed safety documents to Construction Contract Administration with contract and bonds.

Date: _____ Project: _____

Start Date: _____ Completion date: _____

Contractor: _____ Contact: _____

Work # _____ 24 hr #: _____

OSU Project Mgr: _____ Work / 24hr #'s: _____

Dept Contact: _____ OSU EH&S Contact: _____

Preconstruction meeting? **Y N** Date/Time/Location: _____

For the following items, prepare answers on a separate sheet for all items marked "Yes". Precede each answer with the appropriate item number. All boxes need to be checked

Y	N	For This Project	If YES, then:
		1 Will any confined spaces be accessed?	Describe location of entry Specify location of permit Notify EH&S prior to entry See SAF 209
		2 Will hot work be performed (welding, cutting, brazing, etc.)?	Provide min. 5# 2A10BC extinguisher within 10 ft If indoors - provide and describe ventilation See SAF 214
		3 Any products brought to campus?	Provide MSDS on site prior to first use; Make available to OSU on request
		4 Will lead paint be impacted?	Describe plan to limit contamination
		5 Will asbestos-containing-material be impacted?	Coordinate with OSU asbestos manager
		6 Will <u>any</u> materials (construction debris, soil, water, etc) be removed from campus?	Describe in detail identity and disposition of material (how, where)
		7 Any open trenches or holes?	Describe isolation procedures (see Page 1)
		8 Will a crane be used?	Describe crane safety plan (include plan to prevent loads above occupied areas)
		9 Is this project building a new facility, a major remodel?	Provide Site Safety plan Describe isolation procedures (see Page 1)
		10 Is this a minor remodeling project?	Provide, or fill out model Site Safety Plan form (see Page 3) Describe isolation procedures (see Page 1)
		11 Will air contamination be produced (e.g. dust, CO, solvent vapors, VOCs, odors)?	Describe project ventilation and isolation Indicate position of building air intake(s)
		12 Will there be noise > 85 dB?	Describe noise minimization plan
		13 Will this project use a scaffold or an external chute?	Describe isolation, dust control, installation
		14 Will this project involve a working surface >6' above a lower level	Describe fall protection
		15 Will any "blind" saw-cuts or penetrations be made in existing foundations, floors, ceilings and/or walls?	Describe plan for detecting and protecting power lines or other building utility lines.

EH&S Review: _____ Date: _____

Model Site Safety Plan

1. General Information

Contractor name _____
 Address _____
 City, State, Zip _____
 Site Safety Officer _____ Project Dates _____
 Project Name _____

2. Emergency Information

Emergency Response	911	OSU EH&S and OSU Facilities Services must be notified in the event of an emergency
Hazardous Materials Spill		
MSDS on-site location		
OSU EH&S	(541) 737-2505	
Facilities Services	(541) 737-2969	

3. Contractor Key Personnel

	Name	Phone	Emergency Contact
Company Owner			
Project Manager			
Job Supervisor			
Site Safety Officer			
Other Responsible Individual			
24 Hour Notification			

List of employees on site _____

4. Hazard Evaluation/ Facility Impact	
Physical	Yes / No
Heavy Equipment	
Noise	
Heat	
Elevation	
Radiation Materials	
Excavations	
Underground Utilities	
Confined Spaces	
Fire Prevention	
Electrical	

5. Emergencies
Services
Evacuation Route
First Aid Location
Hazardous Materials Spill Procedure

6. Work Zones

Material Storage _____
 Parking locations _____
 Individuals with OSU keys _____
 Access issues _____

7. Security measures

8. Fire protection

SECTION 01 56 39

TREE AND PLANTING PROTECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Section includes temporary fencing, barricades, and guards to protect trees, plants and groundcovers not indicated to be removed, as necessary and required to prevent damage above and below grade.

1.02 DEFINITIONS

- A. Dripline: Outer perimeter of branches of any tree or plant.
- B. Groundcover: Includes but not limited to plants and grass.

1.03 PERFORMANCE REQUIREMENTS

- A. The Contractor shall exercise utmost care to protect existing trees and plants designated to remain and shall comply with all protection requirements provided by Owner and City of Corvallis as conveyed through the Owner's Authorized Representative.
- B. The Contractor shall install tree protection fencing as detailed and shall prevent damage to shrubs, groundcover, trees, root systems, soil, bark, foliage, branches and limbs due to construction activities, including but not limited to:
 - 1. Soil contamination, erosion, and compaction.
 - 2. Excessive wetting, and ponding due to storm water, and construction run-off.
 - 3. Alteration of grade, stockpiling of soil, debris, and materials.
 - 4. Damage to soil, roots, bark, trunk, limbs, branches, and foliage.
 - 5. Prevent unauthorized cutting, breaking, skinning and bruising of roots, branches, and bark.

1.04 SUBMITTALS

- A. Procedural proposal for tree and plant protection, describe methods of protection, and stabilization, provide drawings and supporting documentation as directed.
- B. Contractor's Condition Inspection; include written report and color photographs.

1.05 PROJECT CONDITIONS

- A. Install protection during initial mobilization at the Work site, and maintain until substantial completion.
- B. If, in the opinion of the Owner's arborist, additional protection is required, the Contractor shall install additional fencing as directed and without cost to the Owner.
- C. The location and requirements for additional fencing shall be determined by the

Owner's arborist prior to, and at any time during the course of the Work.

- D. Fencing:
 - 1. Fencing shall be installed at the tree and plant protection areas as detailed on Plans, or as directed by the Owner's Authorized Representative.
 - 2. Tree and plant protection fences shall remain in place until all Work is completed and shall not be removed or relocated without the approval of the Owner's Authorized Representative.
- E. Driving and Parking:
 - 1. Not permitted off paved surfaces without the approval of the Owner's Authorized Representative.
 - 2. When approved, the Contractor shall place plywood of sufficient thickness and width to support vehicles and prevent rutting on the area to be driven on.
 - 3. Care shall also be taken with respect to existing lawn sprinkler systems.
- F. Storage of materials and Debris: Not permitted off paved surfaces.

PART 2 PRODUCTS

2.01 MANUFACTURED COMPONENTS

- A. Chain Link Fencing: 11 gage galvanized chain link, six feet tall, and 1.5 inch inside diameter galvanized steel line posts and 2.5 inch inside diameter corner posts, provide lockable gates as necessary.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verification of Conditions: Inspect trees, plants, and groundcovers, document existing conditions prior to installation of protection.

3.02 EXECUTION

- A. Pruning and Cutting of Roots, Branches and Foliage:
 - 1. Review conditions with Architect or Owner prior to need for work, and proceed as directed.
 - 2. All pruning to be done by Owner's landscape maintenance personnel or ISA Certified arborist under the direction of Owner's Landscape Management Department.
 - 3. Perform pruning and cutting with sharp instruments intended for the purpose; do not break or chop.
- B. Root Cuttings:

1. Carefully and cleanly cut roots and branches of trees indicated to be left standing where such roots and branches obstruct new construction.
 2. Protect exposed roots with wet burlap until they can be covered with soil.
- C. Excavation and Trenching Within Drip Lines:
1. Permitted where indicated, and at other specifically approved locations.
 2. Tunnel under or around roots by hand digging or boring.
 3. Do not cut main lateral roots and tap roots over one inch diameter; cut smaller roots which interfere with installation of new Work.
 4. Do not allow exposed roots to dry out before permanent backfill is placed; provide temporary earth cover, or pack with peat moss and wrap with burlap.
 5. Water and maintain roots in moist condition and temporarily support and protect from damage until permanently relocated and covered with backfill.
- D. Existing Grading: Maintain within drip line of trees and plants unless otherwise indicated on the drawing and approved by the Owner's Authorized Representative.
- E. Tree Protection:
1. Provide temporary fence complying with Section 01 51 00 for protection of trees to remain.
 2. Extend fencing ten feet beyond dripline, except where greater distance is required for protection of Elm trees.
 3. Prevent entry into protected areas except as authorized in writing by the Owner's Authorized Representative.

3.03 REPAIR AND REPLACEMENT OF TREES AND PLANTS

- A. Repair trees or shrubs damaged by construction operations as directed by the Owner.
- B. Make repairs promptly after damage occurs to prevent progressive deterioration of damaged trees.
- C. Damaged Trees, Shrubs and Groundcover:
1. Replace where Owner's Authorized Representative determines restoration to normal growth pattern is not possible; plant and maintain as directed.
 2. Replacement trees up to 13 inches caliper and shrubs up to 4 feet tall: Same size as damaged tree or shrub, species selected by the Owner's Authorized Representative.
 3. Trees over 13 inch caliper and shrubs greater than 4 feet tall: Compensate Owner as determined by an acceptable consulting arborist registered with the American Society of Consulting Arborists.
 4. Replacement groundcovers: Same size and quality as damaged species selected by Owner's Authorized Representative.

END OF SECTION

SECTION 01 60 00

PRODUCT REQUIREMENTS

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Summary:
 - 1. Product options.
 - 2. Owner-furnished products.
 - 3. Product delivery, storage and handling.

1.02 PRODUCTS

- A. Products:
 - 1. New material, machinery, components, equipment, fixtures, and systems forming the Work, but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work.
 - 2. Products may also include existing materials or components specifically identified for reuse.
- B. Use interchangeable components of the same manufacture for similar components.
- C. Unless otherwise specified, all material and equipment shall be new; free from defects impairing strength, durability, and appearance; of current manufacture.
- D. Items specified shall be considered minimum as to quality, function, capacity, and suitability for application intended.
- E. Items incorporated into the Work shall conform to applicable specifications and standards designated, and shall be of size, make, type, and quality specified.
- F. Design, fabricate, and assemble in accordance with current best engineering, industry, and shop practices.
- G. Manufacture like parts of duplicate units to standard size and gauge to make them interchangeable.
- H. Two or more items of the same kind shall be identical and made by the same manufacturer.

1.03 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named.
- C. Products Specified by Naming One [or More] Manufacturer[s]: Products of manufacturer[s] named and meeting specifications, no options or substitutions

allowed.

D. Substitution Procedure: Under Section 01 25 00.

1.04 REUSE OF EXISTING PRODUCTS

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

1.05 OWNER FURNISHED PRODUCTS

- A. Designate delivery dates of Owner-furnished items in the construction schedule.
- B. Receive, unload, store and handle Owner-furnished items at the site; protect from damage.

1.06 DELIVERY, STORAGE AND HANDLING

- A. Transport, handle, store and protect products in accordance with manufacturer's instructions.
- B. Arrange deliveries in accordance with construction schedules; coordinate to avoid conflict with Work and site conditions.
- C. Deliver and store products in undamaged condition in manufacturer's original containers or packaging with identifying labels intact and legible.
- D. Inspect shipments to assure compliance with Contract Documents and reviewed submittals, and that products are undamaged.
- E. Prevent soiling or damage to products or packaging.
- F. Interior Storage: Maintain required temperature and humidity ranges. Verify that Owner furnished storage meets product manufacturer's requirements.
- G. Exterior Storage:
 - 1. Store materials above ground to prevent soiling and/or moisture infiltration.
 - 2. Cover materials with waterproof breathable sheet coverings; provide adequate ventilation.
 - 3. All storage locations to be approved in advance by the Owner.
- H. Arrange storage to provide access for inspection.

- I. Coordinate with Owner's Authorized Representative all on-site storage activities.
- J. Provide for security of stored products.

END OF SECTION

SECTION 01 73 29

CUTTING AND PATCHING

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Requirements and limitations for cutting and patching of Work.

1.02 RELATED SECTIONS

- A. Section 01 25 00, Product Substitution Procedures.
- B. Section 01 33 23, Shop Drawings, Product Data, Samples

1.03 SUBMITTALS

- A. Submit written request in advance of cutting or alteration which affects:
 - 1. Structural integrity of any element of the Work.
 - 2. Efficiency, maintenance, or safety of any operational element.
 - 3. Visual qualities of sight exposed elements.
 - 4. Work of Owner or separate contractor.
- B. Include in request:
 - 1. Identification of project.
 - 2. Location and description of affected work.
 - 3. Necessity for cutting or alteration.
 - 4. Description of proposed work, and products to be used.
 - 5. Alternatives to cutting and patching.
 - 6. Effect on work of Owner or separate contractor.
 - 7. Written permission of affected separate contractor.
 - 8. Date and time work will be executed.

PART 2 PRODUCTS

2.01 MATERIALS

- A. Primary Products: Those required for original installation.
- B. Product Substitution: For any proposed change in materials, submit request for substitution under provisions of Section 01 25 00.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Inspect existing conditions prior to commencing Work, including elements subject to

damage or movement during cutting and patching.

- B. After uncovering existing work, inspect conditions affecting performance of Work.
- C. Beginning of cutting or patching means acceptance of existing conditions.

3.02 PREPARATION

- A. Provide temporary supports to ensure structural integrity of the Work.
- B. Provide devices and methods to protect other portions of the Work from damage.
- C. Provide protection from elements for areas which may be exposed by uncovering work.

3.03 CUTTING AND PATCHING

- A. Execute cutting, fitting and patching to complete work.
- B. Fit products together, to integrate with other work.
- C. Remove and replace defective or non-conforming work.
- D. Provide openings in the work for penetration of mechanical and electrical work.

3.04 PERFORMANCE

- A. Execute work by methods to avoid damage to other Work, and which will provide appropriate surfaces to receive patching and finishing.
- B. Cut rigid materials using masonry saw or core drill. Pneumatic tools are not allowed without prior approval from Owner's Authorized Representative.
- C. Restore work with new products in accordance with requirements of Contract Documents.
- D. At penetrations of fire rated walls, partitions, ceiling or floor construction, completely seal voids with approved fire rated material, to full thickness of the penetrated element.
- E. Refinishing:
 - 1. Refinish surfaces to match adjacent finish.
 - 2. For continuous surfaces, refinish to nearest intersection or natural break.
 - 3. For an assembly, refinish entire unit.

END OF SECTION

SECTION 01 74 00

CLEANING

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Related requirements specified elsewhere, cleaning for specific products or work: Specification section for that work.
- B. Maintain premises and public properties free from accumulations of waste, debris, and rubbish, caused by operations.
- C. At completion of Work remove waste materials, rubbish, tools, equipment, machinery and surplus materials, and clean all sight-exposed surfaces; leave project clean and ready for occupancy.

1.02 QUALITY ASSURANCE

- A. Standards: Maintain project in accord with applicable safety and insurance standards.
- B. Hazard Control:
 - 1. Store volatile wastes in covered metal containers.
 - 2. Provide adequate ventilation during use of volatile or noxious substances.

1.03 MATERIALS

- A. Use only cleaning materials recommended by manufacturer of surface to be cleaned.
- B. Use cleaning materials only on surfaces recommended by cleaning material manufacturer.

1.04 DURING CONSTRUCTION:

- A. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- B. At reasonable intervals during progress of Work clean site and public properties, and dispose of waste materials, debris and rubbish.
- C. Provide on-site containers for collection of waste materials, debris and rubbish.
- D. Remove waste materials, debris and rubbish from site and legally dispose of at public or private dumping areas off Owner's property.
- E. Vacuum clean interior building areas when ready to receive finish painting, and continue vacuum cleaning on an as-needed basis until project is ready for Substantial Completion or occupancy.
- F. Handle materials in a controlled manner with as few handlings as possible; do not drop or throw materials from heights.

1.05 FINAL CLEANING

- A. Employ experienced workers, or professional cleaners, for final cleaning.
- B. In preparation for Substantial Completion or occupancy, conduct final inspection of sight-exposed interior and exterior surfaces, and of concealed spaces.
- C. Remove grease, dust, dirt, stains, labels, and other foreign materials from exposed interior and exterior finished surfaces.
- D. Remove putty, paint, labels, lubricants, etc., from windows, mirrors, and sash, and then polish, taking care not to scratch glass.
- E. Vacuum carpeting (shampoo where required), removing debris and excess nap.
- F. Repair, patch and touch up marred surfaces to specified finish, to match adjacent surfaces.
- G. Replace air filters where units were operated during construction.
- H. Maintain cleaning until project, or portion thereof, is occupied by Owner.

END OF SECTION

SECTION 01 77 00

CONTRACT CLOSEOUT

PART 1 GENERAL

1.01 DESCRIPTION

- A. The requirements specified in this section relate to all Contractors individually performing under these Contract Documents:
 - 1. Project Record Documents.
 - 2. Final review and payment.
- B. Related work specified elsewhere:
 - 1. OSU General Conditions.
 - 2. Shop Drawings, Product Data and Samples, Section 01 33 23.

1.02 PROJECT RECORD DOCUMENTS

- A. The Project Record Documents shall be organized to include the following information as applicable:
 - 1. Table of Contents
 - 2. Project Team List
 - 3. Specifications (Including Addenda and Change Orders)
 - 4. Drawings
 - 5. Inspection Reports, as applicable
 - 6. Signed Warranty(ies)
 - 7. Maintenance Instructions
- B. Draft Project Record Documents shall be submitted for review upon 75% completion of the Work.
- C. Project Record Documents shall be submitted electronically to the Owner. Hard copies will not be accepted.
- D. The project team list shall include the name, address, and phone number of the Owner, Contractor, Inspector, Subcontractors, and the materials manufacturers.
- E. Legibly mark each Specification section to indicate actual as-built condition indicating changes in the Work made by addenda or change order or actual materials used and actual manufacturer(s) used.
- F. Maintain current and accurate as-built mark-ups during construction and make available to Owner's Authorized Representative upon request.
- G. Legibly mark the drawings to indicate actual as-built conditions indicating changes in the Work made by addenda or change order or actual conditions which differ from the drawings.
- H. Redraw or provide new drawings as required for a complete as-built set of drawings.

The Contractor shall maintain current and accurate as-built mark-ups during construction and make available to Owner's Authorized Representative.

- I. Include inspection reports if applicable.
- J. Include, in a single section, all copies of the Project's labor and material warranties clearly marked to identify the Owner's responsibilities under the terms of each warranty and the section of Work that each warranty covers. One set must be clearly marked as containing original documents.
- K. In the case of an elevator installation, the Contractor's and manufacturer's warranty shall provide for the Owner's right to respond to emergency/car failure situations for the purpose of extricating individuals trapped in the elevator.
- L. Include maintenance instructions complete with technical information and name, address, and phone number of the Contractor(s) and manufacturer(s) of each material and product.

1.03 FINAL REVIEW AND PAYMENT

- A. Prior to completion, the Contractor shall inspect the Work and make a Punch-list noting all items that are incomplete and/or incorrect.
- B. The Contractor shall notify all Subcontractors in writing of incomplete and/or incorrect items. Notify far enough in advance of the completion date that the Work can be completed on schedule. Said Work shall be immediately corrected.
- C. Should conditions prevail which prohibit some elements of the Work from being accomplished, but the work-in-place will perform the primary function (i.e., painting cannot be completed due to high moisture content of masonry walls.) the Contractor shall record the reason with this Punch-list item requesting temporary delay in completion from the Owner in writing.
- D. Notify the Owner in writing that all items are completed and ready for final review or else that the Work product is fully usable, but some listed deficiencies remain to be completed. Submit all record documents at this time.
- E. The Owner will review all documents. When the documents include a Contractor's request for delay in completion, the Owner will review all Work which is certified as complete to the best knowledge of the Contractor. The Owner will also review the listed incomplete Work and assign a value to such uncompleted work.
- F. The Contractor shall make the required corrections to the Work expeditiously. A letter will be addressed to the Contractor informing the Contractor of the project status.
- G. When Contract closeout procedures are completed and all Punch-list deficiencies have been corrected, provide Owner with final corrected Project Record Documents based on Owner's preliminary review. Correct Project Record Documents shall be in electronic format.

- H. Final Completion by the Owner will be documented and the Contractor will receive written notice of acceptance of the Work and notification that final payment may be billed and released.
- I. All warranties shall commence and become effective beginning on the date of Substantial Completion.

END OF SECTION

Exhibit F

Insurance

See attached

INSURANCE REQUIREMENTS

A. GENERAL.

Contractor shall, and shall cause each Subcontractor to, maintain the insurance coverages set forth below:

1. Commercial General Liability (CGL)

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$2,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal Injury

2. Business Automobile

\$1,000,000 Combined Single Limit

3. Workers' Compensation/Employers' Liability (Stop Gap)

Statutory Workers' Compensation – Coverage A

\$1,000,000 Each Accident

\$1,000,000 Disease – Policy Limits

\$1,000,000 Disease – Each Employee

4. Contractors Pollution Liability

For Contractor and abatement Subcontractor(s):

\$1,000,000 Each Occurrence and General Aggregate

For Subcontractors using hazardous materials or pollutants:

\$1,000,000 Each Occurrence and General Aggregate

5. Excess Umbrella Liability:

For Contractor:

\$5,000,000 Each Occurrence/Annual General Aggregate

For Subcontractors, unless a higher limit is set by Subcontract:

Where the Subcontract Sum is \$500,000 or less, \$2,000,000 Each Occurrence/Annual General Aggregate

Where the Subcontract Sum is over \$500,000 but not more than \$2,000,000, \$5,000,000 Each Occurrence/Annual General Aggregate

Where the Subcontract Sum is over \$2,000,000 but not more than \$5,000,000, \$10,000,000 Each Occurrence/Annual General Aggregate

B. ADDITIONAL REQUIREMENTS.

1. Commercial General and Excess Umbrella Liability Insurance.

- a) CGL insurance shall be written on current ISO occurrence for CG 00 01 or its equivalent if Owner approves and shall cover liability arising from premises,

operations, independent contractors, products-completed operations, death, bodily injury, property damage, personal injury and advertising injury and liability assumed under an insured contract. Excess Umbrella Insurance coverage shall be provided on a follow-form basis and Contractor shall be responsible for any gaps between underlying coverage and excess coverage for all policies required under the terms of this Agreement.

- b) The Indemnitees shall be included as additional insureds under the CGL, excess umbrella liability and contractors pollution liability coverages. The additional insured coverage under the CGL shall be on current ISO additional insured endorsements CG 20 10 (07 04) and CG 20 37 (07 04) or substitutes providing equivalent coverage if Owner approves. Such insurance shall apply as primary insurance to the additional insureds.
- c) Insurance carried by Contractor under this Exhibit shall be primary and non-contributory.

2. Completed Operations Liability Insurance.

Completed operations coverage required by the Contract Documents shall be maintained for at least ten (10) years following Final Completion of the Work.

3. Business Auto and Umbrella Liability Insurance.

- a) Business Auto and Umbrella Liability Insurance shall cover liability arising out of any auto including owned, unowned, and hired.
- b) Business auto coverage shall be written on current ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20 or its equivalent if Owner approves.
- c) If the Contractor will transport any hazardous per regulated substances, the Contractor's Auto Liability coverage shall include CA 9948 and MSC-90 endorsements (or their equivalents) to provide to provide coverage for claims resulting in bodily injury, property damage or cleanup costs associated with a pollution condition from transported cargo.

4. Railroad Protective Liability.

- a) Where required by the railroad for construction or demolition activities, procure and maintain Railroad Protective Liability meeting the railroad's requirements.
- b) If the Work involves construction or demolition operations at or near railroad property, the required CGL policies shall contain current ISO Form Endorsement CG 24 17 01 96 or substitute form providing equivalent coverage.
- c) If the Work involves construction or demolition operations at or near railroad property, the required Auto Liability policies shall contain current ISO Form Endorsement CA 20 70 10 01 or substitute form providing equivalent coverage.

5. General/Certificates of Insurance.

- a) All policies of insurance must be written by companies having an A.M. Best rating of no less than "A-VII", or equivalent. Owner may, upon thirty (30) days written notice to Contractor, require Contractor to change any carrier whose rating drops below an "A-VII" rating. 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 the Owner.

- b) 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, or if Contractor exhausts 50% or more of the aggregate limit of any required policy, Contractor agrees to notify Owner in writing within five (5) business days with a copy of the non-renewal or cancellation notice, written specifics as to which coverage is no longer in compliance, or notice of depletion of 50% or more of a policy aggregate. When notified by Owner, the Contractor agrees to stop Work until all required insurance is confirmed in effect. Any failure to comply with the reporting provisions of this insurance, shall not alter the Contractor's obligations.
- c) Prior to commencement of any applicable Work, Contractor shall file with Owner certificates of insurance evidencing the required insurance is in effect. At Owner's request, Contractor shall deliver to Owner the actual insurance policies and any endorsements or riders. The endorsements and riders shall include cross-claim and severability of interests endorsements.

6. Deductibles.

- a) CGL and Workers' Compensation/Employer's Liability (Stop Gap) policies shall not include a deductible or self-insured retention of more than [\$200,000] per claim.

7. Professional Liability Insurance.

- a) Contractor shall maintain professional liability insurance, including rectification coverage, for claims arising from any professional services Contractor and its Subcontractors perform on the Project. The professional liability insurance shall be maintained throughout the Project and for a period of not less than eight (8) years after Final Completion of the Work. Contractor's consultants and contractors working on Contractor's behalf shall maintain professional liability insurance with limits customary for the scope and character of the professional services performed.
- b) Minimum Limits:
 - a. \$1,000,000 Each Claim
 - b. \$1,000,000 General Aggregate

C. BUILDERS' RISK INSURANCE.

- 1. Builders' Risk Insurance – Completed Value Basis. Unless otherwise provided, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, Builders' Risk Insurance in the amount of the initial Contract Sum, plus value of subsequent modifications, change orders, and cost of material supplied or installed by others, less design costs if the Project is a Design-Build, on a replacement cost basis without optional deductibles. The earthquake and flood insurance sub-limits will be equal to the maximum probable loss.

2. Policy must provide coverage from the time any covered property becomes the responsibility of the Contractor, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off site.
3. Such Builders' Risk Insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the OSU has insurable interest in the property to be covered, whichever is later.
4. The Builders' Risk insurance shall include the Owner, the Contractor, subcontractors and sub-tier contractors in the Project as named insureds on the policy, and shall include a waiver of subrogation provision in favor of all parties.
5. The Builders' Risk Coverage shall be written on a Special Covered Cause of Loss form and shall include theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, transit, debris removal including demolition, increased cost of construction, architect's fees and expenses, flood (including water damage), earthquake, and if applicable, all below and above ground structures, piping, foundations including underground water and sewer mains, piling including the ground on which the structure rests and excavation, backfilling, filling, and grading.
6. The Builders' Risk shall include a Beneficial Occupancy Clause. The policy shall specifically permit occupancy of the building during construction. Contractor shall take reasonable steps to obtain consent of the insurance company and delete any provisions with regard to restrictions within any Occupancy Clauses within the Builder's Risk Policy. The Builder's Risk Policy shall remain in force until final payment has been made on the project by OSU.
7. Equipment Breakdown Coverage (a.k.a. Boiler & Machinery) shall be included as required by the Contract Documents or by law, which shall specifically cover insured equipment during installation and testing (including cold and hot testing).
8. The Builders' Risk shall include loss of use due to delays in project completion caused by covered peril losses to the Project, including loss of income and rents and soft costs.
9. The deductible shall not exceed \$50,000 for physical damage and shall be the responsibility of the Contractor. The deductible shall be paid by the Contractor if the Contractor is negligent. The earthquake and flood deductible shall not exceed 2 percent of each loss or \$50,000, whichever is greater.
10. OSU shall be provided with a certificate of insurance, as well as a copy of the policy.

11. The Contractor shall be responsible for the payment of premium, giving or receiving notice of cancellation; and requesting amendments to this policy and accepting amendments to this policy made by the company.

12. OSU reserves the right, but not the obligation, to purchase the Builder's Risk insurance policy.

D. Controlled Insurance Program

1. Owner reserves the right to furnish for the benefit of the Project, the Site, and all Persons performing Work, an Owner-Controlled Insurance Program (an "OCIP") to provide some or all of the following required coverages; Workers' Compensation, General Liability, Excess Liability, and/or, Pollution Liability insurance, subject to the required coverages and according to the limits set forth in this Exhibit. Contractor and Subcontractors shall furnish and keep in force all other insurance required of them in this Exhibit. All Persons covered by the OCIP shall comply with the administrative and reporting requirements set forth in this Exhibit and required of Owner for the benefit of the OCIP.
2. At Owner's sole discretion, Owner may approve Contractor's use of a Contractor-Controlled Insurance Program (CCIP) to meet some or all of this Exhibit's requirements. In the event Contractor provides any of the required insurance through a CCIP, Contractor shall deliver to Owner for review and approval a copy of the CCIP policy upon Owner's request.

E. SUBCONTRACTOR DEFAULT INSURANCE.

1. Subject to the terms of the Agreement, and if permitted by the Agreement, including but not limited to the General Conditions, Contractor may place and maintain subcontractor default insurance.
2. The premium cost of any subcontractor default insurance policy permitted and chargeable to Owner as Cost of the Work shall be limited in accordance with the Agreement.

Exhibit G

Form of Bonds

See attached

[OREGON STATE UNIVERSITY]

**STANDARD FORM OF
PERFORMANCE BOND**

Bond No. _____
Contract _____
Contract Date _____
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 or Sureties, collectively as Surety, authorized to transact surety business in Oregon, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents and will pay unto **[Oregon State University]**, as Obligee, the sum of (Total Penal Sum of Bond) _____, lawful money of the United States of America (provided, that we the Surety bind ourselves, and our heirs, executors, administrators, successors and assigns, 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 the above-referenced written Contract with the Obligee;

WHEREAS, the terms and conditions of the Contract are made a part of this Performance Bond by reference, whether or not attached to the Contract; and

WHEREAS, the Principal has agreed to perform the Contract in accordance with its terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which change the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance;

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 Surety, and shall indemnify and save harmless Obligee and the _____ (name of any other Owner agency), and members thereof, their respective officers, employees and agents, from and against any direct or indirect damages of every kind and description, and claims of every kind and description, that shall be suffered or claimed to be suffered in connection with or arising out of 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.

Surety hereby waives notice of all modifications and amendments to the Contract and agrees that the obligations undertaken by this Performance Bond shall not be impaired in any manner by reason of the same.

Surety hereby agrees this Performance Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto or notice to the Surety thereof, upon any amendment to the Contract, so as to bind the Principal and Surety, jointly and severally, to the full and faithful performance of the Contract as so amended or modified, provided only that the Surety shall not be liable for more than the Total Penal Sum of Bond.

Nonpayment of the bond premium will not invalidate this bond nor shall Obligee, [or the above-referenced agency(ies)], be obligated for the payment of any premiums.

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

No right of action shall accrue on this Performance Bond to any person or entity other than Obligee and its executors, administrators, successors and assigns.

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

[Signature page follows]

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 STATE UNIVERSITY]

STANDARD FORM OF
PAYMENT BOND

Bond No. _____
Contract _____
Contract Date _____
Project Name _____

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

We, _____, as Principal, and the above identified Surety or Sureties, collectively as Surety, authorized to transact surety business in Oregon, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents and will pay unto [Oregon State University], as Obligee, the sum of (Total Penal Sum of Bond) _____ lawful money of the United States of America (provided, that we the Surety bind ourselves, and our heirs, executors, administrators, successors and assigns, 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, Principal has entered into the above-referenced written Contract with the Obligee;

WHEREAS, the terms and conditions of the Contract are made a part of this Payment Bond by reference, whether or not attached to the Contract; and

WHEREAS, the Principal has agreed to perform the Contract in accordance with its terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which change the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance;

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 Obligee and the _____ (name of any other Owner agency), and members thereof, their respective 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 Principal or its subcontractors, and shall promptly pay all persons supplying labor, materials, or services 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 Obligee, the State, Project or the work of the Contract, on account of any labor, materials, or services; 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.

Surety hereby waives notice of all modifications and amendments to the Contract and agrees that the obligations undertaken by this Payment Bond shall not be impaired in any manner by reason of the same.

Surety hereby agrees this Payment Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto or notice to the Surety thereof, upon any amendment to the Contract, so as to bind the Principal and Surety, jointly and severally, to the full and faithful performance of the Contract as so amended or modified, provided only that the Surety shall not be liable for more than the Total Penal Sum of Bond.

Nonpayment of the bond premium will not invalidate this bond nor shall the Obligee, [or the above-referenced agency(ies)], be obligated for the payment of any premiums.

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

This Payment Bond is made for the use and benefit of all persons and entities who may furnish materials or perform labor or services on account of the construction to be performed or supplied in accordance with the Contract, and each of them may sue hereon.

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

[Signature page follows]

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

Exhibit H

Form of Change Order



Oregon State University

CHANGE ORDER **ONE** TO OSU PUBLIC IMPROVEMENT AGREEMENT #**XXXX**

PROJECT NAME: **XXX**

This Change Order **One** ("CO") to the above named Agreement entered into between **Oregon State University** ("Owner"), and **Contractor Name** ("Contractor"), individually the "Party" and collectively the "Parties", shall become effective on the date this CO has been signed by all the Parties (the "CO Effective Date").

1. SCOPE OF WORK AND COMPENSATION

The "Work" shall be modified to add, delete or change the following as more specifically set out in **Exhibit A, Scope of Work**, which is attached hereto and incorporated herein to this CO:

SCOPE OF WORK	COMPENSATION
	\$ 0.00 Fixed Fee
	\$ 0.00 Fixed Fee
	\$ 0.00 Time & Materials
Change Order total	\$ 0.00
Original Agreement Price	\$ 0.00
Previous executed Change Orders	\$ 0.00
New Agreement Price (maximum compensation amount)	\$ 0.00

Unless expressly modified in this CO or prior CO's, all terms and conditions of the Agreement remain unchanged and in full force and effect.

In witness whereof, **Oregon State University** executes this CO and the Contractor does execute the same as of the Effective Date.

Contractor Name

Oregon State University

Signature

Date

Bruce Daley

Date

Printed Name

Associate Vice President
University Facilities, Infrastructure and
Operations

Title



**Oregon State
University**

**EXHIBIT A
SCOPE OF WORK**

Exhibit I
Change Pricing

Unless Owner otherwise previously approves in writing, an increase or decrease in the Contract Sum by Change Order shall be determined by the actual Cost of the Work of the change, plus allowances for overhead and profit, all as set forth below. Contractor shall provide to Owner Parties supporting documentation of the actual Cost of the Work of the change sufficient to support Contractor's costs.

The allowable overhead and profit mark-ups included in each Change Order shall be as provided for below with those same rates being utilized for Deductive Change Orders as well:

- CMGC
Markups per AIA133 & A201
- Subcontractors (from any/all tiers)

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%

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

On Subcontract Work.....	7%
--------------------------	----

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.

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.