

**CITY OF LA PINE  
BID DOCUMENTS  
FOR  
1<sup>ST</sup> STREET & HWY 97 LANDSCAPE  
AND PEDESTRIAN IMPROVEMENTS**

**PLANS PREPARED FOR:  
THE CITY OF LA PINE**



**PLANS PREPARED BY:  
THE CITY OF LA PINE  
16345 SIXTH STREET  
P.O. Box 2460  
LA PINE, OREGON 97739**

**And**

**BECON CIVIL ENGINEERING AND LAND SURVEYING  
549 SW Mill View Way, Suite 105  
Bend, OR 97702**

**BIDDER'S REQUIRED SUBMITTAL LISTING**

---

The required submittal listing for the “**1<sup>st</sup> Street & Hwy 97 Landscape and Pedestrian Improvements Project**” is as follows:

<b>#</b>	<b>ITEM</b>	<b># OF PAGES</b>	√
1	BID SCHEDULE	3	
2	CONTRACTOR EXPERIENCE FORM	2	
3	BID BOND	2	
4	FIRST TIER SUBCONTRACTOR DISCLOSURE FORM	1	
5	PROPOSAL	3	
6	NON-COLLUSION AFFIDAVIT	2	
7	PREVAILING WAGE COMPLIANCE STATEMENT	1	
8	DRUG TESTING POLICY STATEMENT	1	

**TOTAL BID PROPOSAL WILL CONTAIN A MINIMUM OF:**

**15 PAGES**

**INVITATION TO BID**

---

Sealed bids for the construction of the City of La Pine, **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**, addressed to Ashley Williams, Office Utility Specialist, City of La Pine, Oregon will be received until 2:00 PM local time at City Hall, 16345 Sixth Street, P.O. Box 2460, La Pine, Oregon, on **March 1, 2017** and then publicly opened and read at 2:00 PM at City Hall, in La Pine, Oregon. Bids shall be clearly labeled: **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**.

**Scope of Work:**

Improvements generally include the construction of concrete sidewalk and interlocking concrete pavers as well as the installation of trees, shrubs, sod lawn, irrigation system improvements, and related improvements along 1st Street and Hwy 97 in La Pine, Oregon.

The City estimates the cost of improvements at \$115,000

Construction plans titled, **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project** dated **February 2017**, consisting of **8** sheets and project specifications are herein incorporated into the bid documents for detail of the overall scope of the project including the scope of services for this portion of the project. **All workmanship, materials, and conditions shall conform to City of La Pine Water District Construction Standards and Oregon Department of Transportation Standards for Construction.**

**This is a Public Works Contract and subject to Oregon Bureau of Labor and Industries (BOLI) Prevailing Wage Rates Effective January 1, 2017 for Region 10**

**Completion:**

It is the intent of the City of La Pine to have construction complete by May 5, 2017.

**Project Timeline:**

Advertisement	February 10, 2017
Bid Opening	March 1, 2017
Bid Review	March 1, 2017
Intent to Award	March 1, 2017
City Council Approval	March 8, 2017
Contract Award	March 10, 2017
Work to Begin by	March 20, 2017
Work Completed by	May 19, 2017 (60 Calendar Days)

### **Liquidated Damages**

Liquidated damages will be assessed at \$500 per work day should the Contractor fail to complete the work within the time allowed.

### **Contract Documents**

Contract Documents may be examined at the following locations:

- City of La Pine, City Hall
- Premier Builders Exchange
- BECON Civil Engineering

Addendums issued during the advertisement phase of the project will be posted on the City of La Pine website and the Premier Builder's Exchange website only. Bidders shall submit their proposal on the proposal forms contained within the contract documents or on alternate forms as prescribed by the bid documents. The City of La Pine will not accept any bid that is not submitted as prescribed in the Bid Documents package.

All requests for plans and bid documents shall be made to Premier Builders Exchange, 1902 NE 4th Street, Bend, OR 97701, [www.premierbx.com](http://www.premierbx.com), or call 541.389.0123.

### **Requirements of Bidders**

Each proposal must be submitted on the prescribed forms and accompanied by a certified check or Bid Bond executed on the prescribed form, payable to the City of La Pine, Oregon, in an amount not less than 10% (10 percent) of the amount bid. The successful Bidder will be required to furnish the necessary additional bond(s) for the faithful performance of the Contract, as prescribed in the Contract Documents.

The attention of bidders is directed to the State government requirements and conditions of employment to be observed and minimum wage rates to be paid under the Contract.

The City of La Pine will closely review the Contractor's Experience form to ensure a Contractor with acceptable experience is awarded the Contract for the **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**.

Bidder must be registered with the Construction Contractors Board (ORS 701.055) or the bid will not be received or considered.

### **Pre-Bid Meeting**

There will be no pre-bid meeting for the 1st Street & Hwy 97 Landscape and Pedestrian Improvements Project. Direct all requests for clarification to Erik Huffman, BECON Civil Engineering and Land Surveying, (541) 633-3140 or [ehuffman@beconeng.com](mailto:ehuffman@beconeng.com).

Verbal communications are not binding on the contract. All requests for clarification shall be made in writing and a Clarification Addenda will be issued prior to bid opening.

## **Proposals**

**The City reserves the right to reject all proposals or any proposal not conforming to the requirements of the Contract Documents, and postpone the awarding of the contract for a period of not more than 30 days from the bid opening date.**

## **Notification**

The notification of Intent to Award will be made to all responsible bidders within seven (7) calendar days of the bid opening. Protest of bid results and Intent to Award must be in writing, must be by a bidder in good legal standing, must be specific, and must be received within seven (7) calendar days of the date of issuance of the Intent to Award. The protest envelope must give bid title reference and must be addressed to Ashley Williams, City of La Pine, 16345 Sixth Street, P.O. Box 2460, La Pine, Oregon 97739.

## **INSTRUCTION TO BIDDERS**

---

**PROJECT TITLE:** 1st Street & Hwy 97 Landscape and Pedestrian Improvements Project

**LOCATION:** 1<sup>st</sup> Street and Hwy 97

**OWNER:** City of La Pine  
16345 Sixth Street  
P.O. Box 2460  
La Pine, Oregon

**PROPOSAL:** To be entitled to consideration, please include:

### **Bid Schedule**

1. Use bid schedule(s) provided. Fill in all blank spaces.
2. Bid shall be typed or prepared in blue ink, and signed in blue ink.
3. Complete without alterations or erasures.
4. Shall not contain any recapitulation of work to be done.
5. No oral, telephonic or telegraphic proposal or modifications will be considered.
6. Contractor must certify that it is or is not an Oregon business as per ORS 279A.120. ORS 279A.120 requires public contracting agencies, in determining the lowest responsible bidder, to add a percent increase to each out-of-state bidder's bid price which is equal to the percent of preference given to local bidders in the bidder's home state. The bidder shall certify that it is or is not an Oregon contractor as defined under ORS 279A.120, Preferences; Foreign Contractor, i.e., a foreign contractor is one who is not domiciled in or registered to do business in the State of Oregon.
7. All subcontractors are to be approved in writing by the Owner and carry the same insurance requirements as the prime contractor. Subcontractors shall submit Contractor's Board license number, Federal Identification Number, State Unemployment Number, and Certification of ORS 279A.120 as stated in the First Tier Subcontractor Disclosure Form.

### **Bid Bond**

Enclose a bidder's bond, certified check (or cashier's) check with made payable to the Owner in an amount equal to 10% of the total bid.

**First Tier Subcontractor Disclosure Form**

The First Tier Subcontractor Disclosure Form shall be completed and returned within 2 hours of the bid submittal time. The first tier subcontractor list may also be submitted with the sealed bid at contractor’s preference. The submittal of the First Tier Subcontractor Disclosure Form is mandatory for the 1st Street & Hwy 97 Landscape and Pedestrian Improvements Project.

**Proposal**

Enclose a completed Proposal form provided in the bid documents.

**Prevailing Wage Rate Statement**

The Prevailing Wage Rate Statement shall be completed and returned with the Bid Submittal per ORS 279C.800 – 279C.870.

**Drug Testing Policy Statement**

The Drug Testing Policy Statement shall be completed and returned with the Bid Submittal per ORS 279C.505 (2003 Chapter 794.138).

**Non-Collusion Affidavit**

The Non-Collusion Affidavit shall be completed and returned with the Bid Submittal.

**Bid Submittal**

Address and Deliver:

1. Address: City of La Pine  
16345 Sixth Street  
P.O. Box 2460  
La Pine, Oregon
  
2. Deliver: To Office Utility Specialist, in an opaque sealed envelope marked **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**, with the name of the bidder, on or before **March 1, 2017 (2:00 pm)**.

**AWARD OF CONTRACT:**

Will in general be made to lowest responsible bidder, if within funds allotted. The city may choose to award only a portion of the project, within funds allotted.

The competency and responsibility of bidders and of their proposed subcontractors will be considered in making the award. Owner reserves the right to reject bid of any bidder who has previously failed to perform properly and to complete on time contracts of a similar nature, who is not in a position to perform the Contract, who has habitually and without cause neglected the payment of bills or otherwise disregarded their obligation to subcontractors, material men or employees.

Bidder should notify Owner prior to bid opening date, should omissions or errors be found in Contract Documents. Owner will clarify by sending written instructions to all bidders in the form of Addenda which will become a part of the Contract.

Owner will not be responsible for any oral instructions or interpretations.

**EXAMINATIONS:**

**Bidder is responsible for verifying dimensions and bid quantities prior to bidding.**

Before submitting a proposal, the bidder shall carefully examine all Contract Documents, visit the site of the work, and fully inform themselves of all existing conditions and limitations. Bidders shall include in the Bid, sum or sums sufficient to cover the cost of all items in this Contract.

Bidder should notify Owner prior to bid opening date, should omissions or errors be found in Contract Documents. Owner will clarify by issuing instructions in the form of Addenda which will become a part of the Contract.

Owner will not be responsible for any oral instructions or interpretations.

**Bidder is responsible to review all documents he/she will submit in the Proposal as complete. All pages listed on the Bidder's Required Submittal Listing are required to be included in the Proposal.**

**ANY ADDENDA:**

Any addenda issued during the time of bidding are to be covered in the Proposal, and in closing a Contract they will become part thereof. Signed copy of the addenda is to be included with the bid submittal. All addenda will be made in PDF format, available on the Premier Builders Exchange website. The City of La Pine will not mail or fax notice of Addenda, but will publish notice of any addenda on Premier Builders Exchange. Bidders should frequently check the website at least once weekly until the week of bid opening. The City will issue the last addenda at least three business days prior to bid opening. Any addenda issued during the time of bidding are to be covered in the Proposal, and in closing a Contract they will become part thereof.

**SUBSTITUTIONS:**

In order to obtain approval of material, products, methods, as equal to those specified, submit to Owner substitution request at least five (5) days before bid opening.

**CONTRACT DOCUMENTS:**



The contractor and subcontractors shall comply with all Conditions of the Contract Documents.

**PAYMENT ON CONTRACT:**

**Payment will be made as provided in the Contract.** The contractor and subcontractors must pay not less than the minimum hourly rate of wage as determined by the Commissioner of the Oregon Bureau of Labor and Industries, and which is not less than prevailing wage. They or their sureties must execute a statement under oath in a form prescribed by the State Labor Commissioner, certifying the hourly rate of wage paid and that no workman was paid less than prevailing rate of wage or less than the minimum hourly rate of wage and file with the Clerk of the District prior to any disbursement under the Contract and in accordance with ORS 279C.800 thru 279C.870. Contractors shall make payments in accordance with the Contract, ORS 279C.840 to 279C.870 and the laws of the State of Oregon. Contractor is required to have a \$30,000 Public Works Bond filed with CCB before starting work on the project, unless exempt.(SB 477, Sections 2-5) Contractor is required to verify their subcontractors have filed bond.

**PECUNIARY INTEREST:**

No director or employee of Owner shall have any pecuniary interest in the project.

**LOCAL LABOR:**

Contractor and subcontractors are encouraged to use local labor when available.

**QUALIFICATIONS AS A CONDITION PRECEDENT TO BIDDING:**

All Contractors submitting a bid must be registered with the Construction Contractors Board, or the bid will not be received or considered. A bid from an unregistered contractor will be rejected as unresponsive.

**COMPLETION:**

---

The Project shall be completed by May 19, 2017.

**Project Contact**

**All design questions and clarification inquiries shall be made to Erik Huffman, Owner's Representative, BECON Civil Engineering, 541.633.3140.**

All questions will be responded to in a written Addendum issued 3 days prior to bid opening. It will be available on the City of La Pine website and at the Central Oregon Builders Exchange. All questions received after this date will not receive response.

Bidder Name \_\_\_\_\_

**Base Bid Schedule**

**1ST STREET & HWY 97 LANDSCAPE AND PEDESTRIAN IMPROVEMENTS PROJECT**

Item #	Description of Item	QTY	Unit	Unit Price Bid	Total Price Bid
1	Mobilization	1	Lump Sum		
2	Temporary Work Zone Traffic Control, Complete	1	Lump Sum		
3	Erosion Control	1	Lump Sum		
4	Construction Survey Work	1	Lump Sum		
5	Clearing and Grubbing	1	Lump Sum		
6	Removal of Walks and Driveways	277	Square Yard		
7	Removal of Curbs	115	Foot		
8	Concrete Walks	2443	Square Foot		
9	Concrete Driveways	882	Square Foot		
10	Unit Pavers	732	Square Foot		
11	Curb 12-inch	115	Foot		
12	Cast Iron Tree Grate with Frame	5	Each		
13	Concrete Street Light Pole Foundation	1	Each		
14	Electrical Trench	115	Foot		
15	2-Inch Schedule 40 Electrical Conduit	115	Foot		
16	Electrical Junction Box	1	Each		
17	#10 XHHW Copper Wire	345	Foot		

18	Ornamental Lighting Poles, Luminaire, Lamps and Ballasts	1	Each		
19	Relocate Water Meter	1	Each		
20	2.5-Inch Caliper Tree	20	Each		
21	Sod Lawn	2525	Square Foot		
22	Irrigation (1st Street)	1	Lump Sum		
23	Irrigation (Hwy 97)	1	Lump Sum		
24	Boulder	4	Ton		
25	Shrub – 2 Gallon	61	Each		
26	Shrub – 1 Gallon	33	Each		
27	Bunchgrass - 4" Pot	140	Each		
28	Fescue – 4" Pot	28	Each		
29	Swale Bottom Wildflower Mix	6100	Square Foot		
30	Bark Mulch	60	Cubic Yard		

**Total Amount of Base Bid**      \$ \_\_\_\_\_

**Total Base Bid price written out in words:** \_\_\_\_\_

All Unit Price Bids should be considered as "Furnished and Installed". Please invoice referencing the above exact line item numbers and line items. All quantities must be approved by the Project Engineer before invoicing. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items shall be based on actual quantities, determined as provided in the Contract documents.

**To Be Considered Responsive, the following must be signed and completed by your firm:**

We hereby certify to do the work as specified and at the price as quoted in conformance to all the City, State and Federal Regulations that are applicable and will indemnify the City of La Pine against all claims arising out of any actions caused by our company during the performance of this contract.

Bidders Official Company Name \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_  
(Signature of Authorized Official and Title)

By \_\_\_\_\_ Phone \_\_\_\_\_  
(Type or Print Name)

Federal I.D.# \_\_\_\_\_ FAX # \_\_\_\_\_ Email: \_\_\_\_\_

**CONTRACTOR'S EXPERIENCE**

---

**Please list at least five similar projects to the 1st Street & Hwy 97 Landscape and Pedestrian Improvements Project that have been completed in the last five years.**

#1

---

PROJECT OWNER: \_\_\_\_\_

DESCRIPTION OF PROJECT: \_\_\_\_\_

PROJECT ENGINEER: \_\_\_\_\_

TOTAL COST OF PROJECT: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

CONTACT NAME TELEPHONE #: \_\_\_\_\_

---

#2

---

PROJECT OWNER: \_\_\_\_\_

DESCRIPTION OF PROJECT: \_\_\_\_\_

PROJECT ENGINEER: \_\_\_\_\_

TOTAL COST OF PROJECT: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

CONTACT NAME TELEPHONE #: \_\_\_\_\_

---

#3

---

PROJECT OWNER: \_\_\_\_\_

DESCRIPTION OF PROJECT: \_\_\_\_\_

PROJECT ENGINEER:

---

---

TOTAL COST OF PROJECT:

---

CONTACT NAME:

---

CONTACT NAME TELEPHONE #:

---

---

#4

PROJECT OWNER:

---

DESCRIPTION OF PROJECT:

---

PROJECT ENGINEER:

---

TOTAL COST OF PROJECT:

---

CONTACT NAME:

---

CONTACT NAME TELEPHONE #:

---

---

#5

PROJECT OWNER:

---

DESCRIPTION OF PROJECT:

---

PROJECT ENGINEER:

---

TOTAL COST OF PROJECT:

---

CONTACT NAME:

---

CONTACT NAME TELEPHONE #:

---

**BID BOND**

---

KNOW ALL MEN BY THESE PRESENTS, That \_\_\_\_\_  
 hereinafter called the PRINCIPAL, and \_\_\_\_\_  
 a corporation duly organized under the laws of the State of \_\_\_\_\_, having its  
 principal place of business at \_\_\_\_\_, in the State of  
 \_\_\_\_\_, and authorized to do business in the State of Oregon, as SURETY, are  
 held and firmly bound unto the City of La Pine, Oregon, as obligee, hereinafter called  
 the CITY, in the penal sum of \_\_\_\_\_ dollars  
 (\$ \_\_\_\_\_) for the payment of which, well and truly to be made, we bind ourselves,  
 our heirs, executors, administrators, successors and assigns, jointly and severally, firmly  
 by these presents.

THE CONDITIONS OF THIS BOND ARE SUCH That, whereas the PRINCIPAL herein  
 is herewith submitting his or its bid proposal for the **1st Street & Hwy 97 Landscape  
 and Pedestrian Improvements Project**, said bid proposal, by reference thereto, being  
 hereby made a part hereof.

NOW, THEREFORE, if the said bid proposal submitted by the said PRINCIPAL be  
 accepted, and the contract be awarded to said PRINCIPAL, and if the said PRINCIPAL  
 shall execute the proposed Agreement and shall furnish such performance and payment  
 bonds as required by the bidding and Contract Documents within the time fixed by said  
 documents, then this obligation shall be void; if the PRINCIPAL shall fail to execute the  
 proposed Agreement and furnish said bond, the SURETY hereby agrees to pay to the

CITY the penal sum as liquidated damages.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
By

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

\_\_\_\_\_  
By Attorney-in-fact

(A certified copy of the agent's power-of-attorney must be attached hereto.)



FIRST TIER SUBCONTRACTOR DISCLOSURE FORM

PROJECT NAME: 1st Street & Hwy 97 Landscape and Pedestrian Improvements Project

BID SUBMITTAL:

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

DISCLOSURE DEADLINE:

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

List below the Name, Address, Contact Name and Telephone Number of each subcontractor that will be furnishing labor or labor and materials that are required to be disclosed. Enter "NONE" if there are no subcontractors that need to be disclosed. (Attach additional sheets if needed).

Table with 4 columns: Name/Address, Nature of Work Performed, Contact Phone #, Contract Amount. Rows 1-5.

The above listed First-Tier Subcontractor(s) are providing labor or labor and materials with a dollar value equal to or greater than:

5% of the total Contract Price, but at least \$15,000 (including all alternates). If the dollar value is less than \$15,000 do not list the subcontractor above; or, \$350,000 regardless of the percentage of the total Contract Price.

FORM SUBMITTED BY (BIDDER NAME): \_\_\_\_\_

CONTACT NAME \_\_\_\_\_ PHONE #: \_\_\_\_\_

DELIVER FORM TO AGENCY: City of La Pine \_\_\_\_\_

PERSON DESIGNATED TO RECEIVE FORM: Office Utility Specialist PHONE #: 541.536.1432 \_\_\_\_\_

AGENCY ADDRESS: 16345 Sixth Street, P.O. Box 2460, La Pine, OR 97739 \_\_\_\_\_

UNLESS OTHERWISE STATED IN THE ORIGINAL SOLICITATION, THIS DOCUMENT SHALL NOT BE FAXED. IT IS THE RESPONSIBILITY OF THE BIDDERS TO SUBMIT THIS DISCLOSURE FORM AND ANY ADDITIONAL SHEETS, WITH THE PROJECT NAME CLEARLY MARKED, AT THE LOCATION INDICATED BY THE SPECIFIED DISCLOSURE DEADLINE. SEE INSTRUCTIONS TO BIDDERS.

Rev: 03-09-2000 Agency will insert "N/A" above if the Contract amount value is anticipated to be less than \$100,000. Otherwise this form must be submitted within two working hours of the advertised bid closing date and time; no later than the DISCLOSURE DEADLINE stated above. Bids which are submitted by Bid Closing, but for which the separate disclosure submittal has not been made by the specified deadline, are Not Responsive and shall not be considered for Contract award.

**PROPOSAL**  
**1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**

**BIDDER'S DECLARATION:**

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this proposal are those named herein, that this proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the City, and that the proposal is made without any connection or collusion with any person making another proposal on this Agreement.

The Bidder further declares that he has carefully examined the Contract Documents for the construction of the project, that he has personally inspected the site, that he has satisfied himself as to the quantities involved, and that this proposal is made according to the provisions and under the terms of the Contract Documents, which documents are hereby made a part of this proposal.

The Bidder further declares that the provisions required by ORS 279C.800 to 279C.870 relating to prevailing wage rates shall be complied with.

The Bidder further agrees that he has exercised his own judgment regarding subsurface condition and has utilized all data which he believes pertinent from the City and other sources in arriving at his conclusions.

**CONTRACT EXECUTION:**

The Bidder agrees that if this proposal is accepted, he will, within seven (7) days, not including Sundays and legal holidays, after notice of award, sign the Agreement in the form annexed hereto, and will at that time, deliver to the City of La Pine the PERFORMANCE BOND and the PAYMENT BOND required herein, and will to the extent of his proposal, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete the work in the manner, in the time, and according to the methods specified in the Contract Documents and required by the City thereunder.

In the event that the Bidder shall fail to enter into a contract within such time, the bid security in the amount stated in the INVITATION TO BID and deposited herewith, shall be retained by the City and it is agreed that said sum is a fair measure of the amount of damage that the City will sustain because of such failure to enter into a contract.

**CERTIFICATES OF INSURANCE:**

The bidder further agrees to furnish the City, before commencing the work under the Contract, the certificates of insurance as specified in these documents.

CONSTRUCTION TIME LIMITS:

The Bidder agrees to begin work within seven (7) calendar days after the date of the City's written notice to proceed, and to complete all work to be done under the contract in the time frames noted in the INVITATION TO BID after the date of the City's written notice to proceed.

LIQUIDATED DAMAGES:

In the event the Bidder is awarded the Agreement and shall fail to complete the work within the time limit or extended time limit agreed upon, as more particularly set forth in the Bid Documents, liquidated damages shall be paid to the City per the Bid Documents.

SUBCONTRACTORS:

The Bidder will list all proposed subcontractors by their proper corporate name and the portion of the work the subcontractor intends to perform in the spaces provided below. Contractor is also required to comply with the regulations regarding First Tier Subcontractors and applicable submittals.

Subcontractor	Work item to be performed
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____

The City reserves the right to reject any subcontractor that the City deems unfit for the scope of the work proposed.

LUMP SUM OR UNIT PRICES:

The Bidder further proposes to accept as full payment for the work proposed herein the amounts computed under the provisions of the Contract Documents and based on the following lump sum or unit price amounts. The Bidder agrees that the lump sum prices and the unit prices represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in these Contract Documents.

The City reserves the right to reject any and all bids, to waive any informalities and to accept the bid of the lowest responsible Bidder.

**ADDENDA:**

The Bidder acknowledges that addenda numbers \_\_\_\_\_  
(Bidder insert number of each addendum received)  
have been received and examined as part of these Contract Documents.

**SURETY:**

If the bidder is awarded the construction contract on this proposal, the surety who provides the "Performance Bond" and "Payment Bond" will be:

\_\_\_\_\_  
Name: Address:

**BIDDER:**

The name of the bidder submitting this proposal:

\_\_\_\_\_  
Name: Address:

The above stated address is the address to which all communications concerned with this proposal and with the contract are to be sent. The names of the principal officers of the corporation, or partnership, or of all persons interested in this proposal as principals are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If sole proprietor or partnership:**

In witness hereto the undersigned has set his (its) hand this  
\_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Signature of Bidder

\_\_\_\_\_  
Title

**If corporation:**

In witness whereof the undersigned corporation has caused this instrument to be executed by its duly authorized officers this

\_\_\_\_\_ day of \_\_\_\_\_, 2017 \_\_\_\_\_  
Name of Corporation

By \_\_\_\_\_  
President

**NON-COLLUSION AFFIDAVIT**

CONTRACT:

STATE OF OREGON            )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

I state that I am the \_\_\_\_\_ of \_\_\_\_\_ and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I further state that:

(1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder, except as disclosed on the attached appendix.

(2) That neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid have been discussed with any other firm or person which is a bidder or potential bidder, and they will not be disclosed before bid opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or submit a bid intentionally high or non-competitive or any other form of complementary bid.

(4) The bid of my firm is made in good faith and pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other non-competitive bid.

(5) \_\_\_\_\_, it's affiliates, and subsidiaries, officers, directors and employees are not currently under investigation by any government agency and have not in the last four years been convicted of or found liable for any act prohibited by State and Federal law in the jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as described on the attached appendix.

I further state that \_\_\_\_\_ understands and acknowledges that the above representations are material and important, and will be relied on for the City of La Pine, Oregon in awarding the contract from which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the City of La Pine, Oregon of the true facts relating to the submission of bids for the contract.

Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC OF OREGON  
My commission expires: \_\_\_\_\_

**PREVAILING WAGE RATE COMPLIANCE STATEMENT**

---

The bidder states that provisions of ORS 279C.800 – 279C.870 (Oregon Prevailing Wage Rates) will be complied with on the **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project.**

COMPANY NAME \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

- Applicable prevailing wage rates are those in effect at the time the initial specifications are first advertised for bid solicitation. ORS 279C.830(1)(c); OAR 839-025-0020(4) and (5) The workers must be paid not less than the applicable state prevailing wage rate. ORS 279C.830; OAR 839-020-0115(3)
- The contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project. ORS 279C.830(2)(a) Every subcontractor is required to have a public works bond filed with the Construction Contractors Board before starting work on the project. ORS 279C.830(2)(b)
- If the contractor fails to pay for labor and services, the City can pay for them and withhold these amounts from payments to the contractor. ORS 279C.515; OAR 839.025.0020(2)(a)
- The contractor must pay daily, weekly, weekend and holiday overtime as required. ORS 279C.520; OAR 839-025-020(2)(c)
- The contractor must make prompt payment for all medical services for which the contractor has agreed to pay, and for all amounts for which the contractor collects or deducts from the worker’s wages. ORS 279C.530; OAR 839-025-0020(2)(d)
- The employer must give written notice to the workers of the number of hours per day and days per week they may be required to work. OAR 839-025-0020(2)(c)

BOLI Contact:

Bureau of Labor and Industries  
 Wage and Hour Division  
 Prevailing Wage Unit  
 800 N.E. Oregon Street, #32  
 Portland, OR 97232  
[www.oregon.gov/BOLI](http://www.oregon.gov/BOLI)

**DRUG TESTING POLICY STATEMENT**

---

The bidder states that provisions of ORS 279C.505 [Chapter 794.138] requiring an employee drug-testing program will be complied with the **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project.**

\_\_\_\_\_  
COMPANY NAME:

\_\_\_\_\_  
SIGNATURE:

\_\_\_\_\_  
TITLE:

\_\_\_\_\_  
DATE:





**PERFORMANCE BOND**

**(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM. MUST BE ACCOMPANIED BY A POWER OF ATTORNEY FOR THE SURETY'S OFFICER AUTHORIZED TO SIGN)**

We the undersigned \_\_\_\_\_  
 as PRINCIPAL (hereinafter called CONTRACTOR), and \_\_\_\_\_  
 \_\_\_\_\_ a corporation organized and existing under and by virtue of the laws of the  
 state of \_\_\_\_\_ duly authorized to do surety business in the  
 state of Oregon and named on the current list of approved surety companies acceptable  
 on federal bonds and conforming with the underwriting limitations as published in the  
 Authorized Insurance List in the State of Oregon published by the Office of the Insurance  
 Commissioner and which carries an "A" rating and is of the appropriate class for the bond  
 amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind  
 ourselves, our heirs, executors, administrators, successors and assigns, jointly and  
 severally, to pay to CITY OF LA PINE as OBLIGEE (hereinafter called CITY OF LA PINE),  
 the amount of \_\_\_\_\_  
 (equal to 100% of the total bid amount) in lawful money of the United States of America.

WHEREAS, the CONTRACTOR entered into a contract with CITY OF LA PINE  
 dated \_\_\_\_\_ which Contract is hereunto annexed and made a part hereof,  
 for accomplishment of the all contract terms for the project described as follows: **1st  
 Street & Hwy 97 Landscape and Pedestrian Improvements Project**

NOW, THEREFORE, the condition of this obligation is such that if the  
 CONTRACTOR shall promptly, truly and faithfully perform all the undertakings,  
 covenants, terms, conditions, and agreements of the aforesaid contract and having  
 performed its obligations thereunder, then this obligation shall be null and void; otherwise  
 it shall remain in full force and effect.

Whenever CONTRACTOR shall be declared by CITY OF LA PINE to be in default  
 under the Contract Documents for the project described herein, the SURETY may  
 promptly remedy the default by completing the project in accordance with the Contract  
 Documents and the project Specifications with a contractor approved by the CITY OF LA  
 PINE. SURETY, for value received, further stipulates and agrees that all changes,  
 extensions of time, alterations, or additions to the terms of the Contract or Specifications

for the above described contract are within the scope of the SURETY's undertaking on this bond, and SURETY hereby waives notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications shall automatically increase the obligation of the Surety hereunder in a like amount, provided that such increase shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the Surety.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted.

SURETY shall indemnify, defend, and protect the CITY OF LA PINE against any claim of direct or indirect loss resulting from the failure of the CONTRACTOR (or any of the employees, subcontractors, or lower tier subcontractors of the CONTRACTOR) to faithfully perform the terms of the contract.

No right of action shall accrue on this bond to or for the use of any person or corporation other than CITY OF LA PINE or its heirs, executors, administrators, successors or assigns.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
CONTRACTOR

By:\_\_\_\_\_

By\*:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number

\* Must be signed by president or vice-president of Contractor.



**PAYMENT BOND**

**(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM. MUST BE ACCOMPANIED BY A POWER OF ATTORNEY FOR THE SURETY'S OFFICER AUTHORIZED TO SIGN)**

KNOW BY ALL MEN BY THESE PRESENTS:

We the undersigned \_\_\_\_\_  
 as PRINCIPAL (hereinafter called CONTRACTOR), and \_\_\_\_\_  
 \_\_\_\_\_ a corporation organized and existing under and by virtue of the laws of the  
 state of \_\_\_\_\_ duly authorized to do surety business in the  
 state of Oregon and named on the current list of approved surety companies acceptable  
 on federal bonds and conforming with the underwriting limitations as published in the  
 Authorized Insurance List in the State of Oregon published by the Office of the Insurance  
 Commissioner and which carries an "A" rating and is of the appropriate class for the bond  
 amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind  
 ourselves, our heirs, executors, administrators, successors and assigns, jointly and  
 severally, to pay to CITY OF LA PINE as OBLIGEE (hereinafter called CITY OF LA PINE),  
 the \_\_\_\_\_ amount \_\_\_\_\_ of  
 \_\_\_\_\_ in lawful  
 money of the United States of America.

WHEREAS, the CONTRACTOR entered into a contract with CITY OF LA PINE  
 dated \_\_\_\_\_, which Contract is hereunto annexed and made a part  
 hereof, for accomplishment of the all contract terms for the project described as follows:  
**1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**

NOW, THEREFORE, the condition of this obligation is such that if the  
 CONTRACTOR shall promptly, truly and faithfully perform all the undertakings,  
 covenants, terms, conditions, and agreements of the aforesaid contract and having  
 performed its obligations thereunder and promptly make payments to all persons, firms,  
 subcontractors, corporations and/or others furnishing materials for or performing labor in  
 the prosecution of the Work provided for in the aforesaid contract, then this obligation  
 shall be null and void; otherwise it shall remain in full force and effect.

Whenever CONTRACTOR shall be declared by CITY OF LA PINE to be in default  
 under the Contract Documents for the project described herein, the SURETY shall  
 promptly remedy the default by completing the project in accordance with the Contract  
 Documents and the project Specifications with a contractor approved by the CITY OF LA  
 PINE. SURETY, for value received, further stipulates and agrees that all changes,

extensions of time, alterations, or additions to the terms of the Contract or Specifications for the above described contract are within the scope of the SURETY's undertaking on this bond, and SURETY hereby waives notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications shall automatically increase the obligation of the Surety hereunder in a like amount, provided that such increase shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the Surety.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted.

SURETY shall indemnify, defend, and protect the CITY OF LA PINE against any claim of direct or indirect loss resulting from the failure of the CONTRACTOR (or any of the employees, subcontractors, or lower tier subcontractors of the CONTRACTOR) to faithfully perform the terms of the contract.

No right of action shall accrue on this bond to or for the use of any person or corporation other than CITY OF LA PINE or its heirs, executors, administrators, successors or assigns.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
CONTRACTOR

By:\_\_\_\_\_

By\*:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number

\* Must be signed by president or vice-president of Contractor.

**AFFIDAVIT #1**

---

TO: CITY OF LA PINE, OREGON

RE: **1st Street & Hwy 97 Landscape and Pedestrian Improvements Project**

GENTLEMEN:

COMES NOW \_\_\_\_\_ ,

doing business as \_\_\_\_\_ ,

who being first duly sworn, deposes and says:

That all sums due to suppliers, material men, subcontractors, sub-subcontractors, employees and government agencies for wages, goods, services, products, or equipment furnished in connection with the above project have been paid in full. Except as hereinafter stated, this includes, but not limited to all State and Federal withholding taxes, worker's compensation insurance, Oregon unemployment insurance, FUTA unemployment insurance, and social security taxes.

The only obligations which have not been paid and which are known to us are as follows:

1. \_\_\_\_\_ \$ \_\_\_\_\_

2. \_\_\_\_\_ \$ \_\_\_\_\_

3. \_\_\_\_\_ \$ \_\_\_\_\_

4. \_\_\_\_\_ \$ \_\_\_\_\_

5. \_\_\_\_\_ \$ \_\_\_\_\_

If extra space is needed, please attach an extra sheet, date and sign.

WE HEREBY authorize you to pay from the remaining funds, the foregoing obligations by making a check payable to us and to the unpaid creditor/s jointly.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OREGON            )  
  )ss.  
County of \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, the authorized representative for said business, and that (s)he was authorized to sign this affidavit.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON

My Commission Expires: \_\_\_\_\_

**AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
and between \_\_\_\_\_, hereinafter called "OWNER"  
(Name or Owner)

and \_\_\_\_\_ doing business as (an individual,) or (a  
partnership, or (a corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements  
hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of the  
**1st Street & Hwy 97 Landscape and Pedestrian Improvements Project.**

2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment,  
labor and other services necessary for the construction and completion of the  
PROJECT described herein.

3. The CONTRACTOR will commence the work required by the CONTRACT  
DOCUMENTS within \_\_\_\_\_ calendar days after the date of the NOTICE  
TO PROCEED and will complete the same within \_\_\_\_\_ calendar days unless the  
period for completion is extended otherwise by the CONTRACT DOCUMENTS.

4. The CONTRACTOR agrees to perform all of the WORK described in the  
CONTRACT DOCUMENTS and comply with the terms therein for the sum of  
\$ \_\_\_\_\_, or as shown in the BID schedule.

5. The term "CONTRACT DOCUMENTS" means and includes the following:

- A Invitation to Bid
- B Bid Schedule
- C Contractor's Experience Form
- D Bid Bond
- E First Tier Contractor Disclosure Form

F	Proposal
G	Non-Collusion Affidavit
H	Prevailing Wage Rate Compliance Statement
I	Drug Testing Policy Statement
J	Performance Bond
K	Payment Bond
L	Affidavit #1
M	Agreement
N	State of Oregon Contract Conditions
O	Exhibit "A" Public Contracting Code
P	Prevailing Wage Rates
Q	City of La Pine Public Works Standards
R	Oregon Standard Specifications for Construction 2015
U	Drawings dated February, 2017
V	Special Provisions dated February, 2017
W	ADDENDA:

---

6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.



IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in \_\_\_\_\_ number of copies, each of which shall be deemed an original on the date first above written.

OWNER

\_\_\_\_\_  
By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

(Seal)

ATTEST:

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

CONTRACTOR:

\_\_\_\_\_  
By \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

(Seal)

ATTEST:

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**STATE OF OREGON**

**GENERAL CONDITIONS**

**FOR**

**PUBLIC IMPROVEMENT**

**CONTRACTS**



**NOTICE TO STATE AGENCIES AND PUBLIC IMPROVEMENT CONTRACTORS**

**January 1, 2012 Edition**

Changes to the General Conditions (including any additions, deletions or substitutions) should only be made by Supplemental General Conditions, unless the General Conditions are specifically modified in the Public Improvement Agreement (which has a higher order of precedence under Section A.3 of the General Conditions). The text of these General Conditions should not otherwise be altered.

**NOTE: THE FOLLOWING GENERAL CONDITIONS HAVE BEEN REVIEWED AS TO FORM BY THE OREGON DEPARTMENT OF JUSTICE. THE LEGAL SUFFICIENCY AND APPROVAL REQUIREMENTS OF ORS 291.047 ARE STILL APPLICABLE FOR INDIVIDUAL PROCUREMENTS OF STATE AGENCIES, UNLESS AN EXEMPTION HAS BEEN GRANTED PURSUANT TO THAT STATUTE AND ADMINISTRATIVE RULES AT OAR CHAPTER 137, DIVISION 45.**

**STATE OF OREGON**  
**GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS**  
**JANUARY 1, 2012**

TABLE OF SECTIONS

**SECTION A**  
**GENERAL PROVISIONS**

- A.1 DEFINITION OF TERMS
- A.2 SCOPE OF WORK
- A.3 INTERPRETATION OF CONTRACT DOCUMENTS
- A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE
- A.5 INDEPENDENT CONTRACTOR STATUS
- A.6 RETIREMENT SYSTEM STATUS AND TAXES
- A.7 GOVERNMENT EMPLOYMENT STATUS

**SECTION B**  
**ADMINISTRATION OF THE CONTRACT**

- B.1 OWNER'S ADMINISTRATION OF THE CONTRACT
- B.2 CONTRACTOR'S MEANS AND METHODS
- B.3 MATERIALS AND WORKMANSHIP
- B.4 PERMITS
- B.5 COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS
- B.6 SUPERINTENDENCE
- B.7 INSPECTION
- B.8 SEVERABILITY
- B.9 ACCESS TO RECORDS
- B.10 WAIVER
- B.11 SUBCONTRACTS AND ASSIGNMENT
- B.12 SUCCESSORS IN INTEREST
- B.13 OWNER'S RIGHT TO DO WORK
- B.14 OTHER CONTRACTS
- B.15 GOVERNING LAW
- B.16 LITIGATION
- B.17 ALLOWANCES
- B.18 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES
- B.19 SUBSTITUTIONS
- B.20 USE OF PLANS AND SPECIFICATIONS
- B.21 FUNDS AVAILABLE AND AUTHORIZED
- B.22 NO THIRD PARTY BENEFICIARIES

**SECTION C**  
**WAGES AND LABOR**

- C.1 MINIMUM WAGES RATES ON PUBLIC WORKS
- C.2 PAYROLL CERTIFICATION; ADDITIONAL RETAINAGE; FEE REQUIREMENTS
- C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS
- C.4 PAYMENT FOR MEDICAL CARE
- C.5 HOURS OF LABOR

**SECTION D**  
**CHANGES IN THE WORK**

- D.1 CHANGES IN THE WORK
- D.2 DELAYS
- D.3 CLAIMS REVIEW PROCESS

**SECTION E**  
**PAYMENTS**

- E.1 SCHEDULE OF VALUES
- E.2 APPLICATIONS FOR PAYMENT
- E.3 PAYROLL CERTIFICATION REQUIREMENT
- E.4 DUAL PAYMENT SOURCES
- E.5 RETAINAGE
- E.6 FINAL PAYMENT

**SECTION F**  
**JOB SITE CONDITIONS**

- F.1 USE OF PREMISES
- F.2 PROTECTION OF WORKERS, PROPERTY AND THE PUBLIC
- F.3 CUTTING AND PATCHING
- F.4 CLEANING UP
- F.5 ENVIRONMENTAL CONTAMINATION
- F.6 ENVIRONMENTAL CLEAN-UP
- F.7 FORCE MAJEURE

**SECTION G**  
**INDEMNITY, BONDING AND INSURANCE**

- G.1 RESPONSIBILITY FOR DAMAGES/INDEMNITY
- G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND
- G.3 INSURANCE

**SECTION H**  
**SCHEDULE OF WORK**

- H.1 CONTRACT PERIOD
- H.2 SCHEDULE
- H.3 PARTIAL OCCUPANCY OR USE

**SECTION I**  
**CORRECTION OF WORK**

- I.1 CORRECTIONS OF WORK BEFORE FINAL PAYMENT
- I.2 WARRANTY WORK

**SECTION J**  
**SUSPENSION AND/OR TERMINATION OF THE WORK**

- J.1 OWNER'S RIGHT TO SUSPEND THE WORK
- J.2 CONTRACTOR'S RESPONSIBILITIES
- J.3 COMPENSATION FOR SUSPENSION
- J.4 OWNER'S RIGHT TO TERMINATE CONTRACT
- J.5 TERMINATION FOR CONVENIENCE
- J.6 ACTION UPON TERMINATION

**SECTION K**  
**CONTRACT CLOSE-OUT**

- K.1 RECORD DRAWINGS
- K.2 OPERATION AND MAINTENANCE MANUALS
- K.3 AFFIDAVIT/RELEASE OF LIENS AND CLAIMS
- K.4 COMPLETION NOTICES
- K.5 TRAINING
- K.6 EXTRA MATERIALS
- K.7 ENVIRONMENTAL CLEAN-UP
- K.8 CERTIFICATE OF OCCUPANCY
- K.9 OTHER CONTRACTOR RESPONSIBILITIES
- K.10 SURVIVAL

**SECTION L**  
**LEGAL RELATIONS AND RESPONSIBILITY**  
**TO THE PUBLIC**

- L.1 LAWS TO BE OBSERVED
- L.2 FEDERAL AGENCIES
- L.3 STATE AGENCIES
- L.4 LOCAL AGENCIES

**STATE OF OREGON  
GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS  
("General Conditions")**

**SECTION A  
GENERAL PROVISIONS**

**A.1 DEFINITION OF TERMS**

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

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

**CHANGE ORDER**, means a written order issued by the Owner's Authorized Representative to the Contractor requiring a change in the Work within the general scope of the Contract Documents, issued under the changes provisions of Section D.1 including Owner's written change directives as well as changes reflected in a writing executed by the parties to this Contract and, if applicable, establishing a Contract Price or Contract Time adjustment for the changed Work.

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

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

**CONTRACT DOCUMENTS**, means the Solicitation Document and addenda thereto, the State of Oregon Public Improvement Agreement Form, General Conditions, Supplemental General Conditions, if any, the accepted Offer, Plans, Specifications, amendments and Change Orders.

**CONTRACT PERIOD**, as set forth in the Contract Documents, means the total period of time beginning with the issuance of the Notice to Proceed and concluding upon Final Completion.

**CONTRACT PRICE**, means the total of the awarded Offer amount, as increased or decreased by the price of approved alternates and Change Orders.

**CONTRACT TIME**, means any incremental period of time allowed under the Contract to complete any portion of the Work as reflected in the project schedule.

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

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

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

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

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

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

**OFFER**, means a bid in connection with an invitation to bid and a proposal in connection with a request for proposals.

**OFFEROR**, means a bidder in connection with an invitation to bid and a proposer in connection with a request for proposals.

**OVERHEAD**, means those items which may be included in the Contractor's markup (general and administrative expense and profit) and that shall not be charged as Direct Cost of the Work, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman (i.e., superintendents and project managers), expenses of Contractor's offices at the job site (e.g. job trailer) including expenses of personnel staffing the job site office, and Commercial General Liability Insurance and Automobile Liability Insurance.

**OWNER**, means the State of Oregon acting by and through the governmental entity identified in the Solicitation Document.

**OWNER'S AUTHORIZED REPRESENTATIVE**, means those individuals identified in writing by the Owner to act on behalf of the Owner for this project. Owner may elect, by written notice to Contractor, to delegate certain duties of the Owner's Authorized Representative to more than one party, including without limitation, to an Architect/Engineer. However, nothing in these General Conditions is intended to abrogate the separate design professional responsibilities of Architects under ORS Chapter 671 or of Engineers under ORS Chapter 672.

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

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

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

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

**SOLICITATION DOCUMENT**, means an invitation to bid or request for proposal or request for quotes.

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

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

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

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

**SUPPLEMENTAL GENERAL CONDITIONS**, means those conditions that remove from, add to, or modify these General Conditions. Supplemental General Conditions may be

included in the Solicitation Document or may be a separate attachment to the Contract.

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

## **A.2 SCOPE OF WORK**

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

## **A.3 INTERPRETATION OF CONTRACT DOCUMENTS**

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

1. Contract amendments and Change Orders, with those of later date having precedence over those of an earlier date;
2. The Supplemental General Conditions;
3. The State of Oregon Public Improvement Agreement Form;
4. The General Conditions
5. The Plans and Specifications
6. The Solicitation Document and any addenda thereto;
7. The accepted Offer.

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

A.3.3 If the Contractor finds discrepancies in, or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner or Owner's Authorized Representative. Matters concerning performance under, and interpretation of requirements of, the Contract Documents will be decided by the Owner's Authorized Representative, who may delegate that duty in some instances to the Architect/Engineer. Responses to Contractor's requests for interpretation of Contract Documents will be made in writing by Owner's Authorized Representative (or the Architect/Engineer) within any time limits agreed upon or otherwise with reasonable promptness.

Interpretations and decisions of the Owner's Authorized Representative (or Architect/Engineer) will be consistent with the intent of and reasonably inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner's Authorized Representative (or Architect/Engineer).

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

#### **A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE**

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

the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

#### **A.5 INDEPENDENT CONTRACTOR STATUS**

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

#### **A.6 RETIREMENT SYSTEM STATUS AND TAXES**

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

#### **A.7 GOVERNMENT EMPLOYMENT STATUS**

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

### **SECTION B ADMINISTRATION OF THE CONTRACT**

#### **B.1 OWNER'S ADMINISTRATION OF THE CONTRACT**

- B.1.1 The Owner's Authorized Representative will provide administration of the Contract as described in the Contract Documents (1) during construction (2) until final payment is due and (3) during the one-year period for correction of Work. The Owner's Authorized Representative will act on behalf of the Owner to the extent provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner's Authorized Representative may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.
- B.1.2 The Owner's Authorized Representative will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Owner's Authorized Representative

will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner's Authorized Representative will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.

- B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Owner's Authorized Representative or designee about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner's Authorized Representative.
- B.1.4 Based upon the Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner's Authorized Representative, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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

- B.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.
- B.2.2 The Contractor is responsible to protect and maintain the Work during the course of construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which may affect cost, schedule, or quality.
- B.2.3 The Contractor is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.

**B.3 MATERIALS AND WORKMANSHIP**

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

and used by the industry, in accordance with industry standards.

- B.3.2 The Contractor is responsible to perform the Work as required by the Contract Documents. Defective Work shall be corrected at the Contractor's expense.
- B.3.3 Work done and materials furnished shall be subject to inspection and/or observation and testing by the Owner's Authorized Representative to determine if they conform to the Contract Documents. Inspection of the Work by the Owner's Authorized Representative does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.
- B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner's Authorized Representative to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.
- B.3.5 The Contractor shall furnish Samples of materials for testing by the Owner's Authorized Representative and include the cost of the Samples in the Contract Price.

**B.4 PERMITS**

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

**B.5 COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS**

- B.5.1 Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Owner's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.



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

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

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

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

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

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

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

## **B.6 SUPERINTENDENCE**

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

## **B.7 INSPECTION**

B.7.1 Owner's Authorized Representative shall have access to the Work at all times.

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

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

B.7.4 As required by the Contract Documents, Work done or material used without inspection or testing by the Owner's Authorized Representative may be ordered removed at the Contractor's expense.

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

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

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

## **B.8 SEVERABILITY**

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and

enforced as if the Contract did not contain the particular provision held to be invalid.

#### **B.9 ACCESS TO RECORDS**

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

B.9.2 Contractor shall retain and the Owner and its duly authorized representatives shall have access to, for a period not less than ten (10) years, all Record Documents, financial and accounting records, and other books, documents, papers and records of Contractor which are pertinent to the Contract including records pertaining to Overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. If for any reason, any part of the Contract is involved in litigation, Contractor shall retain all such records until all litigation is resolved. The Owner and/or its agents shall continue to be provided full access to the records during litigation.

#### **B.10 WAIVER**

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

#### **B.11 SUBCONTRACTS AND ASSIGNMENT**

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

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

B.11.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under this Contract, in whole or in part, without the prior written approval of the Owner. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with

the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

#### **B.12 SUCCESSORS IN INTEREST**

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

#### **B.13 OWNER'S RIGHT TO DO WORK**

Owner reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor will coordinate work with the other contractors or forces, cooperate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Work with the work of the others in an acceptable manner and perform it in proper sequence to that of the others. The Owner's Authorized Representative will resolve any disagreements that may arise between or among Contractor and the other contractors over the method or order of doing all work (including the Work). In case of unavoidable interference, the Owner's Authorized Representative will establish work priority (including the Work) which generally will be in the sequence that the contracts were awarded.

#### **B.14 OTHER CONTRACTS**

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

#### **B.15 GOVERNING LAW**

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

#### **B.16 LITIGATION**

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

#### **B.17 ALLOWANCES**

B.17.1 The Contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such

amounts and by such persons or entities as the Owner may direct.

B.17.2 Unless otherwise provided in the Contract Documents:

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

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

B.18.1 The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Owner's Authorized Representative if approval authority has not been delegated to the Architect/Engineer), a schedule and list of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. Owner reserves the right to finally approve the schedule and list of submittals. Submittals include, without limitation, Shop Drawings, Product Data, and Samples which are described below:

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

B.18.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed

in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

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

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

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

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

B.18.7 In the event that Owner elects not to have the obligations and duties described under this Section

B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner's Authorized Representative.

### **B.19 SUBSTITUTIONS**

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

### **B.20 USE OF PLANS AND SPECIFICATIONS**

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

### **B.21 FUNDS AVAILABLE AND AUTHORIZED**

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

### **B.22 NO THIRD PARTY BENEFICIARIES**

Owner and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

## **SECTION C WAGES AND LABOR**

### **C.1 MINIMUM WAGE RATES ON PUBLIC WORKS**

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), are included as attachments to or are incorporated by reference in the Contract Documents. Contractor shall pay workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all subcontracts.

### **C.2 PAYROLL CERTIFICATION; ADDITIONAL RETAINAGE; FEE REQUIREMENTS**

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

The Contractor and Subcontractors shall preserve the certified statements for a period of ten (10) years from the date of completion of the Contract.

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

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

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

### **C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS**

C.3.1 Pursuant to ORS 279C.505 and as a condition to Owner's performance hereunder, the Contractor shall:

C.3.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.

C.3.1.2 Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.

C.3.1.3 Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Owner, or assign any sums due by Owner, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Owner.

C.3.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

C.3.1.5 Demonstrate that an employee drug testing program is in place as follows:

(a) Contractor represents and warrants that Contractor has in place at the time of the execution of this Contract, and shall maintain during the term of this Contract, a Qualifying Employee Drug Testing Program for its employees that includes, at a minimum, the following:

- (1) A written employee drug testing policy,
- (2) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
- (3) Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." For the purposes of this section, an employee is a "Subject Employee" only if that employee will be working on the project job site.

(b) Contractor shall require each Subcontractor providing labor for the project to:

- (1) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees,

and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract, or

- (2) Require that the Subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

C.3.2 Pursuant to ORS 279C.515, and as a condition to Owner's performance hereunder, Contractor agrees:

C.3.2.1 If Contractor fails, neglects or refuses to pay promptly a person's claim for labor or services that the person provides to the Contractor or a Subcontractor in connection with the project as such claim becomes due, the proper officer that represents the Owner may pay the amount of the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract. Paying a claim in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to an unpaid claim.

C.3.2.2 If the Contractor or a first-tier Subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public contract for a public improvement within thirty (30) Days after receiving payment from Owner or a contractor, the contractor or first-tier Subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-Day period within which payment is due under ORS 279C.580(3) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.

C.3.2.3 If the Contractor or a Subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract must contain a similar clause.

C.3.3 Pursuant to ORS 279C.580, Contractor shall include in each subcontract for property or services the Contractor enters into with a first-tier Subcontractor, including a material supplier, for the purpose of performing a construction contract:

- (a) A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under the subcontract within ten (10) Days out of amounts the Owner pays to the Contractor under the Contract;
- (b) A clause that requires the Contractor to provide the first-tier Subcontractor with a standard form that the first-tier Subcontractor may use as an application for payment or as another method by which the Subcontractor may claim a payment due from the Contractor;

- (c) A clause that requires the Contractor, except as otherwise provided in this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. The Contractor may change the form or the regular administrative procedures the Contractor uses for processing payments if the Contractor:
  - (1) Notifies the Subcontractor in writing at least 45 days before the date on which the Contractor makes the change; and
  - (2) Includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.
- (d) An interest penalty clause that obligates the Contractor, if the Contractor does not pay the first-tier Subcontractor within thirty (30) Days after receiving payment from Owner, to pay the first-tier Subcontractor an interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract under paragraph (a) of this subsection. Contractor or first-tier Subcontractor is not obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor did not receive payment from Owner or Contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and that ends on the date on which the amount due is paid; and is computed at the rate specified in ORS 279C.515(2).
- (e) A clause which requires each of Contractor's Subcontractors to include, in each of their contracts with lower-tier Subcontractors or suppliers, provisions to the effect that the first-tier Subcontractor shall pay its lower-tier Subcontractors and suppliers in accordance with the provisions of paragraphs (a) through (d) above and requiring each of their Subcontractors and suppliers to include such clauses in their subcontracts and supply contracts.

C.3.4 All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

#### **C.4 PAYMENT FOR MEDICAL CARE**

Pursuant to ORS 279C.530, and as a condition to Owner's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such services and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

#### **C.5 HOURS OF LABOR**

As a condition to Owner's performance hereunder, Contractor shall comply with ORS 279C.520, as amended from time to time and incorporated herein by this reference:

Pursuant to ORS 279C.520 and as a condition to Owner's performance hereunder, no person shall be employed to perform Work under this Contract for more than ten (10) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

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

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

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

### **SECTION D CHANGES IN THE WORK**

#### **D.1 CHANGES IN WORK**

D.1.1 The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Owner's Authorized Representative, and then only in a manner consistent with the Change Order provisions of this Section D.1 and after any necessary approvals required by public contracting laws have been obtained. Otherwise, a formal contract amendment is required, which shall not be effective until its execution by the parties to this Contract and all approvals required by public contracting laws have been obtained.

D.1.2 It is mutually agreed that changes in Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction. Within the general scope of this Contract, the Owner's Authorized Representative may at any time, without notice to the sureties and without impairing the Contract, require changes consistent with this Section D.1. All Change Order Work shall be executed under the conditions of the Contract Documents. Such changes may include, but are not limited to:

- (a) Modification of specifications and design.
- (b) Increases or decreases in quantities.
- (c) Increases or decreases to the amount of Work.

- (d) Addition or elimination of any Work item.
- (e) Change in the duration of the project.
- (f) Acceleration or delay in performance of Work.
- (g) Deductive changes.

Deductive changes are those that reduce the scope of the Work, and shall be made by mutual agreement whenever feasible, as determined by Owner. In cases of suspension or partial termination under Section J, Owner reserves the right to unilaterally impose a deductive change and to self perform such Work, for which the provisions of B.13 (Owner's Right to Do Work) shall then apply.

Adjustments in compensation shall be made under the provisions of D.1.3, in which costs for deductive changes shall be based upon a Direct Costs adjustment together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Owner.

D.1.3 The Owner and Contractor agree that Change Order Work shall be administered and compensated according to the following:

- (a) *Unit pricing* may be utilized at the Owner's option when unit prices or solicitation alternates were provided that established the cost for additional Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the additional Work.
- (b) If the Owner elects not to utilize unit pricing, or in the event that unit pricing is not available or appropriate, *fixed pricing* may be used for Change Order Work. In fixed pricing the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. The mark-ups set forth in D.1.3(c) shall be utilized by the parties as a guide in establishing fixed pricing, and will not be exceeded by Owner without adequate justification. Cost and price data relating to Change Orders shall be supplied by Contractor to Owner upon request, but Owner shall be under no obligation to make such requests.
- (c) In the event that unit pricing and fixed pricing are not utilized, then Change Order Work shall be performed on a *cost reimbursement* basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. In addition, the following markups shall be added to the Contractor's or Subcontractor's Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the Contractor's or Subcontractor's own forces:

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

When Change Order Work under D.1.3(c) is invoiced by an authorized Subcontractor at any level, each ascending

tier Subcontractor or Contractor will be allowed a 5% supplemental mark-up on each piece of subcontract Work covered by such Change Order.

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

D.1.4 Any necessary adjustment of Contract Time that may be required as a result of a Change Order must be agreed upon by the parties before the start of the Change Order Work unless Owner's Authorized Representative authorizes Contractor to start the Work before agreement on Contract Time adjustment. Contractor shall submit any request for additional compensation (and additional Contract Time if Contractor was authorized to start Work before an adjustment of Contract Time was approved) as soon as possible but no later than thirty (30) Days after receipt of the Change Order. If Contractor's request for additional compensation or adjustment of Contract Time is not made within the thirty (30) day time limit, Contractor's requests pertaining to that Change Order are barred. The thirty (30) day time limit for making requests shall not be extended for any reason, including without limitation Contractor's claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by Owner. If the Owner's Authorized Representative denies Contractor's request for additional compensation or adjustment of Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process. No other reimbursement, compensation, or payment will be made, except as provided in Section D.1.5 for impact claims.

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

The thirty (30) day time limit applies to claims of Subcontractors, suppliers, or manufacturers that may be affected by the Change Order and that request additional compensation or an extension of Contract Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the thirty (30) day time limit, and including their requests with Contractor's requests. If the request involves Work to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the compensation and additional Contract Time

requested. The Contractor will analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor's analysis and evaluation of those requests with Contractor's requests for additional compensation or Contract Time that Contractor submits to the Owner's Authorized Representative. Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor's requests submitted to Owner's Authorized Representative within the time period and by the means described in this section shall constitute a waiver of these Subcontractor claims. The Owner's Authorized Representative and the Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract. The consideration of such requests and claims under this section does not give any person, not a party to the Contract the right to bring a claim against the State of Oregon, whether in this claims process, in litigation, or in any dispute resolution process.

If the Owner's Authorized Representative denies the Contractor's request for additional compensation or an extension of Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

D.1.6 No request or Claim by the Contractor for additional costs or an extension of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Contractor agrees to submit its final payment application within ninety (90) days after Substantial Completion, unless written extension is granted by Owner. Contractor shall not delay final payment application for any reason, including without limitation nonpayment of Subcontractors, suppliers, manufacturers or others not a party to this Contract, or lack of resolution of a dispute with Owner or any other person of matters arising out of or relating to the Contract. If Contractor fails to submit its final payment application within ninety (90) days after Substantial Completion, and Contractor has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Contract Time shall be waived.

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

## **D.2 DELAYS**

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

D.2.1.1 Avoidable Delays include any delays other than Unavoidable Delays, and include delays that

otherwise would be considered Unavoidable Delays but that:

- (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of other parts of the Work nor the completion of the whole Work within the Contract Time.
- (c) Do not impact activities on the accepted critical path schedule.
- (d) Are associated with the reasonable interference of other contractors employed by the Owner that do not necessarily prevent the completion of the whole Work within the Contract Time.

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

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



phenomenon for the specific locality of the Work, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Work, shall not be construed as abnormal. The parties agree that rainfall greater than the following levels cannot be reasonably anticipated:

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

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

D.2.2 Except as otherwise provided in ORS 279C.315, Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.

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

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

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

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

### **D.3 CLAIMS REVIEW PROCESS**

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

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

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

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

D.3.5 The decision of the Owner shall be final and binding unless the Contractor delivers to the Owner its requests for mediation, which shall be a non-binding process, within fifteen (15) Days of the date of the Owner's decision. The mediation process will be

considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) Days of the commencement of the mediation through the mediation process set forth herein.

In the event that a lawsuit must be filed within this sixty (60) day period in order to preserve a cause of action, the parties agree that notwithstanding the filing, they shall proceed diligently with the mediation to its conclusion prior to actively prosecuting the lawsuit, and shall seek from the Court in which the lawsuit is pending such stays or extensions, including the filing of an answer, as may be necessary to facilitate the mediation process. Further, in the event settlements are reached on any issues through mediation, the parties agree to promptly submit the appropriate motions and orders documenting the settlement to the Court for its signature and filing.

- D.3.6 The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Owner's administrative rules governing the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.
- D.3.7 Owner may at any time and at its discretion issue a construction change directive adding to, modifying or reducing the scope of Work. Contractor and Owner shall negotiate the need for any additional compensation or additional Contract Time related to the change, subject to the procedures for submitting requests or Claims for additional compensation or additional Contract Time established in this Section D. Unless otherwise directed by Owner's Authorized Representative, Contractor shall proceed with the Work while any request or Claim is pending, including but not limited to, a request or Claim for additional compensation or additional Contract Time resulting from Work under a Change Order or construction change directive. Regardless of the review period or the final decision of the Owner's Authorized Representative, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease Work without a written stop work order from the Owner or Owner's Authorized Representative.

## **SECTION E PAYMENTS**

### **E.1 SCHEDULE OF VALUES**

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

### **E.2 APPLICATIONS FOR PAYMENT**

- E.2.1 Owner shall make progress payments on the Contract monthly as Work progresses. Payments shall be based upon estimates of Work completed and the Schedule of Values. All payments shall be approved by the Owner's Authorized Representative. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Owner shall pay to Contractor interest on the progress payment, not including retainage, due the Contractor. The interest shall commence thirty (30) Days after the receipt of invoice ("application for payment") from the Contractor or fifteen (15) Days after the payment is approved by the Owner's Authorized Representative, whichever is the earlier date. The rate of interest shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty (30) Days after receipt of the application for payment from the Contractor or fifteen (15) Days after the payment is approved by the Owner, whichever is the earlier date, but the rate of interest shall not exceed thirty (30) percent. Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within fifteen (15) Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within seven (7) Days of being notified by the Owner, shall not cause a payment to be made later than specified in this section unless interest is also paid. Accrual of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and the Contractor.

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

Owner, upon written notice to the Contractor, may elect to make payments to the Contractor only by means of Electronic Funds Transfers (EFT) through Automated Clearing House (ACH) payments. If

Owner makes this election, the Contractor will be required to arrange to receive EFT/ACH payments.

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

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

Signed: \_\_\_\_\_"

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

- (a) The request for stored material shall be submitted at least thirty (30) Days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.
- (b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.
- (c) The material shall be stored in a bonded warehouse and Owner's Authorized Representative shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.
- (d) The Contractor shall name the Owner as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Owner.
- (e) Payments shall be made for materials only. The submitted amount of the application for payment shall be reduced by the cost of transportation and for the cost of an inspector to check the delivery at out of town storage sites. The cost of said inspection shall be borne solely by the Contractor.
- (f) Within sixty (60) Days of the application for payment, the Contractor shall submit evidence of payment covering the material stored.
- (g) Payment for stored materials shall in no way indicate acceptance of the materials or waive any rights under this Contract for the rejection of the Work or materials not in conformance with the Contract Documents.

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

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

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

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

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

- (d) Subtract any amounts for which the Owner's Authorized Representative has withheld or nullified payment as provided in the Contract Documents.

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

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

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

### **E.3 PAYROLL CERTIFICATION REQUIREMENT**

Payroll certification is required before payments are made on the Contract. Refer to Section C.2 for this information.

### **E.4 DUAL PAYMENT SOURCES**

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

### **E.5 RETAINAGE**

E.5.1 Retainage shall be withheld and released in accordance with ORS 279C.550 to 279C.580:

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

E.5.1.2 In accordance with the provisions of ORS 279C.560 and any applicable administrative rules, unless the Owner finds in writing that

accepting a bond, security or other instrument described in options (a) or (c) below poses an extraordinary risk that is not typically associated with the bond, security or instrument, the Owner will approve the Contractor's written request:

- (a) to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds, securities or other instruments of equal value with Owner or in a custodial account or other mutually-agreed account satisfactory to Owner, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Owner. Interest or earnings on the bonds, securities or other instruments shall accrue to the Contractor. The Contractor shall execute and provide such documentation and instructions respecting the bonds, securities and other instruments as the Owner may require to protect its interests. To be permissible the bonds, securities and other instruments must be of a character approved by the Director of the Oregon Department of Administrative Services, including but not limited to:

- (i) Bills, certificates, notes or bonds of the United States.
- (ii) Other obligations of the United States or agencies of the United States.
- (iii) Obligations of a corporation wholly owned by the federal government.
- (iv) Indebtedness of the Federal National Mortgage Association.
- (v) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon.
- (vi) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

- (b) that retainage be deposited in an interest bearing account, established through the State Treasurer for state agencies, in a bank, savings bank, trust company or savings association for the benefit of Owner, with interest from such account accruing to the Contractor; or
- (c) that the Contractor be allowed, with the approval of the Owner, to deposit a surety bond for the benefit of Owner, in a form acceptable to Owner, in lieu of all or a portion of funds retained, or to be retained. Such bond and any proceeds therefrom shall be made subject to all claims and liens in the manner and priority as set forth for retainage under ORS 279C.550 to ORS 279C.625.

Where the Owner has accepted the Contractor's election of any of the options above, Owner may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Owner has agreed to Contractor's request to deposit a surety bond under option (c), Contractor shall accept like bonds from Subcontractors and suppliers on the project from which Contractor has required retainage.

E.5.1.3 The retainage held by Owner shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Owner shall pay to Contractor interest at the rate of one and one-half percent per month on the final payment

due Contractor, interest to commence thirty (30) Days after the Work under the Contract has been completed and accepted and to run until the date Contractor shall notify Owner in writing when the Contractor considers the Work complete and Owner shall, within fifteen (15) Days after receiving the written notice, either accept the Work or notify the Contractor of Work yet to be performed on the Contract. If Owner does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run thirty (30) Days after the end of the 15-Day period.

E.5.1.4 In accordance with the provisions of ORS 279C.560, if the Owner accepts bonds, securities or other instruments deposited as provided in paragraphs (a) and (c) of subsection E.5.1.2, the Owner shall reduce the moneys held as retainage in an amount equal to the value of the bonds, securities and other instruments and pay the amount of the reduction to the Contractor in accordance with ORS 279C.570.

E.5.1.5 Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection E.5 as apply to Owner's retainage from any progress payment due to Contractor. Provided, however, if in accordance with the provisions of ORS 279C.560 the Contractor has deposited bonds, securities or other instruments or has elected to have the Owner deposit accumulated retainage in an interest-bearing account, the Contractor shall comply with the provisions of ORS 701.435 respecting the deposit of bonds, securities or other instruments by Subcontractors and suppliers and the sharing of interest earnings with Subcontractors and suppliers.

E.5.2 As provided in subsections C.2.2 and C.2.3, additional retainage in the amount of 25% of amounts earned shall be withheld and released in accordance with ORS 279C.845(7) when the Contractor fails to file certified statements as required by section C.2.1.

## **E.6 FINAL PAYMENT**

E.6.1 Upon completion of all the Work under this Contract, the Contractor shall notify the Owner's Authorized Representative, in writing, that Contractor has completed Contractor's part of the Contract and shall request final payment. Upon receipt of such notice the Owner's Authorized Representative will inspect the Work, and if acceptable, submit to the Owner a recommendation as to acceptance of the completed Work and the final estimate of the amount due the Contractor. If the Work is not acceptable, Owner will notify Contractor within fifteen (15) Days of Contractor's request for final payment. Upon approval of this final estimate by the Owner and compliance by the Contractor with provisions in Section K. 3 AFFIDAVIT/RELEASE OF LIENS AND CLAIMS, and other provisions as may be applicable,

the Owner shall pay to the Contractor all monies due under the provisions of these Contract Documents.

E.6.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner's Authorized Representative (1) a notarized affidavit/release of liens and claims in a form satisfactory to Owner that states 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 and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

E.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.

## **SECTION F JOB SITE CONDITIONS**

### **F.1 USE OF PREMISES**

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

### **F.2 PROTECTION OF WORKERS, PROPERTY, AND THE PUBLIC**

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

shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

F.2.2 Contractor shall take all necessary precautions for the safety of all personnel on the job site, and shall comply with the Contract Documents and all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for protection of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Work site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Owner's Authorized Representative. The Owner's Authorized Representative has no responsibility for Work site safety. Work site safety is the responsibility of the Contractor.

F.2.3 Contractor shall not enter upon private property without first obtaining permission from the property owner or its duly authorized representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and make, or arrange to make, full restitution. Contractor shall immediately and in writing, report to the Owner's Authorized Representative, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.

F.2.4 Contractor is responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, and materials on the site.

F.2.5 Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials will be conducted so no release will occur that may pollute or become hazardous.

F.2.6 In an emergency affecting the safety of life or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Owner's Authorized Representative, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by the Owner's Authorized Representative. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with Section D.

### **F.3 CUTTING AND PATCHING**

F.3.1 Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.

F.3.2 Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor

### **F.4 CLEANING UP**

From time to time as may be ordered by the Owner the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. If Contractor fails to do so within twenty-four hours after notification by the Owner the work may be done by others and the cost charged to the Contractor and deducted from payment due the Contractor.

### **F.5 ENVIRONMENTAL CONTAMINATION**

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

F.5.1.1 Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of Owner and 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 and be performed by properly qualified personnel.

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

(a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all applicable federal, state, or local statutes, rules, or ordinances;

(b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Work site; and

(c) promptly clean up, 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.

F.5.2 Contractor shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR Part 302, Table 302.4 for hazardous substances and in OAR 340-142-0050 for all products addressed therein. Upon discovery, regardless of quantity, Contractor must telephonically report all releases to the Owner. A written follow-up report shall be submitted to Owner within 48 hours of the telephonic report. Such written report shall contain, as a minimum:

- (a) Description of items released (identity, quantity, manifest no., and all other documentation required by law.)
- (b) Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.
- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.
- (e) Summary of communications about the release Contractor has had with members of the press or State officials other than Owner.
- (f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- (g) Personnel injuries, if any, resulting from, or aggravated by, the release.

#### **F.6 ENVIRONMENTAL CLEAN-UP**

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

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

#### **F.7 FORCE MAJEURE**

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

### **SECTION G INDEMNITY, BONDING, AND INSURANCE**

#### **G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY**

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

G.1.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner, Owner's Authorized Representative, Architect/Engineer, Architect/Engineer's consultants, and their respective officers, directors, agents, employees, partners, members, stockholders and affiliated companies (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever which arise out of, result from or are related to, (a) any damage, injury, loss, expense, inconvenience or delay described in this Section G.1.2, (b) any accident or occurrence which happens or is alleged to have happened in or about the project site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects, (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract, (d) the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140), and (e) any lien filed upon the project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section G.1.2.

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

**G.2 PERFORMANCE AND PAYMENT SECURITY:  
PUBLIC WORKS BOND**

- G.2.1 When the Contract Price is \$100,000 or more (or \$50,000 or more in the case of Contracts for highways, bridges and other transportation projects) the Contractor shall furnish and maintain in effect at all times during the Contract Period, a performance bond in a sum equal to the Contract Price, and a separate payment bond also in a sum equal to the Contract Price. The bonds may be required if the Contract Price is less than the above thresholds, if required by the Contract Documents.
- G.2.2 Bond forms furnished by the Owner and notarized by awarded Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.
- G.2.3 Before execution of the Contract Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting the Subcontractor to start Work.

**G.3 INSURANCE**

- G.3.1 Primary Coverage: Insurance carried by Contractor under this Contract shall be the primary coverage and non-contributory with any other insurance and self-insurance, and the Owner's insurance is excess and solely for damages or losses for which the Owner is responsible. The coverages indicated are minimums unless otherwise specified in the Contract Documents.
- G.3.2 Workers' Compensation: All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. This shall include Employer's Liability Insurance with coverage limits of not less than \$100,000 for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.

**G.3.3 Builder's Risk Insurance:**

- G.3.3.1 Builder's Risk: During the term of this Contract, for new construction the Contractor shall obtain and keep in effect Builder's Risk insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of the Contract. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible shall not exceed 2 percent of each loss or \$50,000, whichever is more. The policy will include as loss payees the

Owner, the Contractor and its Subcontractors as their interests may appear.

- G.3.3.2 Builder's Risk Installation Floater: For other than new construction the Contractor shall obtain and keep in effect during the term of this Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the Work performed under this Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. This insurance shall include as loss payees the State of Oregon, the Owner, the Contractor and its Subcontractors as their interests may appear.
- G.3.3.3 Such insurance shall be maintained until Owner has occupied the facility.
- G.3.3.4 A loss insured under the Builder's Risk insurance shall be adjusted by the Owner and made payable to the Owner for the insureds, as their interests may appear. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner shall have power to adjust and settle a loss with insurers.

**G.3.4 Liability Insurance:**

- G.3.4.1 Commercial General Liability: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the State. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Contract (to the extent contractual liability coverage for the indemnity is available in the marketplace), and shall be issued on an occurrence basis. Contractor shall provide proof of insurance of not less than the amounts listed in the following schedules:

Per Occurrence Limit for any single claimant:  
From commencement of the Contract term to June 30, 2011: \$1,600,000  
July 1, 2011 to June 30, 2012: \$1,700,000  
July 1, 2012 to June 30, 2013: \$1,800,000  
July 1, 2013 to June 30, 2014: \$1,900,000  
July 1, 2014 to June 30, 2015: \$2,000,000  
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Per Occurrence Limit for multiple claimants:  
From commencement of the Contract term to June 30, 2011: \$3,200,000  
July 1, 2011 to June 30, 2012: \$3,400,000  
July 1, 2012 to June 30, 2013: \$3,600,000  
July 1, 2013 to June 30, 2014: \$3,800,000  
July 1, 2014 to June 30, 2015: \$4,000,000  
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

**Property Damage:**



Per Occurrence Limit for any single claimant:

From commencement of the Contract term to January 1, 2011: \$100,100.

From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

Per Occurrence Limit for multiple claimants:

From commencement of the Contract term to January 1, 2011 : \$500,600.

From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

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

Bodily Injury/Death:

Per Occurrence Limit for any single claimant:

From commencement of the Contract term June 30, 2011: \$1,600,000

July 1, 2011 to June 30, 2012: \$1,700,000

July 1, 2012 to June 30, 2013: \$1,800,000

July 1, 2013 to June 30, 2014: \$1,900,000

July 1, 2014 to June 30, 2015: \$2,000,000

July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Per Occurrence Limit for multiple claimants:

From commencement of the Contract term to June 30, 2011: \$3,200,000

July 1, 2011 to June 30, 2012: \$3,400,000

July 1, 2012 to June 30, 2013: \$3,600,000

July 1, 2013 to June 30, 2014: \$3,800,000

July 1, 2014 to June 30, 2015: \$4,000,000

July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Property Damage:

Per Occurrence Limit for any single claimant:

From commencement of the Contract term to January 1, 2011: \$100,100

From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

Per Occurrence Limit for multiple claimants:

From commencement of the Contract term to January 1, 2011: \$500,600

From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon

G.3.4.3 "Tail" Coverage: If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months or the maximum time period available in the marketplace if less than 24 months. Contractor will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. This will be a condition of the final acceptance of Work or services and related warranty (if any).

G.3.5 Excess/Umbrella Insurance: A combination of primary and excess/umbrella insurance is acceptable to meet the minimum coverage requirements for Commercial General Liability and Automobile Liability Insurance. In such case, the insurance certificate must include a list of the policies that fall under the excess/umbrella insurance. Sample wording is "The Excess/Umbrella policy is excess over primary Commercial General Liability and primary Automobile Liability Insurance."

G.3.6 Additional Insured: The liability insurance coverage, except Professional Liability if included, required for performance of this Contract shall include the State of Oregon, its departments, divisions, officers, and employees, as Additional Insureds but only with respect to the Contractor's activities to be performed under this Contract.

If Contractor cannot obtain an insurer to name the State of Oregon, its departments, divisions, officers and employees as Additional Insureds, Contractor shall obtain at Contractor's expense, and keep in effect during the term of this Contract, Owners and Contractors Protective Liability Insurance, naming the State of Oregon, its departments, divisions, officers and employees as Named Insureds with not less than a \$1,500,000.00 limit per occurrence. This policy must be kept in effect for 12 months following Final Completion. As evidence of coverage, Contractor shall furnish the actual policy to Owner prior to execution of the Contract.

G.3.7 Certificate(s) of Insurance: As evidence of the insurance coverage required by this Contract, the Contractor shall furnish certificate(s) of insurance to the Owner prior to execution of the Contract. The certificate(s) will specify all of the parties who are Additional Insureds or Loss Payees. Insurance coverage required under this Contract shall be obtained from insurance companies or entities acceptable to the Owner that are allowed to provide such insurance under Oregon law. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to do an insurance business in the state of Oregon, and certain non-admitted surplus lines insurers that satisfy the requirements of applicable Oregon law and are approved by the Owner. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder. Any deductible, self-insured retention and/or self-insurance in excess of

\$50,000 shall be approved by the Owner in writing prior execution of the Contract and is subject to Owner's approval. The Contractor shall immediately notify the Owner's Authorized Representative in writing of any change in insurance coverage.

## **SECTION H SCHEDULE OF WORK**

### **H.1 CONTRACT PERIOD**

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

### **H.2 SCHEDULE**

- H.2.1 Contractor shall provide, by or before the pre-construction conference, a detailed schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by significant project components, significant labor trades, long lead items, broken down by building and/or floor where applicable. Each schedule item shall account for no greater than 5 % of the monetary value of the project or 5 % of the available Contract Time. Schedules with activities of less than one day or valued at less than 1% of the Contract will be considered too detailed and will not be accepted. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. Included within the schedule are the following: Notice to Proceed, Substantial Completion, and Final Completion. Schedules will be updated monthly and submitted with the monthly payment application. Acceptance of the Schedule by the Owner does not constitute agreement by the Owner, as to the Contractor's sequencing, means, methods, or allocated Contract Time. Any positive difference between the Contractor's scheduled completion and the Contract completion date is float owned by the Owner. Owner reserves the right to negotiate the float if it is deemed to be in Owner's best interest to do so. In no case shall the Contractor make a request for additional compensation for delays if the Work is completed within the Contract Time but after Contractor's scheduled completion.

### **H.3 PARTIAL OCCUPANCY OR USE**

- H.3.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage, provided such occupancy or use is consented to by public authorities having jurisdiction over the Work.

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

## **SECTION I CORRECTION OF WORK**

### **I.1 CORRECTION OF WORK BEFORE FINAL PAYMENT**

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

### **I.2 WARRANTY WORK**

- I.2.1 Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective Work and, unless a longer period is specified, Contractor shall correct all defects that appear in the Work within a period of one year from the date of issuance of the written notice of Substantial Completion by the Owner except for latent defects which will be remedied by the Contractor at any time they become apparent.

The Owner shall give Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Owner's demand. If Contractor fails to complete the warranty work within such period as Owner determines reasonable, or at any time in the

event of warranty work consisting of emergency repairs, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand without affecting Contractor's obligations.

- I.2.2 This provision does not negate guarantees or warranties for periods longer than one year including without limitation such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.
- I.2.3 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until affected Work has been accepted in writing by the Owner's Authorized Representative.
- I.2.4 The one-year period for correction of Work shall be extended with respect to portions of Work performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work, and shall be extended by corrective Work performed by the Contractor pursuant to this Section, as to the Work corrected. The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- I.2.5 Nothing contained in this Section I.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section I.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.
- I.2.6 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **SECTION J**

### **SUSPENSION AND/OR TERMINATION OF THE WORK**

#### **J.1 OWNER'S RIGHT TO SUSPEND THE WORK**

- J.1.1 The Owner and/or the Owner's Authorized Representative has the authority to suspend portions or all of the Work due to the following causes:
- (a) Failure of the Contractor to correct unsafe conditions;
  - (b) Failure of the Contractor to carry out any provision of the Contract;
  - (c) Failure of the Contractor to carry out orders;

- (d) Conditions, in the opinion of the Owner's Authorized Representative, which are unsuitable for performing the Work;
- (e) Time required to investigate differing site conditions;
- (f) Any reason considered to be in the public interest.

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

#### **J.2 CONTRACTOR'S RESPONSIBILITIES**

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

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

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

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

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

or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;

- (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner or its Authorized Representative; or
- (f) If Contractor is otherwise in material breach of any part of the Contract.

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

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

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

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

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

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

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

## **SECTION K CONTRACT CLOSE OUT**

### **K.1 RECORD DOCUMENTS**

As a condition of final payment (refer also to section E.6), Contractor shall comply with the following: Contractor shall provide to Owner's Authorized Representative, Record Documents of the entire project. Record Documents shall

depict the project as constructed and shall reflect each and every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed.

### **K.2 OPERATION AND MAINTENANCE MANUALS**

As part of the Work, Contractor shall submit two completed operation and maintenance manuals ("O & M Manuals") for review by the Owner's Authorized Representative prior to submission of any pay request for more than 75% of the Work. No payments beyond 75% will be made by the Owner until the O & M Manuals have been received. The O & M Manuals shall contain a complete set of all submittals, all product data as required by the specifications, training information, phone list of consultants, manufacturers, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Owner's Authorized Representative shall review and return one O & M Manual for any modifications or additions required. Prior to submission of its final pay request, Contractor shall deliver three (3) complete and approved sets of O & M Manuals to the Owner's Authorized Representative.

### **K.3 AFFIDAVIT/RELEASE OF LIENS AND CLAIMS**

As a condition of final payment, the Contractor shall submit to the Owner's Authorized Representative a notarized affidavit/release of liens and claims form, in a form satisfactory to Owner, which states that all Subcontractors and suppliers have been paid in full, all disputes with property owners have been resolved, all obligations on the project have been satisfied, all monetary claims and indebtedness have been paid, and that, to the best of the Contractor's knowledge, there are no claims of any kind outstanding against the project. The Contractor shall indemnify, defend (with counsel of Owner's choice) and hold harmless the Owner from all claims for labor and materials finished under this Contract. The Contractor shall furnish complete and valid releases or waivers, satisfactory to the Owner, of all liens arising out of or filed in connection with the Work.

### **K.4 COMPLETION NOTICES**

K.4.1 Contractor shall provide Owner notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and the time within which the Contractor shall finish all items on the punchlist accompanying the Certificate. Both completion notices must be signed by the Contractor and the Owner to be valid. The Owner shall provide the final signature on the notices. The notices shall take effect on the date they are signed by the Owner.

K.4.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of thirty (30) continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner's Authorized Representative. All equipment contained in the Work, plus all other components necessary to enable the Owner to operate the facility in the

manner that was intended, shall be complete on the Substantial Completion date. The Contractor may request that a punch list be prepared by the Owner's Authorized Representative with submission of the request for the Substantial Completion notice.

#### **K.5 TRAINING**

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Owner's Authorized Representative, training sessions for all equipment and systems, as required in the individual specifications sections. Contractor shall schedule training sessions at least two weeks in advance of the date of training to allow Owner 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 and/or system is completely installed and operational in its normal operating environment.

#### **K.6 EXTRA MATERIALS**

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

#### **K.7 ENVIRONMENTAL CLEAN-UP**

As part of the Final Completion notice, or as a separate written notice submitted with or before the notice of Final Completion, the Contractor shall notify the Owner that all environmental pollution clean-up performed as a part of this Contract has been disposed of in accordance with all applicable rules, regulations, laws, and statutes of all agencies having jurisdiction over such environmental pollution. The notice shall reaffirm the indemnification given under Section F.5.1 above.

#### **K.8 CERTIFICATE OF OCCUPANCY**

The Contractor shall not be granted Final Completion or receive final payment if the Owner has not received an unconditioned certificate of occupancy from the appropriate state and/or local building officials, unless failure to obtain an unconditional certificate of occupancy is due to the fault or neglect of Owner.

#### **K.9 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 may not be until Final Completion, if the Owner does not take beneficial use of the facility and the Contractor's forces continue with the Work.

#### **K.10 SURVIVAL**

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

### **SECTION L**

### ***LEGAL RELATIONS & RESPONSIBILITIES***

#### **L.1 LAWS TO BE OBSERVED**

In compliance with ORS 279C.525, Sections L.2 through L.4 contain lists of federal, state and local agencies of which the Owner has knowledge that have enacted ordinances or regulations relating to environmental pollution and the preservation of natural resources that may affect the performance of the Contract:

#### **L.2 FEDERAL AGENCIES**

Agriculture, Department of  
Forest Service  
Soil Conservation Service  
Coast Guard  
Defense, Department of  
Army Corps of Engineers  
Energy, Department of  
Federal Energy Regulatory Commission  
Environmental Protection Agency  
Health and Human Services, Department of  
Housing and Urban Development, Department of  
Solar Energy and Energy Conservation Bank  
Interior, Department of  
Bureau of Land Management  
Bureau of Indian Affairs  
Bureau of Mines  
Bureau of Reclamation  
Geological Survey  
Minerals Management Service  
U.S. Fish and Wildlife Service  
Labor, Department of  
Mine Safety and Health Administration  
Occupation Safety and Health Administration  
Transportation, Department of  
Federal Highway Administration  
Water Resources Council

#### **L.3 STATE AGENCIES**

Administrative Services, Department of  
Agriculture, Department of  
Soil and Water Conservation Commission

Columbia River Gorge Commission  
Energy, Department of  
Environmental Quality, Department of  
Fish and Wildlife, Department of  
Forestry, Department of  
Geology and Mineral Industries, Department of  
Human Resources, Department of  
Consumer and Business Services, Department of  
Land Conservation and Development Commission  
Parks and Recreation, Department of

State Lands, Division of  
Water Resources Department of

**L.4 LOCAL AGENCIES**

City Councils  
County Courts  
County Commissioner, Board of  
Design Commissions  
Historical Preservation Commission  
Planning Commissions

## Exhibit A

### Public Contracting Code

#### Requirements for Public Improvement Contracts Over \$50,000

1. Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor.
  - (a) ORS 279C.580(3)(a) requires the prime contractor to include a clause in each subcontract requiring contractor to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the prime contractor by the public contracting agency; and
  - (b) ORS 279C.580(3)(d) requires the prime contractor to include a clause in each subcontract requiring contractor to pay an interest penalty to the first-tier subcontractor if payment is not made within 30 days after receipt of payment from the public contracting agency.
  - (c) ORS 279C.580(4) requires the prime contractor to include in every subcontract a requirement that the payment and interest penalty clauses required by ORS 279C.580(3) be included in every contract between a subcontractor and a lower-tier subcontractor or supplier.
2. Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract, and shall be responsible that all sums due the State Unemployment Compensation Fund from Contractor or any Subcontractor in connection with the performance of the contract shall promptly be paid.
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted.
4. A notice of claim on contractor's payment bond shall be submitted only in accordance with ORS 279C.600 and 279C.605.
5. Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
6. Contractor shall demonstrate to the City that an employee drug-testing program is in place within 10 days of receiving a Notice of Award.
7. Pursuant to ORS 279C.515, if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the City may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall

- not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or material furnished, the City may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid.
8. Pursuant to ORS 279C.515, if the Contractor or a first-tier Subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the City or contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10 day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District that includes Oregon on the date that is 30 days after the date when payment was received from the public contracting agency or from the Contractor, but the rate of interest shall not exceed 30%. The amount of interest may not be waived.
  9. As provided in ORS 279C.515, if the Contractor or a Subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractor's Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
  10. Pursuant to ORS 279C.530, Contractor shall promptly, as due, make payment to any person, co-partnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
  11. Contractor shall employ no person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, Contractor shall pay the employee at least time and one-half pay for all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work is five (5) consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is 4 consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holidays as specified in ORS 279C.540.
  12. Pursuant to ORS 279C.540(2), the Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work.
  13. The provisions of ORS 279C.800 to ORS 279C.870 relating to the prevailing wage rates will be complied with.



14. Unless exempt under ORS 279C.836(4), (7), (8) or (9), before starting work on this contract, or any subcontract hereunder, contractor and all subcontractors must have on file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in the state of Oregon in the amount of \$30,000. The bond must provide that the contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. The bond must be a continuing obligation, and the surety's liability for the aggregate of claims that may be payable from the bond may not exceed the penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid under ORS 279C.836(2), unless the surety sooner cancels the bond. The surety may cancel the bond by giving 30 days' written notice to the contractor or subcontractor, to the board and to the Bureau of Labor and Industries. When the bond is canceled, the surety is relieved of further liability for work performed on contracts entered into after the cancellation. The cancellation does not limit the surety's liability for work performed on contracts entered into before the cancellation. Contractor further certifies that contractor will include in every subcontract or provision requiring a subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8), or (9).
  - (a) Unless exempt under ORS 279C.836(4), (7), (8), or (9), before permitting a subcontractor to start work on this public works project, the contractor shall verify that the subcontractor has filed a public works bond as required under this section or has elected not to file a public works bond under ORS 279C.836(7).
  - (b) Unless public contracting agency has been notified of any applicable exemptions under ORS 279C.836(4), (7), (8), or (9), the public works bond requirement above is in addition to any other bond contractors or subcontractors may be required to obtain under this contract.
  
15. As may be required by ORS 279C.845, Contractor or contractor's surety and every subcontractor or subcontractor's surety shall file certified payroll statements with the City in writing.
  - (a) If a contractor is required to file certified statements under ORS 279C.845, the City shall retain 25% of any amount earned by the contractor on the public works project until the contractor has filed with the City statement as required by ORS 279C.845. The City shall pay the contractor the amount retained within 14 days after the contractor files the required certified statements, regardless of whether a subcontractor has failed to file certified statements required by statute. The City is not required to verify the truth of the contents of certified statements filed by the contractor under this section and ORS 279C.845.
  - (b) The contractor shall retain 25% of any amount earned by a first-tier subcontractor on this public works contract until the subcontractor has filed with the City certified statements as required by ORS 279C.845. The contractor shall verify that the first-tier subcontractor has filed the certified statements before the contractor may pay the subcontractor any amount retained. The contractor shall pay the first-tier subcontractor the amount retained within 14 days after the subcontractor files the certified statements as required by ORS 279C.845. Neither the City nor the contractor is required to verify the truth of the contents of certified statements filed by a first-tier subcontractor.

16. All employers, including Contractor, that employ subject workers who work under this contract shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.
17. All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid.
18. The contract may be canceled at the election of City for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.
19. Contractor certifies that it has not discriminated against minorities, women or emerging small business enterprises in obtaining any required subcontractors.
20. Contractor certifies its compliance with the Oregon tax laws, in accordance with ORS 305.385.
21. In the performance of this contract, the Contractor shall use, to the maximum extent economically feasible, recycled paper, materials, and supplies, and shall compost or mulch yard waste material at an approved site, if feasible and cost effective.
22. As may be applicable, Contractor certifies that all subcontractors performing construction work under this contract will be registered with the Construction Contractors Board or licensed by the state Landscaping Contractors Board in accordance with ORS 701.035 to ORS 701.055 before the subcontractors commence work under this contract.
23. Pursuant to City Public Contracting Rule 137-049-0880, the City may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the records relating to the Contract.
24. In compliance with the provisions of ORS 279C.525, the following is a list of federal, state and local agencies, of which the City has knowledge, that have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of the contract:

FEDERAL AGENCIES:

- Agriculture, Department of
  - Forest Service
  - Soil Conservation Service
- Defense, Department of
  - Army Corps of Engineers
- Environmental Protection Agency
- Interior, Department of
  - Bureau of Sport Fisheries and Wildlife
  - Bureau of Outdoor Recreation
  - Bureau of Land Management

- Bureau of Indian Affairs
- Bureau of Reclamation
- Labor, Department of
  - Occupational Safety and Health Administration
- Transportation, Department of
  - Coast Guard
  - Federal Highway Administration

STATE AGENCIES:

- Agriculture, Department of
- Environmental Quality, Department of
- Fish and Wildlife, Department of
- Forestry, Department of
- Geology and Mineral Industries, Department of
- Human Resources, Department of
- Land Conservation and Development Commission
- Soil and Water Conservation Commission
- State Engineer
- State Land Board
- Water Resources Board

LOCAL AGENCIES:

- City Council
- County Court
- County Commissioners, Board of
- Port Districts
- Metropolitan Service Districts
- County Service Districts
- Sanitary Districts
- Water Districts
- Fire Protection Districts

**SPECIAL PROVISIONS**

**CITY OF LA PINE  
1<sup>ST</sup> STREET AND HWY 97  
LANDSCAPE AND PEDESTRIAN IMPROVEMENTS**

**FEBRUARY 2017**

## SECTION 00180 - PROSECUTION AND PROGRESS

Comply with Section 00180 of the Standard Specifications modified as follows:

**00180.20 Subcontracting Limitations** - Replace this subsection, except for the subsection number and title, with the following:

**(a) General** - The Contractor's own organization shall perform Work amounting to at least 30% of the original Contract Amount. The value of subcontracted Work is the full compensation to be paid to the Subcontractor(s) for all pay items in the subcontract(s).

**(b) Own Organization** - The term "own organization", as used in Section 00180, includes only employees of the Contractor, Equipment owned or rented by the Contractor, Incidental rental of operated Equipment, truck hauling of materials, and Materials and Equipment to be incorporated into the Work purchased or produced by the Contractor.

**(c) Rental of Operated Equipment** - The use of Equipment rented with operators, except truck hauling of materials which is addressed in 00180.20(e), will be allowed without a subcontract only when the following requirements are met:

**(1) Written Request** - The Contractor has submitted to the Engineer a written request describing the work or service to be provided, its estimated cost, and the estimated duration. The Engineer must approve the request before the work or service is provided.

**(2) Limitations** - The use of Equipment rented with operators is limited to performing minor, Incidental, short-duration work or services under the direct supervision of the Contractor or subcontractor, with Equipment not customarily owned, leased, or operated by a Contractor, or with Equipment that is temporarily unavailable to the Contractor.

**(3) Submittals** - The Contractor shall provide the Engineer with a copy of the rental agreement or purchase order covering the work or service to be provided. The Contractor shall make certain that the provider of approved work or services submits payrolls required under Section 00170 and complies with applicable Contract provisions, including without limitation 00170.07. The work or service provider will not be considered a subcontractor under the Contract, but will be considered an agent of the Contractor in the performance of work or service.

**(4) Revocation of Approval** - The Engineer may revoke approval for the work or services provided through rented, operated Equipment at any time the Engineer determines that the work is outside that authorized under 00180.20(c-2). Unless the Contractor promptly submits to the Engineer a subcontract agreement for consent under 00180.21, the work or service provider shall be immediately removed from the Project Site.

**(d) Disadvantaged Business Enterprise (DBE)** - Every agreement to perform Work, including without limitation subcontracts, trucking services agreements, purchase orders,

and rental agreements, shall indicate whether the Work will be performed by a DBE or non-DBE.

**(e) Trucking** - For all truck hauling of materials not performed with trucks owned and operated by the Contractor. This Section does not apply to delivery of materials by or for or from a Supplier.

**(1) Trucking Services Agreement** - The Contractor shall submit at the pre-construction meeting one or more proposed trucking services agreements for all trucking services for hauling materials. The proposed agreements shall include:

- Statement specifying whether the services will be provided by a DBE;
- Statement specifying whether the services will be provided by an owner/operator;
- Prompt payment clause (10 days) (ORS 279C.580);
- Interest penalty clause (ORS 279C.580);
- Lower tier clause. (ORS 279C.580);
- Statement about the provider's ability to file a complaint with the Construction Contractors Board. (ORS 279C.515);
- Statement that workers shall be paid not less than the specified minimum hourly rate of wage (ORS 279C.830) as applicable;
- Provision requiring the provider to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4) or (9) or has elected to not file a bond under ORS 279C.836 (7) or (8) or is otherwise not applicable;
- Insurance clauses that include Commercial Automobile Liability and Workers Compensation (ORS 656.017 unless exempt under ORS 656.126);
- Provision requiring the provider to comply with applicable Contract provisions including without limitation Record Requirements in 00170.07; and
- Construction Contractors Board License Number if applicable.

The Agency must review and consent to the proposed trucking services agreements prior to use.

**(2) Limitations** - The approved trucking services agreements shall be used for all trucking services for hauling materials not provided by trucks owned and operated by the Contractor except for trucking services provided by committed DBEs that require a subcontract under 00180.21. The Contractor shall execute a trucking services agreement with every trucking services provider for hauling materials prior to the trucking services provider doing any work on the Project Site.

**(3) Submittals** - The Contractor shall provide the Engineer with an executed copy of the trucking services agreement not later than 2 days after the trucking services provider for hauling materials has started work. The Contractor shall make certain that the provider of approved trucking services submits payrolls required under Section 00170, complies with applicable Contract provisions, including without limitation 00170.07, and complies with applicable trucking services agreement provisions. The work or service provider will not be considered a subcontractor under

the Contract, but will be considered an agent of the Contractor in the performance of work or service. If the trucking services are provided by an owner/operator:

- Attach a copy of the data required under 00170.65(b-4) to the trucking services agreement; and
- Each truck shall have the name of the owner/operator clearly displayed on the side of the truck.

**(4) Revocation of Approval** - The Engineer may revoke approval for trucking services provided under the trucking services agreement at any time the Engineer determines that the work or service is outside that authorized under 00180.20(e). Upon revocation of approval, the service provider shall be immediately removed from the Project Site.

If the services under Rental of Operated Equipment or Trucking are provided by a committed DBE firm a subcontract is required under 00180.21. For this purpose a committed DBE firm is one that was identified by the Contractor to meet an assigned DBE goal including DBE firms substituting for DBE firms committed as a condition of contract award.

**00180.21(a) General** - Add the following paragraph to the end of this subsection:

The Engineer may revoke consent to subcontract. If the Engineer revokes consent to subcontract, the subcontractor shall be immediately removed from the Project Site.

**00180.21(d) Terms of Subcontracts** - Add the following paragraph to the end of this subsection:

As and when applicable, the Contractor shall require in its subcontracts that subcontractors maintain the certifications required by ORS 279A.107.

**00180.22 Payments to Subcontractors and Agents of the Contractor** - Replace the paragraph that begins "To the extent practicable..." with the following paragraph:

To the extent practicable, the Contractor shall pay in the same units and on the same basis of measurement as listed in the Schedule of Items for subcontracted Work or other Work not done by the Contractor's own organization. The Agency will not be responsible for any overpayment or losses resulting from overpayment by the Contractor to subcontractors and to its other agents, work providers, service providers, and trucking services providers.

**00180.40(b) On-Site Work** - Add the following paragraph to the end of the subsection:

The Contractor shall not begin On-Site Work before 3/20/2017, unless approved by the Engineer.

Add the following subsection:

**00180.40(c) Specific Limitations** - Limitations of operations specified in these Special Provisions include, but are not limited to, the following:

The easterly driveway on 1<sup>st</sup> Street shall be constructed between April 15<sup>th</sup> and May 1<sup>st</sup>.

The Westerly driveway shall not be removed or constructed at the same time as the easterly driveway. The contractor shall maintain a minimum of one driveway open to the public from 1<sup>st</sup> Street throughout the project.

The Contractor shall be aware of and subject to schedule limitations in the Standard Specifications that are not listed in this subsection.



## **SECTION 00190 - MEASUREMENT OF PAY QUANTITIES**

Comply with Section 00190 of the Standard Specifications.

## SECTION 00195 - PAYMENT

Comply with Section 00195 of the Standard Specifications modified as follows:

**00195.60(a-2) Stored or Stockpiled Conditions** - In the paragraph that begins "To be eligible...", replace the bullet that begins "Be in a form ready..." with the following bullet:

- Be in a form ready for incorporation into the permanent Work; and

## **SECTION 00196 - PAYMENT FOR EXTRA WORK**

Comply with Section 00196 of the Standard Specifications.

**SECTION 00199 - DISAGREEMENTS, PROTESTS, AND CLAIMS**

Comply with Section 00199 of the Standard Specifications.

## **SECTION 00210 - MOBILIZATION**

Comply with Section 00210 of the Standard Specifications.

**SECTION 00220 - ACCOMMODATIONS FOR PUBLIC TRAFFIC**

Comply with Section 00220 of the Standard Specifications.

## **SECTION 00225 - WORK ZONE TRAFFIC CONTROL**

Comply with Section 00225 of the Standard Specifications modified as follows:

**00225.01(c) Standards** - Add the following bullet to the end of the bullet list:

- ODOT "Traffic Control Plans Design Manual", available on the ODOT Traffic Control Plans Unit website.

**SECTION 00280 - EROSION AND SEDIMENT CONTROL**

Comply with Section 00280 of the Standard Specifications.



## SECTION 00305 - CONSTRUCTION SURVEY WORK

Section 00305, which is not a Standard Specification, is included for this Project by Special Provision.

### Description

**00305.00 Scope** - Provide construction survey work according to the current edition on the date of Advertisement, of the ODOT "Construction Surveying Manual for Contractors". This manual is available on the web at:

<http://www.oregon.gov/ODOT/HWY/GEOMETRONICS/Pages/documents.aspx>

### Measurement

**00305.80 Measurement** - No measurement of quantities will be made for construction survey work.

### Payment

**00305.90 Payment** - The accepted quantities of construction survey work will be paid for at the Contract lump sum amount for the item "Construction Survey Work".

Payment will be payment in full for furnishing all material, equipment, labor, and incidentals necessary to complete the work as specified.

No separate or additional payment will be made for any temporary protection and direction of traffic measures including flaggers and signing necessary for the performance of the construction survey work.

No separate or additional payment will be made for preparing surveying documents including but not limited to office time, preparing and checking survey notes, and all other related preparation work.

Costs incurred caused by survey errors will be at no additional cost to the Agency. Repair any damage to the Work caused by Contractor's survey errors at no additional cost to the Agency. The Engineer may make an equitable adjustment, which may decrease the Contract Amount, if the required survey work is not performed.

**SECTION 00310 - REMOVAL OF STRUCTURES AND OBSTRUCTIONS**

Comply with Section 00310 of the Standard Specifications modified as follows:

**00310.80 Measurement** - Add the following to the end of the length and area bullet:

Asphalt pavement cutting will be the length of the actual cut based on a depth of 6 inches. If the depth is greater than 6 inches, the length will be adjusted by converting to an equivalent number of feet on a proportionate length basis.

**00310.92 Separate Item Basis** - Add the following pay item to the pay item list:

(g) Asphalt Pavement Saw Cutting ..... Foot

Add the following paragraph to the end of this subsection:

Item (g) applies to asphalt pavement saw cutting when shown.

## **SECTION 00320 - CLEARING AND GRUBBING**

Comply with Section 00320 of the Standard Specifications modified as follows:

### **00320.40(b) Preserving Vegetation and Other Natural Materials:**

**(1) Within the Work Areas** - Avoid injuring vegetation or other natural materials designated to be saved. Preservation of this vegetation includes protection and special care.

**(2) Outside the Work Areas** - Avoid injuring vegetation or other natural materials. Confine operations which may injure vegetation or other natural materials to the work area or to areas that have already been cleared.

## **SECTION 00330 - EARTHWORK**

Comply with Section 00330 of the Standard Specifications modified as follows:

**00330.92 Kinds of Incidental Earthwork** - Add the following bullet to the end of the bullet list:

- All earthwork on the project will be considered incidental to the project. No separate measurement or payment will be made for earthwork.

## **SECTION 00340 - WATERING**

Comply with Section 00340 of the Standard Specifications.

**SECTION 00405 - TRENCH EXCAVATION, BEDDING, AND BACKFILL**

Comply with Section 00405 of the Standard Specifications.

## **SECTION 00440 - COMMERCIAL GRADE CONCRETE**

Comply with Section 00440 of the Standard Specifications modified as follows:

**00440.13 Field-Mixed Concrete** - Add the following paragraph to the end of this subsection:

Pre-packaged dry blended concrete from the QPL may be used for work items listed in 00440.14(a).

**SECTION 00640 - AGGREGATE BASE AND SHOULDERS**

Comply with Section 00640 of the Standard Specifications.



**SECTION 00730 - EMULSIFIED ASPHALT TACK COAT**

Comply with Section 00730 of the Standard Specifications.

## **SECTION 00746 - CRACK SEALING FLEXIBLE PAVEMENTS**

Comply with Section 00746 of the Standard Specifications.

## **SECTION 00748 - ASPHALT CONCRETE PAVEMENT REPAIR**

Comply with Section 00748 of the Standard Specifications modified as follows:

**00748 – Materials:** Add the following to the subsection:

Use Level 2 ACP for this project.

**SECTION 00759 - MISCELLANEOUS PORTLAND CEMENT CONCRETE STRUCTURES**

Comply with Section 00759 of the Standard Specifications.

## SECTION 00760 - UNIT PAVERS

Section 00760, which is not a Standard Specification, is included in this Project by Special Provision.

### Description

**00760.00 Scope** - This work consists of furnishing and installing masonry unit pavers at locations shown or directed.

### Materials

**00760.10 Unit Paving Material** - Furnish pavers and related material meeting the following requirements:

- **Paving Unit Type** - As shown on plans
- **Unit Color** - Walnut Provide sample color for approval
- **Unit Size** - As shown on plans
- **Unit Strength** - 8,000 psi with a maximum of 5 percent absorption (ASTM C 936)
- **Joint Sand** - Fine PCC aggregate conforming to 02690.30(h)
- **Leveling Bed** - Fine PCC aggregate conforming to 02690.30(h)
- **Aggregate Base** - 3/4" minus
- **Weed Control** - Pre-emergent herbicide conforming to 01040.21

Submit proposed equivalent products to the Project Manager for consideration.

### Construction

**00760.40 General** - Install pavers according to the manufacturer's instructions.

**00760.41 Aggregate Base** - Place and compact aggregate to 95 percent density.

**00760.42 Sand Base** - Place a minimum depth 1 inch leveling bed. Screed to grade and saturate with water to ensure a firm and smooth grade.

**00760.43 Weed Control** - Apply granular pre-emergent herbicide over the prepared leveling bed according to the manufacturer's instructions.

**00760.44 Unit Pavers** - Lay out rows so they are straight and parallel to the surrounding lines. Cut pavers with a masonry saw where necessary to fit pattern to edges.

**00760.45 Joint Sand and Compaction** - After placing pavers, sweep joint sand into the joints. Use a vibrating mechanical tamper to compact.

**00760.46 Surface Tolerance** - Do not deviate the longitudinal and transverse surface grades by more than 1/4 inch in 12 feet.

**00760.47 Clean Up** - Remove excess sand and broken paving material from the site when complete.

#### **Measurement**

**00760.80 Measurement** - The quantities of unit pavers will be measured on the area basis.

#### **Payment**

**00760.90 Payment** - The accepted quantities of unit pavers will be paid for at the Contract unit price, per square foot for the item "Unit Pavers".

Payment will be payment in full for furnishing and placing all materials, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified.

No separate or additional payment will be made for base preparation.

## SECTION 00960 - COMMON PROVISIONS FOR ELECTRICAL SYSTEMS

Comply with Section 00960 of the Standard Specifications modified as follows:

**00960.41(f) Disposition of Waste Materials** - Replace this subsection title with the title "Disposal of Materials".

**00960.44(b) Junction Box Locations** - In the sentence that begins "Mark the location of all...", replace "Type 1" with "Type 1, Type 1U, or Type 2".

## SECTION 00962 - METAL ILLUMINATION AND TRAFFIC SIGNAL SUPPORTS

Comply with Section 00962 of the Standard Specifications modified as follows:

**00962.02 Calculations and Drawings** - Replace the bullet list with the following bullet list:

- Prequalified manufacturing shop drawings.
- Calculations and shop drawings for all standard poles that do not have prequalified manufacturing shop drawings.
- Calculations and shop drawings for all nonstandard poles that do not have prequalified manufacturing shop drawings.
- Calculations and installation drawings for all nonstandard pole foundations that do not have details shown.

**00962.05(c) Illumination Supports** - Add the following to the end of this subsection:

The following standard illumination pole drawings are prequalified for use on the Project:

Ameron Pole Products Division	Drg. OR7, Rev. C, 1/02 Drg. OR8, Rev. C, 1/02 Drg. OR9, Rev. E, 2/02
Union Metal Corp.	Drg. 71049-B18 sh 1, R3, 2/99 Drg. 71049-B18 sh 2, R3, 2/99 Drg. 71049-B19 sh 1, R3, 2/99 Drg. 71049-B19 sh 2, R3, 2/99
Northwest Signal Supply	Drg. NWS2285M, 9/00
Valmont Industries Inc.	Drg. DB00386 page 1, Rev. D, 1/23/15 Drg. DB00386 page 2, Rev. D, 1/23/15 Drg. DB00386 page 3, Rev. D, 1/23/15 Drg. DB00386 page 4, Rev. D, 1/23/15 Drg. DB00387 page 1, Rev. D, 1/16/15 Drg. DB00387 page 2, Rev. D, 1/16/15 Drg. DB00387 page 3, Rev. D, 1/16/15

**00962.46(j-3) Bolt Inspection** - Replace the paragraph that begins "Top surface of bolts or rods..." with the following paragraph:

Top surface of bolts or rods that are not flush or do not extend beyond the top of the nut requires the rejection of the installation.

Add the following subsection:



**00962.46(k) Plate Flatness** - Faying surfaces of plates shall be flat to within a tolerance of 1/32 inch in 12 inches and a tolerance of 1/16 inch overall. Base plates with leveling nuts shall be flat to within a tolerance of 1/8 inch in 12 inches and a tolerance of 3/16 inch overall.

## **SECTION 00970 - HIGHWAY ILLUMINATION**

Comply with Section 00970 of the Standard Specifications.

## **SECTION 01030 - SEEDING**

Comply with Section 01030 of the Standard Specifications modified as follows:

**01030.15 Mulch** - Add the following paragraph and bullets to the end of this subsection:

Furnish mulch for seeding according to the following:

- Bark mulch

## **SECTION 01040 - PLANTING**

Comply with Section 01040 of the Standard Specifications.

## SECTION 01095 - SITE FURNISHINGS

Section 01095, which is not a Standard Specification, is included in this Project by Special Provision.

### Description

#### 01095.00 Scope -

- This work consists of providing and installing site furnishings including pedestrian light poles.

### Materials

#### 01095.10 General:

:

- 
- **01095.10 General** - The manufacturer or fabricator of non-QPL items shall furnish appropriate certification, based on the manufacturer's quality control tests, that the materials used in the production of the specified material meet these specifications.
- 
- Unless specified otherwise, the materials specifications used for this section shall be in accordance with ODOT Specification Section 02000 - Materials.

**(a) Ornamental Light Pole** - Provide ornamental light poles with luminaires meeting the following requirements:

#### (1) Ornamental Light Pole :

- a. Manufacturer: Holophane (Sitelink) Charleston Aluminum 14' Pole, 5.25" L5J 2.25" Fluted, .25" wall thickness, 16" Round Base, 3x3 Tennon, Less anchor bolts, Powder Coated Paint Finish Black.

#### (2) Luminaire:

- a. Manufacturer: Holophane.
- b. Model: Washington Postlie Enhanced LED Series.
- c. Light Source: LED (WAUE): WAUE, 80W 400mA Driver.
- d. Color Temp: 5000 Series CCT.
- e. Voltage: Auto Sensing Voltage (102-277V).
- f. Housing Color: Black.
- g. Optics: Asymmetric Type III.
- h. Trim Color: Black.
- i. Decorative Trim: Spike Final.

- j. Options: NEMA Twistlock Photocontrol Receptacle 20 foot Prewired Leads, DTL Twistlock Photocontrol for Solid-State Lighting (120-277V)

**Construction**

**01095.40 General** - Install all site furnishings as shown and according to the manufacturers recommendations.

**Measurement**

**01095.80 Measurement** - The quantities of site furnishings will be measured on the unit basis.

**Payment**

**01095.90 Payment** - The accepted quantities of site furnishings will be paid for at the Contract unit price, per unit of measurement, for the following items:

<b>Pay Item</b>	<b>Unit of Measurement</b>
(a) Ornamental Lighting Poles, Luminare, Lamps and Ballasts	Each
(b) Pole Foundations .....	Each

Payment will be payment in full for furnishing and placing all materials, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified.

## **SECTION 01120 - IRRIGATION SYSTEMS**

Comply with Section 01120 of the Standard Specifications.

## SECTION 01140 - POTABLE WATER PIPE AND FITTINGS

Comply with Section 01140 of the Standard Specifications modified as follows:

**01140.10 Materials** - Replace this subsection, except for the subsection number and title, with the following:

Furnish materials meeting the following requirements:

Bolted, Sleeve-Type Couplings for Plain End Pipe .....	02475.60
Commercial Grade Concrete in Thrust Blocks .....	00440
Detectable Marking Tape and Wire .....	02470.60
Ductile Iron Pipe Fittings .....	02475.20
Ductile Iron Pipe .....	02470.20
Polyethylene Encasement .....	02470.50
Polyvinyl Chloride (PVC) Pipe fittings - 4" and larger .....	02475.40
Polyvinyl Chloride (PVC) Pipe fittings - under 4" .....	02475.45
Polyvinyl Chloride (PVC) Pipe - 4" and larger .....	02470.40
Polyvinyl Chloride (PVC) Pipe - under 4" .....	02470.45
Reinforcement .....	00530
Restrained Joints .....	02475.50
High Density Polyethylene Pipe .....	02470.31
High Density Polyethylene Pipe Fittings .....	02475.31

High Density Polyethylene (HDPE) pipe shall meet the requirements of ANSI/AWWA C906, Standard PE Code Designation PE 3408, minimum cell classification PE 334434C (ASTM D 3350). Pipe may also be PE 4710 in accordance with the pending revisions to ANSI/AWWA C906-07. Pipe shall be iron pipe size (IPS) outside diameter or ductile iron pipe size (DIPS) outside diameter. All HDPE pipe and fittings shall be of the dimension ratio (DR) as shown on the plans.

**01140.11 Handling Pipe and Fittings** - Replace this entire subsection, including subsections .11(a) and .11(b), with the following subsection:

**01140.11 Handling Pipe and Fittings** - Handle pipe and fittings to prevent damage to or contamination of the pipe, fitting, lining, or coating. Load and unload pipe and fittings using hoists and slings so as to avoid shock or damage, and under no circumstances allow them to be dropped, skidded, or rolled against other pipe or fittings. If any part of the coating or lining is damaged, repair in a manner satisfactory to the Engineer. Damaged or contaminated pipe and fittings will be rejected. Immediately separate all damaged or contaminated pipe and fittings and remove from the project site.

If pipe requires temporary storage, store on cradles to prevent entry of dirt, other foreign material, or contamination. Keep the pipe or pipe joint free of dirt, other foreign material, or contamination during handling or laying operations. Remove, clean, and relay any pipe or fitting that has been installed with dirt, foreign material, or contamination in it. When pipe



laying is not in progress, close the open ends of pipe with watertight plugs or by other approved means to ensure cleanliness.

**01140.12 Cutting Pipe** - Replace this entire subsection with the following subsection:

**01140.12 Cutting Pipe:**

**(a) General** - Whenever possible, use partial lengths of pipe supplied by the manufacturer to provide the proper spacing of valves, tees, or special fittings.

**(b) Cutting Operation** - Cut pipe with abrasive saws or with special pipe cutters. Square all pipe ends with the longitudinal axis of the pipe. Ream and smooth the interior edge and bevel the exterior edge of the cut ends. Flame cutting of ductile iron pipe will not be allowed.

**01140.40(c) Extra Trench Excavation** - Delete this subsection.

**01140.40(d) Grade and Alignment Changes** - Replace this subsection, except for the subsection number and title, with the following:

Excavate potholes to locate utilities. Allow enough time between excavating potholes and pipe installation to change alignment and grade of the pipeline to avoid conflicts. Obtain approval from the Engineer before using fittings to avoid conflicts.

**01140.40(e) Installation in Paved Areas** - Delete this subsection.

**01140.41(e) Polyvinyl Chloride Pipe** - Replace this entire subsection, including subsections .41(e-1) and .41(e-2), with the following subsection:

**01140.41(e) Polyvinyl Chloride (PVC) Pipe** - Install PVC pipe according to AWWA C605 and the manufacturer's recommendations.

Lay horizontal and vertical curves in pipe, as shown, with standard pipe by deflecting the joints. Use standard fittings and standard pipe lengths unless otherwise shown. If shorter lengths of pipe are required, the maximum allowable pipe lengths will be shown. Do not exceed 80 percent of the manufacturer's recommendations for the amount of deflection at each pipe joint when pipe is laid on a horizontal or vertical curve. Where field conditions require deflection or curves not shown, the Engineer will determine the methods to be used. Do not bend PVC pipe segments.

**01140.41(f) Water and Sanitary Sewer Separation** - Replace this subsection, except for the subsection number and title, with the following:

Comply with OAR 333-061-0050 governing horizontal and vertical separation between water and sanitary sewer facilities for installation of new water lines and appurtenances. Submit all proposals for variance in writing. The proposal shall include the reason for the variance, type of material and condition of the sewer line, and location of the water and sewer facilities, including horizontal and vertical skin-to-skin clearances. Proposals will be reviewed by the Engineer and approved, approved as noted, or returned for correction. Each variance will be addressed on a case-by-case basis.

Add the following subsection:

**01140.41(g) Other Utilities** - Maintain a minimum vertical clearance of 12 inches between installed pipe and other utilities. Maintain a minimum horizontal clearance of 24 inches between installed pipe and other utilities. Engineer's approval and additional protection is required for any pipe installation that does not maintain the specified minimum clearances.

**01140.42(a) General** - Replace the paragraph that begins "Mark pipe not..." with the following paragraph:

For pipe not furnished with a depth mark, mark pipe with a depth mark before joint assembly.

**01140.42(b) Steel Pipe under 6 Inches** - Delete this subsection.

**01140.45(a) Installation** - Replace the sentence that begins "Secure to the top of the pipe..." with the following sentence:

Use cable ties to secure the copper wire to the top of the pipe at a maximum spacing of 10 feet.

**01140.47 Connection to Existing Mains** - Replace this entire subsection with the following subsection:

**01140.47 Connection to Existing Mains** - Make necessary arrangements with the Engineer a minimum of 7 calendar days before making connections to existing water mains. Assemble all materials, equipment, and labor necessary to properly complete the work before starting.

**(a) Notification** - If the connection to the existing system involves temporary water system shutoff, provide written notices to the residents affected by the shutoff a minimum of 72 hours before the shutoff. Submit a draft written notification to the Engineer for approval 5 calendar days before providing written notice to the affected residents. The Engineer will advise which property owners are to be notified.

**(b) Permission** - The work to perform the connection may need to be carried out during times other than normal working hours. Do not operate any valves on the existing system without specific permission of the Engineer.

**(c) Connection Assemblies** - Excavate potholes to expose existing piping at connection points before constructing the connection. If existing piping is different than shown, provide measurements of depth and a detailed sketch of existing piping configuration and alignment to the Engineer not less than two weeks before the expected construction.

**(d) Uninterrupted Service** - Once work is started on a connection, proceed continuously without interruption, and as rapidly as possible until completed. Schedule main shutoffs to ensure that mains do not remain shut off overnight, on Fridays, over weekends, or on holidays.

**(e) Cutting Main Lines** - Cut existing water mains according to 01140.12. Remove the portions of pipe to provide for the installation of the required fittings at the points of connection. Determine the exact length of the existing water main that is to be removed. Bevel pipe ends to prevent damage to the transition coupling gasket during installation of the coupling. Clean the exterior of the existing pipe end to a sound, smooth finish before installing the coupling.

**01140.50(c) Disposal of Treated Water** - Replace this subsection, except for the subsection number and title, with the following:

Dispose of treated water flushed from mains. To protect aquatic life, de-chlorinate the waste water before disposing of water into any natural drainage channel. Dispose of disinfecting solution to the satisfaction of the Engineer and local authorities. If approved by the Engineer and the sanitary sewer Utility, disposal may be made to an available sanitary sewer, provided the rate of disposal will not overload the sewer.

**SECTION 01170 - POTABLE WATER SERVICE CONNECTIONS, 2 INCH AND SMALLER**

Replace Section 01170 of the Standard Specifications with the following Section 01170.

**SECTION 01170 - POTABLE WATER SERVICE CONNECTIONS, 2 INCH AND SMALLER**

**Description**

**01170.00 Scope** - This work consists of furnishing and installing service connections, 2 inch in diameter and smaller, from the main to the water meter, and furnishing and installing sampling stations. The water meter will be furnished and installed by others unless specified otherwise in these Special Provisions or on the plans.

**Materials**

**01170.10 Materials** - Furnish materials meeting the following requirements:

Angle Meter Valve .....	02490.60
Bronze Nipples and Fittings .....	02490.60
Copper Tubing Service Pipe .....	02490.40(a)
Corporation Stops .....	02490.30
Customer Service Valves .....	02490.60
Meter Boxes .....	02490.70
Meter Setters.....	02490.50
Polyethylene Tubing Service Pipe.....	02490.40(b)
Saddles .....	02490.20
Sampling Stations .....	02490.80
Service Fittings.....	02490.40(c)

**Construction**

**01170.40 General** - Except for class 52 or greater ductile iron pipe, make all service connections to water mains, using saddles as specified and of the size and type suitable for use with both the water main and the pipe being installed. For class 52 and greater ductile iron pipe, make direct taps for corporation stops according to the recommendations of the Ductile Iron Pipe Research Association (DIPRA), unless direct taps are prohibited by these Special Provisions. Install service pipe lines perpendicular to the main, unless otherwise shown.

**(a) Trench Depth** - Construct the depth of trench for service connection piping to provide a minimum of 30 inches of cover over the top of the pipe. Ensure that the main is not damaged during installation of the service. Excavate and backfill for service connections according to Section 00405, except install the service pipeline under existing pavement, curbs and sidewalks by boring methods approved by the agency having jurisdiction over the roadway. Resurface the trench according to Section 00495.

**(b) Installation** - Furnish and install water service assemblies at the locations shown, or as directed. Service pipe, meter assemblies, fittings, and appurtenances shall conform to the details and standards of the agency having jurisdiction. As shown, install the water service saddle, corporation stop, water service pipe, meter assembly, and meter, and reconnect the customer service pipe to the installed meter assembly.

Cut customer service pipes using tools specifically designed to leave a smooth, even, and square end on the pipe. Ream cut ends to the full inside diameter of the pipe. For pipes that will be connected using couplings that seal to the outside surface of the pipe, clean pipe ends to a sound, smooth finish before installing couplings.

Make service connections to water mains according to the recommendations of the pipe manufacturer and appropriate AWWA standard for water service installation. All water services shall be continuous without splices between the main and the meter unless otherwise approved by the agency having jurisdiction.

Install water service assemblies to match finished lines and grades, and maintain proper clearances and cover for the entire service connection. Adjust the meter box to the finished grade after the surface has been acceptably restored. When meter boxes are to be installed in driveways or a vehicular traveled way, use approved traffic rated meter boxes.

**01170.41 Reconnecting Existing Services** - Where shown, construct new service connections and angle valves to reconnect existing meter assemblies to the new mains. Verify the location of existing service connections and meter assemblies in the field. Notify affected customers of the service interruption at least 24 hours prior to service interruption. Use insulating couplings at all connections between existing galvanized steel or iron pipe and new copper pipe. All fittings, appurtenances, and other miscellaneous materials on the sections of existing pipe that have been removed become the property of the Contractor.

**01170.42 Sampling Stations** - Install sampling stations according to the manufacturer's recommendations and at the locations and depths shown or as directed. Install service connections and perform trenching, backfilling and surface restoration according to 01170.40.

### **Field Testing Installations**

**01170.50 Flushing and Disinfecting** - Before tapping the main for installation of service connections and sampling stations to existing water mains, liberally treat the exterior of the existing main with hypochlorites. Before making connections, swab or spray the ends of all service pipes, the connection points of all appurtenances, and the sampling stations with a 1 percent hypochlorite solution. Thoroughly flush the service connections and sampling stations. For installation of service connections and sampling stations concurrent with new water mains, flush and disinfect service connections and sampling stations according to Section 01140.

**01170.51 Hydrostatic Testing** - For installation of service connections and sampling stations that connect to existing water mains, apply system pressure to new installations prior to backfilling and repair any visible leaks. For installation of service connections and sampling stations concurrent with new water mains, perform hydrostatic testing of service

connections and sampling stations according to Section 01140. Correct all defects in materials or workmanship and retest until satisfactory results are obtained.

**Measurement**

**01170.80 Measurement** - The quantities of water service connection piping and water service line will be measured on the length basis.

The quantities of reconnecting existing services, sampling stations, water meter assemblies, and relocating meter assemblies will be measured on the unit basis.

**Payment**

**01170.90 Payment** - The accepted quantities of work performed under this Section will be paid for at the Contract unit price, per unit of measurement, for the following items:

<b>Pay Item</b>	<b>Unit of Measurement</b>
(f) Relocate Water Meter Assembly .....	Each

Item (f) includes meter when specified, angle meter valve, customer service valve, meter box, meter setter, fittings, and appurtenances necessary to install the meter assembly, and abandoning the existing water service at the mainline.

Payment will be payment in full for furnishing and placing all materials, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified.