



**Request for Proposals
Construction Manager / General Contractor Services
The Commons Project**

**Request for Proposal Number: 2026-02
RFP Issued: March 18, 2026**

Proposals Due:	Not Later than 11:00 a.m. Pacific Standard Time, <u>April 23, 2026</u> Late proposals will not be accepted or considered.
Submit Digital Proposals to:	Lincoln County Owner's Representative: Joshua Dodson, Project Manager @ joshua@dpmco.us
Direct Questions to:	Procurement Contact: Joshua Dodson, Owner's Representative joshua@dpmco.us , 503.754.2546 cell Deadline for Questions: <u>April 15, 2026</u>
Electronic Responses: only	Responses provided by mail or courier service will not be accepted or considered.
Lincoln County Address:	225 West Olive Street, Newport, Oregon 97365, 541-265-6611

Pre-Proposal Conference: A mandatory pre-proposal conference will be held on April 2, 2026 at 11am, 225 West Olive Street, Newport, Oregon 97365 in person only.

Request for Proposal (RFP) Availability: This RFP is available electronically from the Lincoln County website at <https://www.co.lincoln.or.us/1242/Bids-and-RFPs>. Interested parties can obtain the RFP and access addendum materials on the website or emailing the Owner's representative. All information associated with this solicitation, including solicitation addenda, will be posted to the website and emailed to firms who attended the mandatory pre-proposal meeting.

Proposal Opening: The proposals will be opened via Teams only on April 23, 2026 at approximately 11:05am Only the name of the proposer will be read aloud.

Microsoft Teams meeting

Join: <https://teams.microsoft.com/meet/2193559248740?p=KktaRubcPKgVj13sLR>

Meeting ID: 219 355 924 874 0

Passcode: Qp9cM3LX

Public Work: This Contract will be for a public work, subject to ORS 279C.800 to 279C.870 requiring compliance with all applicable provisions and payment of prevailing wages.

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Attachments:

- Attachment A- Proposal Certification Statement Form
- Attachment B- Construction Manager/General Contractor Contract
- Attachment C- Lincoln County General Conditions
- Attachment D- Project Schedule and other Scope documents
- Attachment E- Preconstruction Services
- Attachment F- Pricing Proposal

1. INTRODUCTION

1.1 Executive Summary

Lincoln County is requesting competitive electronically submitted proposals from qualified firms to provide Construction Manager / General Contractor (CM/GC) services for The Commons Project.

The Lincoln County intends to enter into a contract with the selected CM/GC firm(s) for the entire scope of work. Project selections will be determined based on qualifications, scoring criteria and capacity of each firm as outlined in the evaluation criteria below.

The successful CM/GC candidates must provide a documented history of 1) Providing comprehensive CM/GC services on public Projects; 2) Familiarity with occupied, phased Projects; 3) Experience working within a similar event and fairgrounds projects; 4) Experience working with Lincoln County stakeholders and a diverse group of community participants.

2. PROJECT INFORMATION

2.1 Project Background

Project Description and Background

Lincoln County Commons, "Home of Lincoln County Fair," has been an important gathering place for community events and celebrations in Lincoln County for more than 100 years. In addition to the Fair, the Commons is home to many other public and private events throughout the year. The County's vision is for the Commons to continue its role as an important gathering place that offers a variety of venues that serve county residents and attract new activities and opportunities. The purpose of the proposed construction at Lincoln County Commons is to improve existing facilities, design and add new buildings and other ancillary facilities to better use the space, and develop a management and operations plan that will sustain the Commons over time. We want to see the space as something that can be used year-round for a wide variety of events and community activities.

Vision and Mission Statement:

- Our vision is to see Lincoln County Commons (formerly Lincoln County Fairgrounds) become an important gathering place for Lincoln County.
- Our mission is to offer a variety of venues which will make Lincoln County Commons a preferred destination for residents and visitors.
- Our core values are to respect traditions of the past and cast new directions for the future with a focus on youth.
- Our strategic areas of focus for Lincoln County Commons are the activities contemplated in the ORS 565.230: Lincoln County Commons shall "be utilized to the fullest extent for pleasure, recreation and public benefit and for the holding of any exhibitions, shows, carnivals, circuses, dances, entertainments or public gatherings."
- Our strategic goals are to facilitate the development of venues to realize our strategic areas of focus. Our action plans will be developed between the Fair Board, Lincoln County Commissioners and the citizens of Lincoln County.
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Key improvements to the LC Commons:

- New multipurpose building that replaces the existing Main Hall. Need to demo the current one. (Possibly use the new structure as an emergency shelter)
- New, partially covered pavilion to replace indoor and outdoor Arena facilities
- Renovated Floral Building to serve as the new location for 4-H meetings and activities
- Updated Livestock Barn to continue housing animal activities
- A new gateway feature at the corner of 3rd Street and Harney Street to welcome visitors to the Commons
- A new stage, sunken amphitheater, outdoor plazas, and expansive lawn areas for the community to enjoy
- A new food court that can be used year-round by the high school and community
- Updated lighting, fencing, and security to better protect the site and allow the space to be used partially for different events.
- Other projects within Fair and rodeo property
- Cooperation with utility and street easements and road work with the City of Newport
- Planning for future phases of The Common development

2.2 Explanation of Construction Work

The selected CM/GC firm will be seeking to work with the design and owner teams to complete the project in several phases, with phase 2 having a goal to open the rodeo and vendor portion of the fair by June 2027 with the remaining project phase 2 completing at the end of 2027. The construction will be a mix of new construction, demolition, abatement, earthwork, civil site and street utility and building remodel as well as storage and food cart projects.

2.3 Project Team

The CM/GC will join an existing team comprised of:

- Owner – Lincoln County
- Architect – LRS Architects
- Owner’s Representative – Joshua Dodson, DPM Company, LLC, Bryce Mitchell, PM
- CM/GC- TBD

2.4 Project Schedule

Reference Attachment D, goal is to complete Phase 1 rodeo/vendors by June 2027, all remaining work by end of 2027.

2.5 Staff and Environment Safety

CMGC shall take utmost care in providing for safety of all workers and staff in and around the fairgrounds as operation at fairgrounds may be ongoing during construction. Detailed phasing and construction plans are required to be approved by the County Representative before proceeding.

2.6 Construction During Station Occupancy

Construction will most likely occur while the fairgrounds are occupied during fairground events. The CM/GC is expected to provide and obtain approval from the Lincoln County of its Phasing Plan. Working with the Lincoln County, Architect, Architect’s Subconsultants, Project Manager and others identified by the Lincoln County will be critical. The CM/GC is expected to make recommendations during the design phase to minimize the risk of schedule delay and cost overruns. Examples of those recommendations include the identification of bid packages, changes to the phasing plan as specific circumstances are encountered, selective acceleration of the work, etc. A field office location, material delivery location, storage location, construction parking, etc., will need to be carefully planned, reviewed and approved by the Lincoln County prior to start of construction. There is an existing high school adjacent to the site for careful consideration in planning construction activities and site access.

2.7 Quality Standards

Lincoln County has set a high standard for the Project and expects the new work to have at least a 50-year life expectancy. Lincoln County will be working with the architect on guidelines and quality standards during the development of the Project’s design. The CM/GC is expected to participate and aid in the development of these guidelines.

2.8 Site Constraints

Fairgrounds may be occupied during construction depending on phasing and planning.

2.9 Concurrent Mechanical, Electrical and Building Systems

There are a variety of activities that the CM/GC may be required to complete associated with the

existing mechanical and electrical services and other building systems and infrastructure to allow each building to function throughout the construction phase or demolition phases. To understand the scope of work and existing systems, Lincoln County will require the involvement of the CM/GC during the preconstruction phase to prepare for the temporary measures required to ensure the mechanical and electrical systems operate continuously throughout the construction phase if required. To accommodate this activity, selective demolition and explorations activities of various buildings and structures to review and verify information contained in as-built drawings will be required. Tests of existing systems, the construction of mock-ups and other activities may be required to ensure a plan is in place so there are no unscheduled service interruptions. It is the Lincoln County's intent to include preconstruction phase services for Mechanical (HVAC, controls and plumbing) and Electrical (including low voltage) activities through the CM/GC scope of services.

2.10 Neighborhood Relations

Lincoln County is located in an established, mixed use single and multi-family residential communities, adjacent to a high school which includes small businesses. At the fairgrounds, Lincoln County has worked closely with the neighbors, City and community stakeholders throughout the master planning and predesign phase and the commencement of the design phase. It will be essential for the CM/GC to establish a cooperative and positive relationship with the neighbors and stakeholders. The CM/GC will become an active team member with Lincoln County and the community outreach process. The CM/GC will also be an active participant associated with community related issues including but not limited to site security, construction traffic, traffic safety, pedestrian access, student access and control, noise and dust. The CM/GC will develop a plan, in conjunction with the Lincoln County, Architect and Project Manager, to address these issues and others prior to the start of any construction activities. The method in which communication occurs will be included in this plan.

3. **SERVICES TO BE PROVIDED**

3.1 Description of Services Overview

A. General Services

The CM/GC will provide all necessary information required by the Lincoln County associated with the preconstruction and construction phase services to ensure the Project is completed on schedule, within budget and with the quality expectations described in the RFP documents (ultimately the contract documents). In addition, the CM/GC will work closely with and cooperate with the Lincoln County, Architect, Project Manager, City of Newport and other entities (agencies having jurisdictional authority, other consultants retained by the Lincoln County, etc.). The CM/GC must be skilled in developing schedules, developing project phases, preparing construction cost estimates, performing value engineering, creating pricing alternatives, analyzing alternative design scenarios, understanding the labor and subcontracting marketplace, understanding construction methods and techniques, coordinating and communicating the activities of the CM/GC's team throughout the preconstruction and construction phases and other activities. The CM/GC's scope of work will include multiple phases and bid packages.

The CM/GC will serve as the General Contractor for the awarded Project, if Lincoln County and the CM/GC can mutually agree upon a Guaranteed Maximum Price (GMP). The CM/GC will deliver to Owner a proposed GMP and GMP Supporting Documents at a time designated by Owner during the Preconstruction Phase. The CM/GC will provide Lincoln County with a GMP for the construction scope of work. The GMP shall be defined as the Cost of the Work plus the General Conditions, CM/GC's fee and Pre-Construction Costs. The GMP shall be within the Lincoln County's allotted budget for the project.

If Lincoln County and CM/GC can mutually agree upon a GMP, a GMP will be signed by both

entities. By signing the amendment, the CM/GC guarantees that the Cost of the Work shall not exceed the GMP. Should the Cost of the Work be less than the GMP, any such positive difference shall be realized as savings which shall be returned to the Lincoln County at the conclusion of the CM/GC's buyout or added to the GMP contingency at the County's discretion. In no instance will the buyout activities require more than 30 calendar days after receipt of all bids. Allowances may be established for those limited number of occasions when the buyout activity cannot be completed within the 30 calendar days. Lincoln County may, but is not required to, utilize any savings to add project scope during the buyout activity.

If the CM/GC is unable to establish a GMP which is mutually acceptable to both the CM/GC and at a time designated by Owner, Lincoln County reserves the right, at the sole discretion of Lincoln County, to cancel the contract with the CM/GC and may proceed immediately with another contractor on the County's list of selected Proposers or another solicitation process, whatever is in the best interest of the public. Should a contract with the CM/GC be terminated, Lincoln County will compensate the CM/GC for actual costs incurred based upon documentation acceptable to Lincoln County up to time of termination.

B. Phase One Preconstruction Services

During Phase One, the CM/GC shall serve as a consultant to Lincoln County, Architect and Project Manager, and will analyze all aspects of the design with the goal of providing Lincoln County, in the time frame proposed, a project which is within the GMP, with the quality expectations described in the bid / construction documents. The CM/GC will complete these services on a time spent basis, based upon direction provided by Lincoln County, utilizing the unit / labor rates established in the CM/GC's proposal. An early procurement package may occur during this phase where the CM/GC procures long lead items for the project to maintain the planned schedule. County may seek to add dollars for investigative verification services to the preconstruction activities at a cost reimbursement basis or allowance basis. Early Work Amendment(s) may also occur during this phase.

C. Phase Two Construction Services

During Phase Two, the CM/GC shall provide, coordinate and pay for any and all costs to complete the work described in the bid/contract documents.

3.2 Special Requirements

A. GMP Component Requirements

Lincoln County has implemented the following requirements to maintain its fiduciary responsibilities:

1. The CMGC awardee will provide a detailed description of all items that make up the GMP.
2. Final selection of Subcontractors, Suppliers and Vendors will be provided to Lincoln County. The County will have a say in who is selected for all subcontractor and vendor work.
3. The CM/GC will advertise all subcontractor opportunities in the DJC and other public outreach advertisements.
4. County's Project Manager will monitor CM/GC awarded contracts to ensure compliance with bid/construction document compliance.
5. The CM/GC shall publicly advertise all scopes of work and accept bids from all subcontractors properly licensed.
6. Advance approval by the County's Project Manager will be required prior to award to single fabricators of materials, sole source suppliers, or special bid packaging requirements for work to be performed by the CM/GC or its subcontractors.
7. The CM/GC must obtain at least three competitive bids for each sub-trade scope to be

completed, including work components which the CM/GC may be interested in self-performing.

8. The solicitation of subcontractors will be made pursuant to the following procedures:
 - All bids are required to be sealed, written, and submitted to a specific location at a specific time.
 - The Project Manager (or designee) must be present when the bids are received on bid day up until the set bid time and such time that a complete preliminary bid list has been assembled.
 - The CM/GC shall provide to Lincoln County, on the same day that bids are received, all bids (includes notes, supplemental information, details, etc.) received and indicate by bid tabulation for each trade scope of work which bids are complete, incomplete and recommended by the CM/GC as being qualified as set forth in the Bid / Construction Documents.
 - All trade work that the CM/GC bids on to self-perform will be required to be submitted to the Lincoln County one full business day in advance. CM/GC shall make good faith efforts to attract firms that perform traditionally GC self-performed work that CM/GC or Affiliates will be proposing on.
 - If less than three bids are received for any trade scope of work, CM/GC shall re-bid that scope of work if it is deemed in the County's best interest to do so. Exceptions due to schedule constraints may be approved by Lincoln County at Lincoln County's sole discretion. Solicitations will be advertised at least fourteen business days in advance in the Daily Journal of Commerce and other public advertisements. The DJC advertisement shall be advertised for a minimum of 5 publication days.
 - Notice shall state, "This Contract will be for a public work, subject to ORS 279C.800 to 279C.870 requiring compliance with all applicable provisions and payment of prevailing wages."

3.3 Specific Services Description

A. Phase One Services

See Attachment E Preconstruction Services

B. Phase Two Services

1. Continue all reporting as described above in Phase One Services.
2. Implement an accounting system for fiscal control.
3. Implement a scheduling system.
4. CM/GC will utilize a GMP Contingency spend down log provided by Lincoln County. CM/GC will be the primary manager of the log, see spend down management process below and in Attachments B and C.
5. Complete a monthly status report with budget / cost recommendations, schedule status and a summary of major outstanding issues with proposed solutions.
6. Prepare, coordinate and release bid packages as determined appropriate by Lincoln County and CM/GC.
7. Prepare all bid packages, according to the contract requirements, schedule requirements, Lincoln County procedures and ORS 279C requirements.
8. Recommend modifications to existing procedures or implementation of new procedures to ensure bid packages are on schedule and within budget.
9. Currently no more than three bid packages are anticipated for the project / site.
10. Fully coordinate the work of all Subcontractors, Manufacturers, Suppliers and Vendors.
11. Provide on-going observations, inspection and assistance to Subcontractors, Manufacturers, Suppliers and Vendors to ensure the work meets all contract documents requirements.
12. Review and expedite all change order requests.
13. Monitor compliance with payment of prevailing wages on all contracts and subcontracts, per

ORS 279C 800 thru 870.

14. Maintain in a current condition all project records, including permits, construction documents, as-built records, meeting records, submittals, inspection reports, invoices, delivery receipts, daily activity logs, Requests for Information (RFI), Architectural Supplemental Instructions (ASI), Change Orders (CO) and all other relevant project documents, preferably in Bluebeam studio or similar.
15. At final completion provide the Lincoln County with copies of all items referenced in the preceding point in an electronic format. CM/GC will utilize a Closeout SmartSheet provided by Lincoln County to complete all items required of the contract. The log shall be fully complete before any and all retention is released to the CM/GC.

4. SELECTION PROCESS

4.1 Method of Selection

Lincoln County will select a CM/GC through the following selection process. All costs incurred by firms participating in the selection process shall be borne by the proposing firms. The procurement of these services will proceed as described below.

A. Written Proposal (Step 1)

A written proposal shall be submitted to Lincoln County as described in this RFP. The RFP will be evaluated by a CM/GC Selection Committee. The CM/GC Selection Committee Members will assign a numerical point total for each proposal according to the criteria and point system described in this RFP.

B. Interview (Step 2)- (At Discretion of Lincoln County)

In County’s sole discretion, CM/GCs submitting the highest ranked Written Proposals may be invited to participate in interviews. The CM/GC Selection Panel may interview shortlisted firms and assign a numerical point total for the oral interviews according to the criteria and point system described in this RFP.

4.2 Selection

The firm/firms with the highest combined proposal and interview point total will be considered the most qualified. The points awarded for the written proposal requirements and the interview will be added for a cumulative score.

4.3 Selection Schedule

Lincoln County anticipates the following schedule for CM/GC Selection, Pre-Construction and Construction Activities on or about the dates shown below.

Activity	Date
Request for Proposal Released	March 18, 2026
Mandatory Pre-Proposal Conference- County Conference Room- in person only	April 2, 2026, 11am at Lincoln County
Deadline for Questions/RFP Protests	April 15, 2026 5pm PST
Proposals Due	April 23, 2026, 11am PST
Notifications of Interviews- If required (Short List)	April 27, 2026
Interviews- If required	May 4, 2026
Notice of Intent to Award- Commission approval	May 6, 2026

Contract Negotiations	May 6- May 15, 2026
Notice to Proceed for Pre-Construction Services	May 15, 2026 or there about

4.5 Mandatory Pre-Proposal Meeting

There is a mandatory Preproposal conference. The purpose of the conference is to allow CM/GCs the opportunity to become familiar with the program and scope and ask questions. Statements made by Lincoln County, Architect or Project Manager at the conference are not binding upon the County, unless confirmed by written addenda.

Mandatory Pre-Proposal Conference Location and Time

Date: April 2, 2026 at Lincoln County main conference room. In person only.

Time: 11am PST

Location: Lincoln County, 225 West Olive Street, Newport, Oregon 97365, lower south building entrance.

4.6 Proposal Procedure Requirements

A. Proposal Submission

Provide one original proposal in .PDF electronic form under 20MB file size, under 50 pages in 8.5X11, font 12, resumes, tabs, table of contents and references don't count towards page count.

It is the Proposer's sole responsibility to ensure that its proposal is delivered via email to the Request for Proposal closing date and time.

B. Request for Proposal Questions, Clarifications and Changes

Any Proposer requesting clarification of the information provided in this solicitation or a change shall comply with District Rule 137-049-0260(1) or (2), as applicable, submitted in writing to the Procurement Contact shown on Page 1 of this Request for Proposal. Email is the only accepted form of written communication. The deadline for such submittals is shown on page 1 of this Request for Proposal.

C. Protest of RFP: Any Proposer wishing to protest this RFP or any provision, specification or contract term herein, must submit such protests to Lincoln County Office location that is listed on the first page of this RFP. The deadline for submitting such protests is the same date as the deadline for questions listed on the first page of this RFP.

A protest of the RFP shall comply with District Rule 137-049-0260(3), plus include the following:

1. The rationale that demonstrates how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed, etc.
2. Evidence or documentation that supports the rationale on which the protest is based.
3. A description of the resulting prejudice to the interested proposer; and
4. A statement of the desired changes to the Procurement process or the solicitation document that the prospective CM/GC believes will remedy the condition.

Any issue that could have been, but is not, raised as question or protest of the RFP shall not be a ground for protest of award.

D. Addenda

If determined necessary by Lincoln County, changes to this RFP shall be made by addenda posted on Lincoln County website and can be emailed by owner's representative upon request. Addenda shall have the same binding effect as though contained in this RFP. Addenda shall be issued not less than five (5) days prior to the proposal submission deadline. Statements made by Lincoln County's representatives are not binding on Lincoln County unless confirmed by written addendum.

5. WRITTEN PROPOSAL REQUIREMENTS (STEP 1)

5.1 Proposal Format

Responses must provide the following information in the order presented below:

- A. Proposal must include one page cover letter.
- B. Proposal must include Attachment A / Proposal Certification Form with original signatures signed. Electronic is acceptable
- C. Proposal must address all evaluation criteria in the order presented in Proposal Content section of the Request for proposal.
- D. Proposal must not exceed 50 pages in length, 8.5X11 inch page size, font 12, excluding resumes, tabs, references, or items identified in the RFP to be located in the appendix and attachments identified in the RFP.

5.2 Proposal Content

Address each of the following Evaluation Criteria in the order presented:

A. Executive Summary

Provide a summary highlighting the firm's qualifications and special expertise to provide the services requested in the RFP. Provide a confirming statement that the proposing firm has reviewed, understands and will comply with all requirements of Oregon Public Contracting Law, including but not limited to, Prevailing Wage Requirements per ORS 279C.800 through ORS 279C.870.

B. Company Profile, Background and Experience

- 1. Identification of the firm including address, telephone number, email address, date office was established and other relevant information regarding the firm.
- 2. Provide statement regarding current certification of registration with Oregon Construction Contractors Board (CCB). Provide copy of certificate in the appendix.
- 3. Provide confirmation of current State of Oregon Business License (include copy in the appendix).
- 4. Statement that proposing firm is not barred to hold public contracts per Oregon Bureau of Labor and Industries (BOLI).
- 5. Provide a summary of the accident prevention program you will employ and submit your company's Experience Modification Rate and Occupational Safety and Health Lost Time Accident Rate for the past five years.
- 6. Provide the firm's bonding capacity and list the name, contact person, email address and telephone number of your bonding agent. Include a document from your bonding agent pertaining to the proposing firm's ability and available capacity per project and total current available capacity for all firm construction Project (include the letter in the appendix).

7. Provide the firm's insurance coverage and list the name, contact person, email address and telephone number of your insurance agent. Include a document from your insurance agent pertaining to the proposing firm's policy and available coverage (not just policy limit) for this Project (include the document in the appendix).
8. Provide total size and summary of firm personnel by category (Principals, Project Managers, Superintendents, Estimators, Schedulers, etc.). Provide an organization chart for the leadership of the firm including how long the members have served in their current roles.
9. State the firm's annual volume (in dollars) of construction for the past five years. What is the anticipated volume for the current year and what is the plan for the next year, including this Project. Provide a list of Projects currently under contract as well as pending award with the anticipated completion date (and start date if appropriate).
10. Describe your firm's experience in successfully completing multiple phased, food cart, event stage, vendor market, rodeo, 4H, event and fairground type projects, occupied public construction projects in the State of Oregon and your success in working with Owners, Architects, Project Managers, permitting officials, Adjacent schools, City, neighborhoods, Subcontractors, etc., as an integrated team.
11. Provide a list of the last three (3) Projects of similar size, complexity and delivery approach to this Project that are completed or in progress. Include the Project name, similar attributes/challenges, start and completion dates, original contract amount and final contract amount.
12. Provide a list of all alternative dispute resolution or litigation processes/proceedings involving the firm in the last five (5) years. Provide the name of the client, type of dispute resolution, and summary of the issue(s), who initiated the proceedings and the status or outcome of any judgment. Disclosure of monetary amounts is not required, only the status or outcome, including but not limited to hearings, pending hearings, judgement, settled out of court, dismissed or action withdrawn.

C. Project Team

1. Provide an organization chart for your project team indicating Principal-In-Charge, Project Manager, Project Estimator, Superintendent(s), Project Engineer(s) and Preconstruction Manager (if applicable). Provide a brief narrative detailing how the various positions relate and report within the company.
2. Provide a description of each person's role identified in the preceding paragraph, including their current location, length of service with the firm and date available to be assigned to the Project. Provide a detailed resume for team members (Individual resumes should not exceed one page. Include resumes in appendix.) Additionally, highlight specific experience of the proposed team members in the areas of occupied construction and CM/GC Project.
3. Describe experience, registrations, and education of the proposed staff that are directly applicable to this Project that will contribute to the Project's success. Describe skills or experience that represent a benefit to the Project that will contribute to the Project's success. Substitutions of proposed personnel by the successful CM/GC will not be permitted without the written consent of Lincoln County. County further reserves the right to request a substitution of personnel if deemed to be in the best interest of the County.

D. Project Understanding

1. Describe your team's understanding of the Project. Below is a link to the past County efforts to develop the planning for The Commons project via master planning documents. Describe your team's approach to completing the Project. Discuss the major challenges to the successful completion and how the team proposes to approach these issues. What expectations does your team have of Lincoln County? What scopes of work does CM/GC plan on self-performing?

<https://www.co.lincoln.or.us/620/2018-19-Commons-Master-Planning-Process>

2. Address the following questions:
 - A. How will the CM/GC maintain site safety and security?
 - B. How will the CM/GC work with the various stakeholders to meet Lincoln County's expectations (communication, reporting, addressing differences of opinion, subcontractor's that do not perform, etc.)?
 - C. How will the CM/GC represent Lincoln County's interests during the Preconstruction Phase?
 - D. How will the Project Manager and Superintendent function with regard to site leadership?
 - E. How will the Project Manager and Superintendent address vehicles and pedestrian traffic with regard to parking, staging areas, etc.?
 - F. Describe how the CM/GC will phase the project to complete the scope of work within the allotted time frame while the sites are occupied? What temporary items or other facility accommodations will be needed to accomplish this? Phase 1 by June 2026 so rodeo and vendors can function for 2027 events with remaining project completed by end of year as Phase 2.
 - G. How will the CM/GC address sustainable construction practices and coastal weather construction and schedule planning?
 - H. Describe the CM/GC approach working with neighbors, adjacent school operations, the local business community, etc.?
 - I. Describe how the CM/GC will address neighborhood concerns, provide advance notice of construction activities that may impact homeowners, etc.?
 - J. Describe how the CM/GC will use technology to achieve Lincoln County's objectives (Within budget, on schedule and with the quality expectations described in the bid documents)?
 - K. Describe the CM/GC experience with Building Information Modeling, social websites, paperless documentation, etc. [not applicable to this project unless deemed necessary later]

E. Price Proposal (Fee and General Conditions) Fill out Attachment F

The CM/GC will prepare CM/GC fees in the three categories set forth below. Sub-totals in all three categories will be objectively tallied and final fee scores applied to each firm.

Firms invited to the interview phase of selection, if held, will be asked to provide a detailed explanation justifying the submitted fees, but cannot change submitted fees at this stage. If additional information is presented that would alter the fees and the scoring, that information will not be considered or could result in disqualification.

All Appendices shall be fully filled in and the letters "N/A" shall be inserted in blank response areas that do not apply to the Proposer. Proposers who do not submit Appendices and other required information, or who submit incomplete responses within these Appendices, shall be ruled non-responsive and, hence, will not be considered for award of the work.

1. Preconstruction Fee: Provide a fee proposal by which the firm proposes to be compensated for Preconstruction Services on a cost-reimbursement basis up to a maximum not-to-exceed amount. Provide all costs and hourly rates of team members. Preconstruction period expected from May 2026 thru August 2026. This fee section will be scored using lowest fee receives highest score. The preconstruction Fee is a standalone fee accounted for separately with no markups as per CM/GC response. The preconstruction fee is to be Time and Materials, Not to Exceed.
2. Fee %: Provide your firm's CM/GC Fee % as a % based on the project complexity, fixed limit of construction, and time frame described in this RFP for this purpose using \$12-15M as

GMP Target completion through December 2027. Please include cost of General Liability Insurance, PL/PD, Performance and Payment Bonds, Workers compensation, any subcontractor default or subguard fees, and any other insurance required under the attached contract and general conditions attached as Exhibits B and C. Builder's Risk will be a COW below the line reimbursable cost. County reserves the right to increase or decrease the construction budget.

Scoring of Fee %: The lowest Fee % will earn the highest score.

CM/GC GMP Ladder Fee Calculation

- A. Direct COW- includes General Conditions + sufficient divisional breakdown estimates (at GMP)
- B. GMP contingency (% agreed upon by team and calculated on the COW, this also includes estimating and escalation and any other contingency allocation as it is all one bucket) + Allowance line items
- C. Subtotal
- D. Fee % (which includes P&P bonds, PLPD, General Liability, Workers Comp, other required insurance and SDI if they choose, reference above fee section in RFP). This fee % is calculated off the Subtotal #C above
- F. GMP Total [E = A + (A x B) + ((A + (A x B)) x D)]

The Estimated Cost of the Work will include a GMP Contingency, a sum established for the benefit of the Project to cover additional development of Plans and Specifications, and unforeseen costs, and changes (that, as applicable to CM/GC, are properly reimbursable as Cost of the Work and to which the CM/GC is otherwise entitled under the Contract). The GMP Contingency is not for the CM/GC's exclusive use but is meant to be utilized by Lincoln County, Architect, and CM/GC over the course of the Project. CM/GC will utilize a Smartsheet to govern and manage the spend down of the GMP Contingency. Overtime (OT) must be preapproved by the Lincoln County as a contingency use item prior to being utilized and may not be charged otherwise. Contingency items should be submitted in a timely manner. Items that have not been finalized and awaiting supporting documentation for a significant amount of time (>60 calendar days) shall be deemed not needed change orders in either time or dollars and should be removed from the log and cleared to zero impact. The five types of changes that will delineate changes that the GMP Contingency will use are owner changes, contractor changes, architect changes, jurisdictional changes and/or unforeseeable conditions.

3. General Conditions

Provide your General Conditions Cost for the project for the duration following preconstruction **June 2026 thru project completion in December 2027**. Please reference the attached matrix for categories to include. The lowest fees for General Conditions will receive the highest score.

6 PROPOSAL EVALUATION AND AWARD

6.1 Clarification of Responses

In the event that a proposal requires clarification, Lincoln County will request such clarification in writing and will afford the Proposer an opportunity to respond in kind.

6.2 Proposal Evaluation

The evaluation process of this RFP will be comprised of a written proposal evaluation (Step 1) and possibly a presentation and interview, in County’s sole discretion (Step 2).

An Evaluation Committee will evaluate the proposals.

Each evaluator will independently score the proposals in accordance with the Proposal Criteria. Each Evaluator’s score will be tallied to arrive at a total score for each CM/GC. The CM/GC with the highest score for the proposal submission phase will be ranked highest. The CM/GC with the second highest score will be ranked second highest, etc.

Lincoln County may appoint separate evaluation committees for each step of the evaluation process and reserves the right to award the contract after the initial written proposal evaluation phase, in its sole discretion.

A. Step 1 / Written Proposal Evaluation

1. Each evaluator shall independently score proposals in accordance with the Evaluation Criteria.
2. The scoring criteria for each category will have the following assigned points:

Proposal Criteria	Points
Executive Summary	5
Company Profile, Background and Experience	20
Project Team	30
Project Understanding	30
Price Proposal	15
Total	100

B. Step 2 / Presentation and Interview (If held)

1. In the County’s sole discretion, Lincoln County may conduct a second evaluation phase and invite firms to present and address Lincoln County questions based on a short list resulting from the scoring of written proposals.
2. The following CM/GC team members must be present and participate in the interview: Project Manager, Project Superintendent, and Lead Estimator. Corporate officers, Project Executives, etc., may participate in the interview but are limited to opening and closing remarks, and responses to the Selection Committee Member’s questions.
3. Each evaluator will score the proposing firm according to the Interview Evaluation Criteria, below.
4. The scoring of the presentation and interview phase may be influenced by information in the written proposals.
5. The following evaluation criteria will be used to score the interview:

Interview Evaluation Criteria	Points
Demonstrated expertise, qualifications and experience of the proposed Team, with emphasis on experience on similar fairground/rodeo/event center projects. Preference provided for work in the coastal Pacific Northwest.	30
Ability of the proposed Team to communicate effectively	15

Approach to specific site circumstances (safety, occupied site, school adjacency, phased construction, security, maintaining a safe environment, site infrastructure operation during construction, etc.).	35
Approach to ensuring Lincoln County’s cost and schedule expectations are achieved.	20
Total	100

D. Final Ranking

The CM/GC with the highest point total for the combined proposal evaluation (Step 1) and presentation and interview phase (Step 2) will be ranked highest for the interview phase. The final selection of a CM/GC is based upon the cumulative number of points for Step 1 (Proposal Evaluation) and Step 2 (Presentation and Interview).

Each evaluator will independently evaluate and score the presentations and interviews in accordance with the Evaluation Criteria. Each Evaluator’s score will be utilized to arrive at a total score for each CM/GC. The CM/GC with the highest score for the proposal phase (step 1) plus the presentation and interview phase (step 2) will be ranked highest. The CM/GC with the second highest point total will be ranked second highest, etc. The scoring of the presentation and interview phase may be influenced by information in the written proposals

E. References

Lincoln County reserves the right to contact references, including entities other than those listed in a CM/GC submission. This contact may include without limitation, the past performance of any CM/GC with respect to the successful performance of similar Project, compliance with bid documents, completion of a project on schedule, payment of employees and subcontractors and any other topic associated with the performance.

6.3 Notice of Intent to Award

Lincoln County intends to award CM/GC Contract(s) to the Proposing Firm(s) with the highest-ranking cumulative proposal and interview scores. Lincoln County shall notify Proposers of an Intent to Award pursuant to District Rule 137-049-0395, by posting a notification on its website.

6.4 Negotiations

- A. Upon expiration of the 7 day protest period or resolution of any timely-filed protests, Lincoln County will release a Notice of Award.
- B. If Lincoln County and its intended awardee cannot reach an agreement after negotiations, the County will terminate negotiations and, at its option, commence negotiations with the next highest-ranked eligible proposer.
- C. Lincoln County reserves the right to negotiate any and all final contract terms and conditions of the attached contract, including the Term, Scope of Services, and Compensation, with the selected CM/GC to the fullest extent permitted by law and as in the best interest of Lincoln County, in its sole discretion.

6.5 Guaranteed Maximum Price (GMP)

Lincoln County will negotiate an acceptable GMP with the CM/GC upon completion of Phase One Services (Preconstruction Phase Services) and prior to commencement of Phase Two Services (Construction Phase Services). If this collaborative process is not successful and no mutually

agreeable resolution of a GMP can be achieved with the CM/GC, Lincoln County will terminate the Contract. Lincoln County may then proceed to negotiate a new Contract and GMP with the CM/GC that was next-ranked in the selection process or employ other means for continuing the Project under ORS 279C. The GMP will be submitted to Lincoln County no later than 21 calendar days after 90% Construction Documents are complete or sooner. During negotiation of the GMP, Lincoln County reserves the right to include allowances in the GMP for Project unknowns, subcontractor buyout, etc.

6.6 Reservation of Rights

Lincoln County expressly reserves the following rights:

- A. To reject any Proposal not in compliance with all prescribed Public Contracting procedures and requirements, including the requirement to demonstrate the Proposer's responsibility under ORS 279C.375(3)(b).
- B. To reject for good cause all Proposals after finding that doing so is in the public's interest.
- C. To waive any or all irregularities and mistakes in submitted proposals pursuant to County Rules.
- D. To postpone the selection process for County's own convenience at any time.
- E. To accept or reject any individual subcontractor that a Proposer proposes to use.
- F. To award all or multiple Project to a single Proposer, award single Project to a Proposer, or a subset of the Project to a single Proposer(s) as Lincoln County deems appropriate.
- G. To not award contracts for any of the individual Project if deemed in the best public interest.
- H. To request references and other information to determine responsiveness.
- I. To reject all or any insurance carrier(s) with an unacceptable financial rating.
- J. To award any or all parts of any proposal.

7 **SOLICITATION TERMS AND CONDITIONS; PROTEST OF SOLICITATION OR AWARD**

7.1 Submitted Materials are Lincoln County Property

All information submitted for any element of this RFP will become the property of Lincoln County and will not be returned to proposers.

7.2 Proposal Validity

Proposals will remain valid for a period of 60 calendar days following the Proposal submission deadline.

7.3 Solicitation Cancellation, Rejection of a Proposal or All Proposals

Lincoln County may cancel this Solicitation or reject any or all Proposals in accordance with ORS 279C.395 and District Rule 137-049-0270. Lincoln County is not liable to any Proposer for any loss or expense caused by, or resulting from, the cancellation of this solicitation or rejection of a Proposal.

7.4 Disputes

The provision or requirement most favorable to Lincoln County will apply in case of any doubt or difference of opinion as to:

- A. The items or service to be furnished under this RFP, or
- B. The interpretation of the provisions of this RFP, or conflicting information within this RFP.

The decision of Lincoln County will be final and binding upon all parties.

7.5 Publicity

Press, publication, promotion, etc. releases relating to this RFP will not be made without prior approval by Lincoln County.

7.6 Confidentiality

Lincoln County is subject to the Oregon Revised Statutes Public Records Law (ORS 192.311 to 192.478), which requires Lincoln County to disclose all records generated or received in the transaction of Lincoln County business, except as expressly exempted in ORS 192.345, 192.355, or other applicable law. Examples of such exemptions are: qualifying trade secrets (ORS 192.345 (2)) and items submitted in confidence (ORS 192.355(4)).

Lincoln County will not disclose records submitted by a proposer that are exempt from disclosure under the Oregon Public Records Law, subject to the following procedures and limitations:

The CM/GC will mark all proposal pages containing the records it has determined as confidential under Oregon Public Records Law and shall segregate those pages in the following manner:

- A. Such pages will be clearly marked Confidential on each page of the confidential document.
- B. CM/GC will separate confidential pages from other Proposal pages providing the confidential pages to the Lincoln County in a separate envelope or package.
- C. In the proposal, CM/GC will cite the specific statutory exemption in Oregon Records Law exempting such pages from disclosure.
- D. Items 7.6A and 7.6B will prevail in the event these provisions conflict with formatting or response instructions elsewhere in this document.
- E. Proposers may not mark an entire Proposal confidential. Should a proposal be submitted in this manner, Lincoln County will hold no portion of the proposal as confidential, unless such a portion is segregated per 7.6.B) and is determined exempt from Oregon Public Records Law.

Notwithstanding the above procedures, Lincoln County reserves the right to disclose information that Lincoln County determines, in its sole discretion, is not exempt from disclosure or that Lincoln County is directed to disclose by the Lincoln County Attorney or a court of competent jurisdiction.

Prior to disclosing such information, Lincoln County will make reasonable attempts to notify the CM/GC of the pending disclosure.

7.7 Protests.

A. Protests of Rejection of Proposal or Award: A Proposer may protest the award of the Contract, pursuant to District Rule 137-049-0450 and so long as:

1. The Proposer is adversely affected because the Proposer would be eligible to be awarded the contract in the event that the protest were successful.
2. The reason for the protest is at least one of the following:
 - All higher-ranked proposals are non-responsive.
 - Lincoln County has failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the RFP.
 - Lincoln County's evaluation of Proposals or Lincoln County's subsequent determination of award is otherwise in violation of Lincoln County Public Contracting Rules or Public Contracting Code.

B. The following shall not be grounds for protest of award:

1. An issue that could have been, but was not, raised as a request for change/clarification or protest of the RFP.
2. The judgment used in scoring by individual evaluators.

B. Protest of Exclusion from Step of Competition: An affected Proposer may only protest exclusion from a step of competition if the Proposer is responsible, submitted a responsive proposal and, but for Lincoln County's mistake in evaluating the proposal, or other proposal, and the protesting Proposer would have been eligible to participate in the next step of competition.

A. Process: In addition to applicable rule requirements,

1. All protests must be provided in writing and physically received by County Representative Kristin Yille, County Counsel and the address below no later than 5:00 p.m. Pacific Standard Time on the seventh (7th) calendar day after the posted Notice of Intent to Award or postmarked rejection of a proposal or exclusion from a step in competition.
2. The Protest should be Addressed To in writing and mailed to:
Kristin H. Yuille | County Attorney (she/her/hers)
Office of Lincoln County Legal Counsel
225 W. Olive Street, Room 110 | Newport, OR 97365
Tel: (541)265-4108 | Fax: (541)265-4176
Email: kyuille@co.lincoln.or.us | www.co.lincoln.or.us
3. Protests must specify the rationale for the protest as described in this Section 7.7
4. Protests not filed within the time specified in 7.7.A above, or which fail to cite the specific law, rule, regulation, or procedure upon which the protest is based shall be dismissed.

8 CONTRACT TERMS AND CONDITIONS

8.1 Contract Award and Term

Lincoln County intends to award a single contract in the form attached as a result of this RFP. The contract term will be through completion, final acceptance and through the expiration of the warranty period for each Project.

8.2 Lincoln County Contract and Additional Provisions

CM/GC are advised to thoroughly review and familiarize themselves with all Attachments. By signing Attachment A – Proposal Certification Statement Form, proposer agrees to be bound to the terms and conditions in these forms and contract documents.

Any contract resulting from this Request for Proposal shall be based on this RFP and comply with Lincoln County Rules and the Public Contracting Code. In the event of any conflict between this RFP and the attached contract documents, the terms of the contract shall govern.

8.3 Prevailing Wages

This Project is a Public Work project. CM/GC and all Subcontractors shall therefore comply with ORS 279C.800 through 279C.870. No proposal will be received or considered by County unless it contains a statement that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148."

8.4 Public Works Bond

Before starting Work, the successful CM/GC shall file with the Oregon Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS

279C.836, unless otherwise exempt under those provisions. The successful CM/GC shall also include in every subcontract a provision requiring each subcontractor to have a public works bond filed with the Oregon 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. A disadvantaged, minority, women or emerging small business enterprise certified under ORS 200.055 may, for up to four years after certification, elect not to file a public works bond as required under section 279C.836 (1).

8.5 State of Oregon Construction Contractors Board (CCB) Registration Requirements

CM/GC shall be licensed and in good standing with the Oregon Construction Contractors Board prior to submitting a Proposal on this Project. Failure to comply with this requirement shall result in Proposal rejection. CM/GC shall insert current, valid registration number and expiration date thereof in the spaces provided on the Proposal Form. Landscaping contractors and all subcontractors participating in this project shall be licensed respectively, by the State Landscape Contractors Board, as required by ORS 671.530 and the Oregon Construction Contractors Board, as required by ORS 701.026, at the time they propose to engage in bidding or subcontract work. Any Proposal received from a CM/GC identified by the Oregon Construction Contractors Board as not in good standing or ineligible to hold public contracts in accordance with ORS 701.227 shall be disqualified from consideration.

8.6 Construction Manager / General Contractor Contract Execution

Prior to starting work under an EWA or GMP amendment, the selected CM/GC shall provide a performance bond and a payment bond each issued by a surety satisfactory to Lincoln County, in an amount equal to the full dollar value of the GMP for the faithful performance of the Contract and all provisions thereof.

8.7 Lincoln County Contract Execution

After receipt and acceptance of the properly executed Contract and Certificates of Insurance, Lincoln County will execute the Contract and issue a Notice to Proceed. No work shall be performed until the Contract is fully executed and a written Notice to Proceed is issued.

8.8 Proposal Security

Proposal security or bid bond is not required for compliance with this solicitation.

8.10 Insurance

All required insurance such as general liability, performance and payments bonds, prevailing wage bonds and wages, builder's risk workers' compensation, automobile, etc.. required prior to the start of construction.

The successful CM/GC will be required to provide the insurance requirements as contained in the attached contract. CM/GC will promptly provide Certificates of Insurance at Lincoln County's request. Contractor must be licensed under ORS 468A.720, regarding asbestos abatement, for this Project.

Lincoln County
Request for Proposal Number: 2026-02
The Commons Project

45. Building Permits/Fees				X
46. Development Permits/fees				X
47. Principle in Charge			X	
48. Estimating			X	
49. Value Engineering			X	
50. Corporate accounting, ALL TAXES, CAT Tax			X	CAT tax cost of doing business, do not separate out
51. Corporate Safety officer			X	
52. Main office administration			X	
53. Corporate IT Director			X	
54. Legal			X	
55. Main office payroll costs			X	
56. Main office fringe/bonus costs			X	
Costs Related to COW Activities & Craft Labor				
57. Construction Wages for trade labor	X*			
58. Labor burden for trade labor	X*			
59. Subcontracts	X			
60. Material & Equipment related to craft labor & site logistics	X			
61. Rental-Contractor Owned equip (less than \$2000 will be purchased)	X*			
62. Small tools (less than \$2000 will be purchased)	X*			
63. Flatbed truck rental/operation	X			
64. Flatbed truck fuel/maintenance	X			
65. Water truck	X			
66. Air compressor	X			
67. Water pumping equipment	X			
68. Other dewatering equipment	X			
69. Equipment rental-third party	X			
70. Storage trailer rental	X			
71. Temporary toilets	X			
72. Project signage	X			
73. Temporary fencing	X			
74. Barricades	X			
75. Temporary enclosures	X			
76. Temporary stairs	X			
77. Opening protection	X			
78. Safety railing & nets	X			
79. Drinking water (not coffee)		X		
80. Safety equipment for CM/GC personnel. Subs provide own in COW	X			
81. First Aid supplies for CM/GC personnel. Subs provide own in COW	X			
82. Security	X			
83. Weather protection	X			
84. Mobilization/Demobilization	X			
85. Parking/Shuttles		X		
86. Telephone/communication network installation		X		
87. Telephone/communication network bills		X		
88. Temp. Utilities hookup	X			
89. Temp. Utility bills	X			
90. Periodic cleanup	X			
91. Final cleanup	X			
92. Dump permits/fees	X			
93. Trash removal/hauling	X			
94. Flagging/traffic control	X			
95. Dust control	X			
96. Trash chute	X			

Lincoln County
 Request for Proposal Number: 2026-02
 The Commons Project

97. Trade permits	X			
98. Manlift materials & rental	X			
99. Manlift Erect/dismantle	X			
100. Manlift operator	X			
101. Crane rental	X			
102. Crane operator & bellman	X			
103. Crane Erect/dismantle/Jump	X			
104. Crane Service agreement costs	X			
105. Temp. elevator operator	X			
106. Temp elevator agreement	X			
107. Forklift rental	X			
108. Forklift operator	X			
109. Fuel oil/Maintenance	X			

*Subject to negotiation

Attachment A Proposal Certification Form

To: Kristin Yuille, County Counsel

The undersigned provider hereby certifies as follows:

That he / she has read the Lincoln County Request for Proposal and the following Addenda and to the best of his / her knowledge has complied with the requirements stated herein:

Addenda Number:

One: _____

Two: _____

Three: _____

Four: _____

Five: _____

Dated, this _____ of _____ 2026.

Firm Name

Firm Address

Person Signing Contract (Print or Type Name)

Title

Signature

Date

Telephone Number

E Mail Address

Construction Contractors Board Number

Attachment B
REQUIRED FORM OF CM/GC CONTRACT
LINCOLN COUNTY
CM/GC CONSTRUCTION CONTRACT- DRAFT
CONTRACT TRACKING NO. # _____

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**RFP ATTACHMENT #2026-02
REQUIRED FORM OF CM/GC CONTRACT
LINCOLN COUNTY
CM/GC CONSTRUCTION CONTRACT
CONTRACT TRACKING NO. _____**

This CM/GC Construction Contract (this “Contract”) is between Lincoln County, a public agency of the State of Oregon (“County” or “Owner”), and (“CM/GC”) (collectively, the “Parties”), to construct the project described below (the “Project”):

OWNER:

Lincoln County
225 West Olive Street
Newport, Oregon 97365
541.265.6611

CONSTRUCTION MANAGER/ GENERAL CONTRACTOR:

TBD

THE PROJECT:

RFP No. 2026-02 Lincoln County, The Commons Project (Fairground Renovation)

ARCHITECT:

LRS Architects
720 NW David Street, Suite 300
Portland, Oregon 97209
503.221.1121

OWNER'S AUTHORIZED REPRESENTATIVE:

Kristin Yuille, County Counsel

Owner’s Rep./Project Manager
Joshua Dodson, DPM Company, LLC
503.754.2546 cell
joshua@dpmco.us

The Owner's Target GMP Range is: Approximately \$ 12-15M range

The Parties agree as follows:

I. Definitions

Terms not defined in this section will have the meaning as set forth in the General Conditions.

- A. Affiliate. "Affiliate" will mean any subsidiary of CM/GC, and any other entity in which CM/GC has a financial interest or which has a financial interest in CM/GC (including without limitation parent companies, related businesses under the same holding company, or any other business controlled by, under common control with, or which controls CM/GC).
- B. Allowances. "Allowances" will mean the allowance amounts shown in the GMP Supporting Documents, together with such further allowances as may be developed by the Parties as the Project progresses.
- C. Amendment. "Amendment" will mean a written modification of this Contract (including without limitation any agreed change to the GMP), identified as an Amendment, and executed by CM/GC and Owner's Authorized Representative.
- D. Business Days. "Business Days" will mean every day except Saturday, Sunday, and legal holidays.
- E. CM/GC Field Work. "CM/GC Field Work" will mean customary layout, cleanup, supervision, and portions of the Work of a minor nature and not feasibly part of the subcontracted work due to (1) exclusions by a subcontractor not resolved through the process described in Section XI.C.3, (2) undeveloped design owing to deviations in Work performed or materials delivered by Subcontractors or suppliers that do not represent defective or nonconforming work, (3) a breach or failure to perform by a subcontractor or supplier, (4) complexity of coordination of the Work, and other similar reasons typically providing cause for "pick-up" or GC Work under industry standards; provided, however, that (a) CM/GC has reasonably determined that doing such portion of the Work itself is in the best interests of Owner, (b) such Work is identified as CM/GC Field Work in monthly billings, and (c) CM/GC receives prior approval of Owner's Authorized Representative as to the scope of such CM/GC Field Work.
- F. CM Services. "CM Services" will have the meaning given in Section III.C below.
- G. Construction Manager/General Contractor ("CM/GC"). The Contractor selected to perform the work under this Contract.
- H. Construction Phase. "Construction Phase" will mean the period commencing on Owner's execution of a GMP Amendment or of an Early Work Amendment.

- I. Construction Phase Services. “Construction Phase Services” will mean all of the Work other than the Preconstruction Phase Services.
- J. Contract Documents. “Contract Documents” will have the meaning given in the General Conditions, as supplemented by Section II.A below.
- K. Contractor. The term “Contractor,” as used in this Contract and in the General Conditions, means CM/GC.
- L. Design Development Documents. “Design Development Documents” will have the meaning given in the Professional Services Agreement with Architect for the Project.
- M. Early Work Amendment. “Early Work Amendment” means an amendment to this Contract to authorize preliminary construction work prior to the establishment of the GMP and execution of a GMP Amendment. Permissible Early Work shall be limited to early procurement of materials and supplies, early release of bid or proposal packages for site development and related activities, and any other advance Work related to important components of the Project for which performance prior to establishment of the GMP will materially and positively affect the development or completion of the Project.
- N. General Conditions. Owner’s General Conditions of the Contract, attached as Exhibit A.
- O. Cost for General Conditions Work. “Cost for General Conditions Work” or “GC Work” will mean that sum identified in Section VIII.H.
- P. General Conditions Work. “General Conditions Work” (“GC Work”) means a general grouping of project Work required to support construction operations on the Project that is not separately invoiced or subcontracted by Contractor or included within Contractor’s overhead or fee.
- Q. Guaranteed Maximum Price (“GMP”). “GMP” will mean the Guaranteed Maximum Price of this Contract, as stated in dollars within the GMP Amendment as defined in ORS 279C.332(4). The GMP is determined in accordance with Section VI and as it may be adjusted from time to time pursuant to the provisions of this Contract.
- R. GMP Amendment. “GMP Amendment” will mean an Amendment to this Contract, executed by and between the Parties, to establish the GMP and the

Contract Time, and to identify the GMP Supporting Documents for Construction Phase Services.

- S. GMP Supporting Documents. “GMP Supporting Documents” will mean the documents referenced in the GMP Amendment as the basis for establishing the GMP and the Contract Time. The GMP Supporting Documents are to expressly identify the Plans and Specifications, assumptions, qualifications, exclusions, conditions, allowances, unit prices, and alternates that form the basis for the GMP.
- T. Owner. Lincoln County.
- U. Preconstruction Phase. The “Preconstruction Phase” will mean the period commencing on the date of this Contract and ending upon commencement of the Construction Phase; provided that if Owner and CM/GC agree, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases will proceed concurrently, subject to the terms and conditions of the Contract Documents.
- V. Preconstruction Phase Services. “Preconstruction Phase Services” will mean all services described in Section III.A, and any similar services described in the RFP, including such similar services as are described in CM/GC’s RFP response to the extent they are accepted by Owner.
- W. Savings. “Savings” means a positive difference between the GMP and the actual Cost of the Work, including costs for which Owner reimburses a CM/GC and fees or profits the CM/GC earns.
- X. Schematic Design Documents. “Schematic Design Documents” will have the meaning given in the Professional Services Agreement with Architect for the Project.
- Y. Scope Change. “Scope Change” will mean only (1) changed site conditions not reasonably inferable from information available to CM/GC at the time of execution of the GMP Amendment, and (2) significant Work modifications (including additions, substitutions, and deletions), application of Allowances, and selection of alternates, all as approved by Owner under this Contract, beyond that identified or inferable from the GMP Supporting Documents (but in the case of Allowance items, the GMP will increase only if the cost to Owner of the Allowance items exceeds the total amount of the Allowances).

II. Contract Documents

- A. Contract Documents. The Contract Documents consist of this Contract and the following exhibits to this Contract:

Exhibit A: Owner's General Conditions of the Contract
Exhibit B: Form of Early Work Amendment to CM/GC Contract
Exhibit C: Form of GMP Amendment
Exhibit D: Required Insurance
Exhibit E: Independent Contractor Certification Form
Exhibit F: Request for Proposals
Exhibit G: CM/GC Proposal
Exhibit H: Addenda
Exhibit I: Performance Bond
Exhibit J: Payment Bond

- B. Effective Date. This Contract will become effective on the first date on which every Party has signed this Contract.
- C. Contract; Order of Precedence. This Contract, together with the other Contract Documents, form the entire agreement between the Parties. Except as expressly otherwise provided herein, the order of precedence of the Contract Documents is established in the General Conditions for Construction Contracts, if there are inconsistent or conflicting terms among the Contract Documents.

III. Work of this Contract

- A. Preconstruction Phase Services. CM/GC agrees to provide all of the Preconstruction Phase Services described below on an ongoing basis in support of, and in conformance with, the time frames described in the RFP. Commencement of the Construction Phase will not excuse CM/GC from completion of the Preconstruction Phase Services, if such services have not been fully performed at commencement of the Construction Phase. Preconstruction Phase Services are to include CM Services performed during the Preconstruction Phase.
1. CM/GC will provide a preliminary evaluation of Owner's program and budget requirements, each in terms of the other.
 2. CM/GC will provide the following services relating to design and construction tasks:

- (a) CM/GC will consult with, advise, assist, and provide recommendations to Owner and the Design Team on all aspects of the planning and design of the Work.
 - (b) CM/GC will jointly schedule and attend regular meetings with Owner, Owner's Authorized Representative, Architect, and other designated Project consultants (the "Project Team"). CM/GC will consult with Owner's Authorized Representative and other Project Team members regarding site use and improvements, and the selection of materials, building systems, and equipment.
 - (c) CM/GC will provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets, and possible economies.
 - (d) CM/GC will review in-progress design documents, including the documents generally described in the industry as Schematic Development Documents, Design Development Documents, and Construction Documents, and provide input and advice on construction feasibility, alternative materials, and availability. CM/GC will review these completed Schematic Development Documents, Design Development Documents, and Construction Documents and timely suggest modifications to improve completeness and clarity.
3. CM/GC will provide the following services related to the Project schedule:
- (a) CM/GC will prepare, and update monthly, a preliminary Project schedule for the Project Team's review and Owner's Authorized Representative's approval.
 - (b) CM/GC will coordinate and integrate the preliminary Project schedule with the services and activities of Owner and other Project Team members. As design proceeds, CM/GC will update the preliminary Project schedule to indicate proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, submittal of a GMP proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, and Owner's

occupancy requirements showing portions of the Project having occupancy priority, provided that the date(s) of Substantial Completion will not be modified without Owner's prior written approval. If preliminary Project schedule updates indicate that previously approved schedules may not be met, CM/GC will make appropriate recommendations to Owner's Authorized Representative and other Project Team members.

- (c) All Project schedules will be made available in electronic format as requested by Owner.
 - (d) Upon execution of the GMP Amendment, CM/GC will continue this scheduling activity throughout the Construction Phase.
4. CM/GC will make recommendations to Owner's Authorized Representative and other Project Team members regarding the phased issuance of Plans and Specifications to facilitate phased construction of the Work, if such phased construction is appropriate for the Project, taking into consideration such factors as economics, time of performance, availability of labor and materials, and provisions for temporary facilities.
5. Provide the following services relating to cost estimating:
- (a) CM/GC will verify, for the review of Owner's Authorized Representative and other Project Team members and approval of Owner, any preliminary cost estimates during the design phases. More than one cost estimate is anticipated and may include cost estimates at each of the following phases: Schematic Design (SD), Design Development (DD) and Construction Documents (CDs).
 - (b) When Construction Documents ("CD") at the 50 percent submittal level have been prepared by Architect and approved by Owner, CM/GC will prepare a detailed cost estimate with supporting data for review by Architect and Owner's Authorized Representative and approval by Owner. During the preparation of the Construction Documents, CM/GC will update and refine this estimate at appropriate intervals agreed to by Owner, Architect, Owner's Authorized Representative, and CM/GC.
 - (c) CM/GC's cost estimate, based on the 50 percent CD or each phase requested by the Owner, will be reconciled with Owner's construction budget or Architect's cost estimate to within

3 percent, or as otherwise approved by Owner, for the basis of the final GMP. If any estimate submitted to Owner exceeds previously approved estimates or Owner's budget, CM/GC will make appropriate recommendations to Architect and Owner's Authorized Representative to reduce costs.

- (d) CM/GC will notify Owner and the other Project Team members immediately if any construction cost estimate appears to be exceeding the construction budget.
 - (e) CM/GC will otherwise work with Architect and Owner to develop a GMP within the Target GMP Range and within Owner's schedule.
6. Perform the following services relating to Subcontractors and suppliers:
- (a) CM/GC will seek to develop Subcontractor and supplier interest in the Project, consistent with applicable legal requirements, and will furnish to Owner's Authorized Representative and Architect for their information a list of possible Subcontractors and suppliers, including suppliers who may furnish materials or equipment fabricated to a special design, from whom competitive bids, quotes, or proposals (collectively, "Offers") will be requested for each principal portion of the Work. Submission of such list is for information and discussion purposes only and not for prequalification. The receipt of such list will not require Owner, Owner's Authorized Representative, or Architect to investigate the qualifications of proposed Subcontractors and suppliers, nor will it waive the right of Owner or Architect to later object to or reject any proposed Subcontractor, supplier, or method of procurement.
 - (b) CM/GC will provide input to Owner and the Design Team regarding the current construction market bidding climate, status of key subcontract markets, and other local economic conditions. CM/GC will determine the division of work to facilitate bidding and award of trade contracts, considering such factors as bidding climate, improving or accelerating construction completion, minimizing trade jurisdictional disputes, and related issues. CM/GC shall advise Owner on subcontracting opportunities for minority/women/ESB firms.
7. CM/GC will recommend to Owner's Authorized Representative and Architect a schedule for procurement of long-lead-time items which will

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

8. CM/GC will work with Owner in identifying critical elements of the Work that may require special procurement processes, such as prequalification of Offerors or alternative contracting methods.
9. CM/GC will work with Owner and the Design Team to maximize energy efficiency in the Project, including without limitation providing estimating and Value Engineering ("VE") support to Owner's analysis and application for energy-related incentive programs offered by local utilities.

B. Construction Phase Services.

1. Upon execution of the GMP Amendment or execution of an Early Work Amendment, CM/GC will provide Construction Phase Services as provided in the Contract Documents, including without limitation providing and paying for all materials, tools, equipment, labor, and professional and nonprofessional services, and performing all other acts and supplying all other things necessary to fully and properly perform and complete the Work, as required by the Contract Documents, to furnish to Owner a complete, fully functional Project, capable of being legally occupied and fully used for its intended purposes upon completion of this Contract (or, as to an Early Work Amendment, to furnish such Work as is described in the early Work Amendment). Construction Phase Services will include CM Services performed during the Construction Phase.
2. Notwithstanding any other references to Construction Phase Services in this Contract, this Contract shall include Construction Phase Services only if (i) the parties execute a GMP Amendment or (ii) the parties execute an Early Work Amendment, defined below.
3. The parties may execute one or more Early Work Amendments identifying specific Construction Phase Services that must be performed in advance of establishment of the GMP, without exceeding a not-to-exceed budget, a not-to-exceed guaranteed maximum price, or a fixed price ("Early Work Price") to be stated in such Amendment, with such Amendment including

all necessary approvals where required. If the Early Work Price is a not-to-exceed budget, then CM/GC shall be obligated to perform the Early Work only to the extent that the Cost of Work therefor, together with the CM/GC Fee, does not exceed the Early Work Price; however, if CM/CG performs Early Work with a cost in excess of the Early Work Price the CM/GC shall pay such excess cost without reimbursement. If one or more Early Work Amendments are executed, the CM/GC shall diligently continue to work toward development of a GMP Amendment acceptable to Owner, which shall incorporate the Early Work Amendments. If Owner thereafter terminates the Contract prior to execution of a GMP Amendment, the provisions of Section 10.6 of the General Conditions shall apply.

4. Prior to commencement of the Construction Phase, and in any event not later than mutual execution of the GMP Amendment, CM/GC will provide to Owner a full performance bond and a payment security bond, in the forms attached as Exhibits I and J, as required, in the amount of the GMP or of the Early Work Amendment. CM/GC will provide to Owner additional or replacement bonds at the time of execution of any subsequent Early Work or GMP Amendment, prior to execution of the Amendment and the supplying of any labor or materials for the prosecution of the Work covered by the Amendment, and in a sufficient amount so that the total bonded sum equals or exceeds the total amount of the Early Work or GMP. In the event of a Scope Change that increases the Early Work or GMP, CM/GC will provide to Owner an additional or supplemental bond in the amount of such increase prior to performance of the additional Work.
 5. Upon execution of the GMP Amendment, CM/GC will continue the scheduling activities started in the Preconstruction Phase and provide Owner's Authorized Representative with monthly schedule updates.
- C. Construction Management ("CM") Services. Throughout the Preconstruction Phase and Construction Phase of the Project, CM/GC will provide CM Services, generally consisting of coordinating and managing the building process as an independent contractor, in cooperation with the Project Team. CM Services will include but are not limited to:
1. Providing all Preconstruction Phase Services described above;
 2. Developing and delivering schedules, preparing construction estimates, performing constructability review, analyzing alternative designs, studying labor conditions, and coordinating and communicating the activities of the

Project Team throughout the Construction Phase to all members of the Project Team;

3. Continuously monitoring the Project schedule and recommending adjustments to ensure completion of the Project in the most expeditious manner possible;
4. Working with Owner, Owner's Authorized Representative, and Architect to analyze the design, participate in decisions regarding construction materials, methods, systems, phasing, and costs, and suggest modifications to achieve the goals of providing Owner with the highest-quality Project within the budget, GMP, and schedule;
5. Providing ongoing VE services through the Project. CM/GC will develop cost proposals, in the form of additions or deductions from the GMP, including detailed documentation to support such adjustments, and will submit such proposals to Owner for its approval. CM/GC will actively participate in a formal VE study anticipated to be held at the end of the Design Development phase or during Construction Document phase. CM/GC acknowledges that VE services are intended to improve the value received by Owner with respect to cost reduction or life cycle of the Project;
6. Holding and conducting periodic meetings with Owner and Architect to coordinate, update, and ensure progress of the Work;
7. Submitting monthly written report(s) to Owner's Authorized Representative. Each report will include but will not be limited to Project updates, including (a) actual costs and progress for the reporting period as compared to the estimate of costs; (b) explanations of significant variations; (c) Work completed; (d) Work in progress; (e) Changes in the Work; and (f) other information as determined to be appropriate by Owner. Oral or written updates will be provided to Owner as deemed appropriate by CM/GC or as requested by Owner;
8. Maintaining a daily log containing a record of weather, Subcontractors working on the site, number of workers, work accomplished, problems encountered, safety violations and incidents of personal injury and property damage, and other similar relevant data as Owner may reasonably require. The log will be available to Owner and Architect on request;

9. Developing and implementing a system of cost control for the Work acceptable to Owner's Authorized Representative, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. CM/GC will identify variances between actual and estimated costs and report the variances to Owner and Architect at regular intervals;
10. Cooperating with any and all consultants hired by Owner;
11. At Owner's request, cooperating and performing warranty and inspection work for the Project through the expiration date of the applicable warranty period;
12. Assisting Owner with start-up of the Project. Such start-up may occur in phases due to phased occupancy;
13. Incorporating commissioning and inspection agents' activities into the Project schedule and coordinating Subcontractors required to participate in the commissioning and inspection process; and
14. Performing all other obligations and providing all other services set forth in the Contract Documents, and performing all other acts and supplying all other things necessary to fully and properly perform and complete the Work as required by the Contract.

IV. Relationship and Roles of the Parties

- A. Independent Contractor. CM/GC is an independent contractor and not an officer, employee, or agent of Owner as those terms are used in ORS 30.265.
- B. Performance of Work. CM/GC covenants with Owner to cooperate with Architect and Owner's Authorized Representative and utilize CM/GC's professional skills, efforts, and judgment in furthering the interests of Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in conformance with the terms and conditions of the Contract Documents and in an expeditious and economical manner consistent with the interests of Owner.
- C. Design Consultants. Owner has a separate contract with Architect related to the Project. Both CM/GC and Architect will be given direction by Owner through Owner's Authorized Representative. CM/GC agrees to support Owner's efforts

to create a collaborative and cooperative relationship among CM/GC, Architect, other Project consultants, and Owner's Authorized Representative.

- D. Forms and Procedures. Owner has developed or may develop procedures and forms for the administration and tracking of the Contract. CM/GC agrees to abide by those procedures and to use those forms.
- E. CM/GC's Project Staff. CM/GC's Project staff will consist of the following personnel:
 - 1. [Per Proposal] will be CM/GC's Project Manager and [Per Proposal] will be CM/GC's Assistant Project Manager and Project Engineer. One or both will supervise and coordinate all Construction Phase Services and Preconstruction Phase Services of CM/GC and participate in all meetings throughout the Project term unless otherwise directed by Owner. CM/GC represents that Project Manager and Assistant Project Manager each has authority to execute Change Orders and Contract Amendments on behalf of CM/GC.
 - 2. Job Superintendent: [Per Proposal] will be CM/GC's on-site job superintendent throughout the Project term.
- F. Key Persons. CM/GC's personnel identified in Section IV.E and any other personnel identified by name in CM/GC's Proposal will be considered Key Persons. So long as Key Persons remain employed by the CM/GC, the CM/GC may not otherwise remove or relace any Key Person, or cause them to leave the Project for any reason, including without limitation to work on other projects or take extended vacations, without forty-five days' advance written notice to, and prior consent of, Owner, which will not be unreasonably withheld. New or replacement Key Persons must be qualified, have adequate experience with similar projects, and be acceptable to Owner. When replacements have been approved by Owner, CM/GC will provide a transition period of at least ten Business Days, during which the original and replacement personnel will be working on the Project concurrently. Once a replacement for any Key Persons is authorized, further replacement will not occur without the written permission of Owner.

V. Date of Commencement; Substantial and Final Completion

- A. Notice to Proceed. When Construction Phase Services are authorized as set forth in Section III.B, then a Notice to Proceed will be issued by Owner to begin the designated or full Construction Phase Services ("Notice to Proceed"). It is

anticipated that the Notice to Proceed will be issued on or about [REDACTED], 2026. A separate Notice to Proceed shall be issued for any and every Early Work Amendment.

- B. Completion of Project. CM/GC will achieve Substantial and Final Completion of the entire Work as required by the GMP Amendment. Owner will have the right to take possession and occupancy of the Project in phases, and CM/GC agrees that such partial occupancy will not be grounds for adjustment of the GMP or the Substantial or Final Completion Dates. The CM/GC shall achieve Substantial Completion of the entire Work not later than [REDACTED], 2026 and shall achieve Final Completion not later than thirty (30) Days after the earlier of (i) Substantial Completion or (ii) the required date for Substantial Completion
- C. Time is of the Essence. All time limits stated in the Contract Documents are of the essence.
- D. Time Extensions. Notwithstanding provisions for Contract time extensions in the General Conditions, Owner and CM/GC agree that timely completion of the Work is essential to the success of the Project, and that approval for time extension will be granted only as a last resort. CM/GC agrees to make every effort to recover "lost" time.
- E. Liquidated Damages. CM/GC acknowledges that Owner will sustain damages as a result of CM/GC's failure to substantially complete the Project in accordance with the Contract Documents. These damages may include but are not limited to delays in completion and use of the Project, and costs associated with Contract administration, additional Project Team costs, and use of temporary facilities. CM/GC and Owner acknowledge that the actual amount of damages would be difficult or impossible to determine accurately and agree that the following liquidated-damages figure represents a reasonable estimate of such damages and is not a penalty.
 - 1. Liquidated damages will be **\$1,500** for each day that Substantial Completion exceeds the required date of Substantial Completion. Liquidated Damages shall be an additional \$1,000.00 for each day that Final Completion exceeds the required date of Final Completion, plus any additional amounts forgone by Owner.
 - 2. CM/GC agrees to pay to Owner the liquidated-damage sums set forth above for each day of delay or any fraction thereof and further agrees that Owner may deduct such sums from payments that Owner otherwise owes to CM/GC under the Contract. If such deduction does not result in

payment to Owner of the assessed liquidated damages in full, CM/GC will promptly pay any and all remaining sums owed to Owner upon demand.

VI. Contract Sum and GMP

- A. Contract Sum. When a GMP Amendment or Early Work Amendment is executed, Owner will pay CM/GC, as payment for the Work, the “Contract Sum,” which will equal the sum of the Preconstruction Fee, the CM/GC Fee, and the actual Cost of the Work, but not exceed the GMP.

The GMP will be determined in accordance with the formula set forth below and as described in Section VI.C. The “Cost of the Work” is defined in Section VIII. Costs in excess of the GMP will be paid by CM/GC without reimbursement by Owner. Changes to the GMP will be authorized only by Amendment or Change Order.

$$\text{Preconstruction Fee} + \text{CM/GC Fee} + \text{Estimated Cost of the Work (Est. COW)} = \text{GMP}$$

- B. Preconstruction Fee. The Preconstruction Fee will be payable to CM/GC on a cost-reimbursement basis up to a maximum sum of \$_____, which will cover constructability review, Value Engineering, cost estimating, development of GMP, and all other Preconstruction Phase Services as described in Section III..

If CM/GC’s costs for provision of Preconstruction Phase Services exceed the maximum Preconstruction Fee, CM/GC will pay such additional costs without reimbursement. CM/GC will not be entitled to any CM/GC Fee upon the Preconstruction Fee. Owner will pay the Preconstruction Fee on a cost-reimbursement basis with each application for payment during the Preconstruction Phase. If the total actual Preconstruction Fee is less than the maximum Preconstruction Fee used for initial calculation of the GMP as provided above, the GMP will be reduced by the difference; provided that Owner may direct instead that any applied portion of the maximum Preconstruction Fee be applied to Construction Phase Services, in which case the GMP will not be reduced by the portion so applied. Except to the extent the Parties may expressly agree to the contrary in the GMP Amendment, no Preconstruction Fee or other fee, compensation, or reimbursement will be payable to CM/GC with respect to Preconstruction Services performed after execution of the GMP Amendment.

- C. Establishment of CM/GC Fee; Adjustments to CM/GC Fee.
1. The “CM/GC Fee” will be a fixed-dollar lump sum to be identified in the GMP Amendment and will be calculated as a percentage, _____%, of the

Estimated Cost of the Work at the time of establishment of the GMP. In making such calculation, the Estimated Cost of the Work will exclude the Preconstruction Fee, the CM/GC Fee itself, and any other cost or charge for which this Contract states is not to be included in calculating the CM/GC Fee, but will include Allowances, selected alternates, Cost for GC Work, and reasonable Project contingencies as designated in the GMP Supporting Documents. The CM/GC Fee is inclusive of profit, overhead, insurance (excluding builder's risk insurance), payment and performance bonds, CM/GC corporate activity tax costs, and all other indirect or nonreimbursable costs. Owner will pay the CM/GC Fee ratably with each application for payment during the Construction Phase. In the case of Early Work, the CM/GC Fee will be the above percentage multiplied by the actual Cost of the Early Work, until such time as a GMP Amendment is executed, at which time such CM/GC Fee payments will be credited against the CM/GC Fee fixed therein.

2. Any Amendment or Change Order that increases or decreases the GMP will adjust the CM/GC Fee then in effect by multiplying the percentage shown in Section VI.C.1 by the change in the Estimated Cost of the Work reflected in such approved Amendment or Change Order. In addition, if this Contract is terminated for any reason prior to full completion of the Work (including without limitation termination during or following performance of Early Work), the CM/GC Fee will be limited to the total CM/GC Fee multiplied by the percentage of Work completed and accepted at the time of termination. The CM/GC Fee will not be subject to adjustment for any other reason, including without limitation schedule extensions or adjustments, Project delays, unanticipated costs, or unforeseen conditions.

D. Determination of GMP.

1. CM/GC will deliver to Owner a proposed GMP and GMP Supporting Documents at a time designated by Owner during the Preconstruction Phase. If any actual subcontract Offers are available at the time the GMP is being established, CM/GC will use those subcontract Offers in establishing the GMP.
2. As the Plans and Specifications may not be developed to the stage of biddable Design Documents at the time the GMP proposal is prepared, CM/GC will provide in the GMP for further development of the Plans and Specifications by Architect that is consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not

include such things as changes in scope, systems, and kinds and quality of materials, finishes, or equipment, all of which, if required, will be incorporated by Change Order or Amendment with a corresponding GMP adjustment.

3. CM/GC will include with its GMP proposal a written statement of its basis (the "GMP Supporting Documents"). This statement shall state what is included and excluded as defined in Section VIII "Cost of Work (To Be Reimbursed)" and Section IX "Costs Excluded from the Cost of Work (*Not To Be Reimbursed*)" and shall also include:
 - (a) A list of the Plans and Specifications, including all addenda thereto, and the conditions of the Contract, which were used in preparation of the GMP proposal.
 - (b) A list of allowances and a statement of their basis.
 - (c) A list of the clarifications and assumptions made by CM/GC in the preparation of the GMP proposal to supplement the information contained in the Plans and Specifications.
 - (d) The proposed GMP, including a statement of the estimated cost organized by trade categories, allowances, contingency, and other items and the associated fees that comprise the GMP.
 - (e) The date of Substantial Completion upon which the proposed GMP is based, and the schedule of the Construction Documents issuance dates upon which the date of Substantial Completion is based.
4. CM/GC will meet with Owner and Architect to review the GMP proposal and the written statement of its basis. If Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they will promptly notify CM/GC, who will make appropriate adjustments to the GMP proposal, its basis, or both.
5. Prior to Owner's acceptance of CM/GC's GMP proposal and issuance of a Notice to Proceed, CM/GC will not incur any cost to be reimbursed as part of the Cost of the Work, except as specifically provided in an Early Work Amendment.
6. Owner will authorize and cause Architect to revise the Plans and Specifications to the extent necessary to reflect the agreed-upon

assumptions and clarifications contained in the GMP Amendment. Such revised Plans and Specifications will be furnished to CM/GC in accordance with schedules agreed to by Owner, Architect, and CM/GC. CM/GC will promptly notify Architect and Owner if such revised Plans and Specifications are inconsistent with the agreed-upon assumptions and clarifications.

7. The GMP will include in the Cost of the Work only those taxes that are specifically allowed under Section VIII.F.2 and enacted at the time the GMP is established.
8. The Estimated Cost of the Work will include a GMP Contingency, a sum established for the benefit of the Project to cover additional development of Plans and Specifications, unforeseen costs, and changes (that, as applicable to CM/GC, are properly reimbursable as Cost of the Work and to which the CM/GC is otherwise entitled under the Contract, including as a Change Order). The GMP Contingency is not for the CM/GC's exclusive use, but is meant to be utilized by Owner, Architect, and CM/GC over the course of the Project. CM/GC will utilize a Smartsheet provided by Owner to govern and manage the spend down of the Project Contingency. There are five types of changes to utilize the contingency, contractor, design, owner, jurisdictional, unforeseen changes. The purpose and intent are to utilize the GMP contingency first then if needed, owner will replenish the GMP contingency with a Change Order to the contract. Overtime (OT) charges must be preapproved by Owner as a contingency use item prior to being utilized. Contingency items should be submitted in a timely manner. Items that have not been finalized and awaiting backup for a significant amount of time (>60 calendar days) shall be deemed as not needed changes in either time or dollars and should be removed from the log and/or cleared to zero impact.
9. CM/GC will work with Architect and Owner to identify and confirm components and systems not specifically shown but required for a complete, fully functional Project. Owner will direct Architect to complete the final Construction Documents in accordance with the Project scope agreed upon by all Parties at the time the GMP is established.
10. Notwithstanding the level of detail represented in the GMP Supporting Documents, CM/GC will represent and warrant, at the time it submits the GMP, that the GMP includes the entire cost of all components and systems required for a complete, fully functional Project.

11. In developing the GMP, CM/GC will include and identify such contingencies within the GMP as may be necessary to pay for unforeseen elements that are required for a complete, fully functional Project.
- E. Failure to Furnish an Acceptable GMP. If CM/GC does not furnish a GMP acceptable to Owner within Owner's Target GMP Range, or if Owner determines at any time in its sole discretion that the Parties may fail to reach a timely agreement on a GMP acceptable to Owner, Owner may terminate this Contract without liability, and CM/GC will not receive additional compensation beyond the Preconstruction Fee under this Contract. Termination under this provision will proceed under Section 10.5 of the General Conditions as a termination for Owner's convenience. CM/GC further agrees that Owner will not be liable for any damages whether actual, consequential, or otherwise for termination of this Contract under this provision.
- F. Acceptance of GMP. Upon acceptance of the GMP by Owner, the Parties will execute a GMP Amendment.
- G. Owner Savings. If the sum of the Preconstruction Fee, plus the CM/GC Fee, plus the actual and final Cost of the Work (the Contract Sum as defined in Section VI.A) is less than the GMP, the savings will be accrued to Owner.
- H. Allowance Work.
1. CM/GC will not perform any Allowance Work without prior execution by Owner of a Change Order approving the Specifications for the Allowance Work and the price thereof.
 2. Owner will be entitled to apply any Allowance line items that have not been fully expended to other line item Allowances that have been fully expended, without any resulting increase in the GMP.
 3. If the total Cost of the Allowance Work exceeds the total Allowances within the GMP, CM/GC will not perform any Allowance Work in excess of such amount until either (a) the Parties agree that the additional Allowance Work will be performed within the then-current GMP, or (b) a GMP Amendment is executed to increase the GMP by the excess cost of the Allowance Work.
 4. The Contract Sum will not include any Allowance items not identified in the GMP Amendment or the GMP Supporting Documents until such allowance item is reduced to a fixed price by Change Order or Amendment.

5. If at the time of Final Completion of the Project any portion of the Allowance funds remains unexpended, the GMP will be reduced by a corresponding amount via a Change Order or Amendment.
- I. Adjusting GMP Contingency after Bid ("Offer") Buyout. As soon as possible after the awarding of the Work to the primary Subcontractors, CM/GC will review projected costs and provide Owner with a buyout status report showing any projected cost underruns, reconciling accepted Offers and other reasonably anticipated costs, to the cost estimate used by CM/GC to establish the GMP. CM/GC will include with its report any underlying documentation requested by Owner used to develop or support such report. CM/GC will also consider the reduced risk associated with known subcontracting costs, and the impact that reduced risk has on the amount of GMP Contingency. The Parties will negotiate in good faith to execute a Change Order moving some or all of any projected underrun to an Owner-controlled contingency fund to be held within the GMP to pay for additional costs arising from (1) any Owner-directed or approved Change to the Work, (2) schedule changes that would otherwise entitle CM/GC to an increase in the GMP, (3) allowance items after exhaustion of all Allowances, (4) selection by Owner of more expensive alternates than those used for calculation of the GMP, (5) Owner selection of substitutions that increase the Cost of the Work, or (6) any other costs that would otherwise entitle CM/GC to an increase in the GMP. Any transfer of projected cost underruns from CM/GC's contingency to the Owner-controlled contingency fund will not affect CM/GC's obligation to complete the Project within the GMP.

VII. Changes in the Work

- A. Price Adjustments. Adjustments to the Estimated Cost of the Work required by Changes in the Work will be determined by any of the methods listed in the General Conditions, except that, unless the adjustment is based upon fixed pricing or unit pricing:
 1. The overhead and profit markup for CM/GC will be limited to the CM/GC Fee adjustment, if any, permitted under Section VI.C.2 of this Contract;
 2. The increase or decrease in the Estimated Cost of the Work, other than for subcontract work, will be calculated pursuant to Sections VIII and XIV of this Contract, instead of being based on CM/GC's Direct Costs as defined in the General Conditions; and
 3. In calculating adjustments to subcontracts, unless the Parties agree otherwise, the change will be limited to Subcontractor's Direct Costs plus

the supplemental markup provided in the General Conditions, and will not be modified by Sections VIII and IX of this Contract.

- B. Tariff Impacts. As of the date of this Agreement, essential materials and equipment to the Project are experiencing or expecting to experience significant industry-wide price fluctuation during the performance of the Agreement (“Potentially Impacted Materials”). If, during the term of this Agreement, a Potentially Impacted Material experiences an increase of more than **10%** of its Baseline Price, the CM/GC may seek an equitable adjustment to the GMP subject to the following conditions:
1. The Baseline Price must be verifiably caused by tariffs, taxes, assessments, fees and other regulatory costs enacted or announced after the effective date of this Agreement; and
 2. The Contractor must notify the Owner in writing within thirty days from the date of the increase in Baseline Price and provide appropriate documentation substantiating the increase and detailing Contractor’s efforts to mitigate the increase; and
 3. The Potentially Impacted Materials must be delivered on or after the date on which the notice described in Section VII(B)(2) above is given; and
 4. The GMP shall be adjusted by not more than **5%** of the original Contract Sum for the aggregate of the increases in the Baseline Prices of Potentially Impacted Materials. Notwithstanding anything to the contrary in this Agreement, the Contractor is not entitled to any equitable adjustment under this Section VII(B), either alone or in aggregate of other increases to the Contract Sum granted under this Section VII.B, would cause the GMP to exceed **5%** of the original Contract Sum.
- C. Adjustments to the GMP. Adjustments to the GMP after execution of the GMP Amendment may be made only (1) in the event of Changes or (2) as otherwise expressly provided in this Contract, and then only in accordance with the following procedure:
1. CM/GC will review subsequent iterations of the Plans and Specifications as they are prepared to determine whether, in the opinion of CM/GC, they result in a Scope Change so that it can be determined if an adjustment to the GMP is warranted.

2. Changes to the GMP will be initiated by written notice by one Party to the other ("GMP Change Request"). CM/GC will deliver any such GMP Change Request to Architect and Owner's Authorized Representative promptly after becoming aware of any Scope Change if, in CM/GC's opinion, it constitutes grounds for adjustment of the GMP. Any GMP Change Request will include a proposal as to the appropriate GMP adjustment with respect to the Scope Change at issue.
3. CM/GC will submit its GMP Change Requests as soon as possible, and CM/GC will not be entitled to claim a GMP increase unless CM/GC submitted a GMP Change Request to Owner's Authorized Representative and to Architect within the earlier of (a) 30 days after CM/GC has received the information constituting the basis for the claim, or (b) as to Work not yet bid or proposed, prior to submission of solicitations for such Work and as to Work already solicited, prior to commencement of the portion of the Work for which CM/GC intends to claim a Scope Change; and (c) in any event, prior to CM/GC's signing of a Change Order for the Scope Change.
4. Owner may, at any time, submit a GMP Change Request requesting a reduction of the GMP, which will include Owner's basis for such request, and may include, for example, reduction of GMP Contingency after further development of the Plans and Specifications that form the basis for the original GMP Amendment, and/or unused Allowances.
5. CM/GC will work with Architect to reconcile all differences in its GMP Change Request with Architect within seven days from the date of submission of the GMP Change Request. "Reconciled" means that CM/GC and Architect have verified that their assumptions about the various categories are the same and have identified the reason for differences in the GMP Change Request and the Architect's position. CM/GC will submit the Reconciled GMP Change Request to Owner, which submission will be a condition to any CM/GC claim for a GMP increase.
6. If the Reconciled GMP Change Request is not acceptable to Owner, CM/GC agrees to work with Owner and Architect to provide a GMP Change Request that is acceptable to Owner.
7. CM/GC agrees to make all records, calculations, drawings, and similar items relating to the GMP Change Request available to Owner and to allow Architect and Owner access and opportunity to view such documents at CM/GC's offices. Upon Owner's reasonable notice, CM/GC will deliver two

copies of such documents to Owner and Architect at any regular meeting or at the site.

8. GMP increases, if any, will not exceed the increased Cost of the Work arising from the Scope Change (whether based on agreed fixed pricing, or the Estimated Cost of the Work increase based on cost-reimbursable pricing), reconciled in accordance with the above provisions, as arising from the incident justifying the GMP increase, plus or minus the CM/GC Fee applicable to such change in the Cost of the Work.
- D. Execution by Owner. If Architect is Owner's Authorized Representative, then notwithstanding any provision in this Contract to the contrary, Architect has no authority to execute Change Orders or Amendments on behalf of Owner, and only duly authorized personnel of Owner may do so.

VIII. Cost of the Work (To Be Reimbursed)

- A. Cost of the Work. The Cost of the Work will include only those items necessarily and reasonably incurred by CM/GC in the proper performance of the Work and specifically identified in this Section VIII, and only to the extent that they are directly related to the Project.
- B. Labor Costs.
 1. Wages of construction workers directly employed by CM/GC to perform the construction of the Work at the site.
 2. With Owner's prior written approval, and only for that portion of their time directly required for the Work, wages and salaries of CM/GC's supervisory and administrative personnel (a) stationed at the site, or (b) engaged at factories, workshops, or on the road in expediting the production or transportation of materials or equipment required for the Work with Owner, or otherwise engaged and off the site when specifically related to the Project, in each case under this clause (c) only with Owner's prior written approval, and only for that portion of their time directly required for the Work.
 3. Fringe benefit costs paid or incurred by CM/GC for taxes, insurance, contributions, assessments, and benefits required by law or collective bargaining contracts and, for personnel not covered by such contracts, customary benefits such as sick leave, medical and health benefits, holidays, vacations, and pensions, provided such costs are based on wages

and salaries included in the Cost of the Work under Sections VIII.B.1 through VIII.B.2.

C. Subcontract Costs.

1. CM/GC's actual payment to Subcontractors pursuant to CM/GC's contract with such Subcontractor for the Work on the Project. No amount paid by or payable to any such Subcontractor other than the fixed or cost-reimbursement price of its subcontract will be included in the Cost of the Work, unless otherwise approved in writing by Owner.

D. Costs of Materials and Equipment Incorporated in the Work or Stored On Site.

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

E. Costs of Miscellaneous Equipment and Other Items; Equipment Rental Charges.

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

2. Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by CM/GC at the site, whether rented from CM/GC or others, and costs of transportation, installation, minor repairs and replacements, dismantling, and removal thereof. Rates and quantities of equipment rented will be according to industry standards, will not exceed 100 percent of the rental rates published from time to time by the American Association of Equipment Dealers in effect at the time of rental, and will not exceed acquisition costs, and for individual items exceeding \$2,500, will be subject to Owner's prior approval. CM/GC will deliver to Owner a list of published rates from time to time at Owner's request. For all items rented or leased, CM/GC will charge Owner only the rental charge incurred by CM/GC with no additional administrative or other markup. CM/GC will make efforts and use its best skills and judgment to procure equipment in the most expeditious and economical manner consistent with the interest of Owner. Efforts will include but not be limited to providing Owner with a rent/buy analysis so that Owner may elect for CM/GC to procure the item in lieu of rental if the facility at issue is expected to be rented for six months or longer. Such rent/buy analysis will include, where available, a leasing rate commensurate with the expected term of rental of the facility at issue. Inclusions to and exclusions from rental rates will be made in accordance with American Association of Equipment Dealers standards.
3. Costs of removal of debris from the site.
4. Cost of telegrams and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office, which are solely for the benefit of the Work.
5. That portion of the reasonable travel and subsistence expenses of CM/GC's personnel determined by Owner to be reasonable and necessary, at Owner-approved rates, incurred while traveling in discharge of duties connected with the Work. Main office staff travel will not be reimbursed unless approved in advance by Owner. These travel costs will be reimbursed only to the extent allowed under Owner's travel reimbursement guidelines ("Owner Travel Rules") applicable to Owner and only at Owner-approved travel rates.

F. Other Costs.

1. That portion of premiums for insurance directly attributable to this Contract, including deductible for builders all/risk insurance (but excluding premiums for comprehensive general liability, automobile, and workers' compensation coverage that is not directly attributable to this Contract), and payment and performance bonds as required by the General Conditions (but excluding premiums for Subcontractor bonds unless authorized by Owner).
2. Sales, use, or similar excise taxes imposed by a governmental authority that are directly related to the Work and for which CM/GC is liable. This excludes the Oregon Corporate Activity Tax (CAT). The CAT shall not be expensed as a Cost of the Work, either for the Contractor or subcontractors.
3. Fees and assessments for the building permit and for other permits, licenses, and inspections for which CM/GC is required by the Contract Documents to pay.
4. CM/GC deposits lost for causes other than CM/GC's fault or negligence.
5. Costs of drawings, Specifications, and other documents required to complete the Work, except as provided by Owner or Architect.
6. Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by Owner.

G. Costs to Prevent Damage, Injury, or Loss. The Cost of the Work will also include costs that are incurred by CM/GC in taking action to prevent threatened damage, injury, or loss in case of an emergency affecting the safety of persons and property.

H. Cost for General Conditions Work. CM/GC will be paid on a cost reimbursement basis, not to exceed the amount of \$ _____ as payment for the GC Work, including all labor, materials, and direct and indirect costs thereof. To the extent any GC Work is otherwise described in this Section VIII, CM/GC's compensation for the same is included in the Cost for GC Work and will not otherwise be charged as Cost of the Work. Unless the CM/GC submits security as permitted by, and which complies with, ORS 279C.560 and 701.435 for all or a portion of the retainage required herein, the Fixed Cost for GC Work, less 5% retainage thereon, shall be paid in equal installments monthly over the number of months

of the scheduled Construction Phase, commencing with the first progress billing after commencement of the scheduled Construction Phase. However, no adjustment in the amount payable for General Conditions Work will be made if the actual construction period is shorter or longer than the number of months scheduled for the Construction Phase, unless the construction period is extended because of an Owner-requested delay.

IX. Costs Excluded From Cost of the Work (*Not to Be Reimbursed*).

- A. Costs Excluded from Cost of the Work. The following will not be included in the Cost of the Work:
1. Salaries and other compensation of CM/GC's personnel stationed at CM/GC's principal office or offices, other than the site office, except as allowed under Sections VIII.B.2 and VIII.B.3.
 2. Expenses of CM/GC's principal office and offices other than the site office.
 3. Any overhead and general expenses, except as may be expressly included in Section VIII.
 4. CM/GC's capital expenses, including interest on CM/GC's capital employed for the Work.
 5. Rental cost of machinery and equipment, except as provided in Section VIII.E.2.
 6. Any cost associated with the Project not specifically and expressly described in Section VIII.
 7. Costs due to the fault or negligence of CM/GC, Subcontractors, suppliers, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable.
 8. The cost of correction of any repair work, nonconforming or defective work, or warranty work.
 9. Merit, safety, or other incentive payments, bonuses, or awards, or any expenses in connection therewith.
 10. Fines and penalties.
 11. Except for Early Work, the cost of Preconstruction Phase Services.

12. The Cost of the Work for GC Work in excess of the not to exceed cost established in Section VIII of this Contract.
13. Any costs in excess of the GMP.

X. Discounts, Rebates, and Refunds

- A. Discounts, Rebates, and Refunds. Cash discounts obtained on payments made by CM/GC will accrue to Owner. Trade discounts, rebates, refunds, and net amounts received from sales of surplus materials and equipment will accrue to Owner, and CM/GC will make provisions so that they can be secured.
- B. Amounts Credited to Owner. **Amounts that accrue to Owner in accordance with the provisions of Section X.A will be credited to Owner as a deduction from the Cost of the Work. Subcontracts and Other Contracts**
- A. General Subcontracting Requirements.
 1. Other than Work performed pursuant to Sections XI.D or XI.E of this Contract, CM/GC will subcontract the Work to Subcontractors other than CM/GC and its Affiliates.
 2. The CM/GC shall comply with County Public Contracting Rules and Oregon Administrative Rules ("OAR") in all respects for the solicitation of disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses, emerging small businesses or historically underutilized businesses. Compliance shall include pass-through requirements for Subcontractor demonstrations of good faith efforts for all subcontract Offer packages, for which set goals shall not be utilized.
 3. The CM/GC shall report to Owner on the results of the good faith efforts of compliance required in Section XI.A.2 following award of all subcontracts. The CM/GC shall also submit quarterly reports to Owner listing Work contracted to date with disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses, emerging small businesses or historically underutilized businesses
- B. CM/GC's Obligations Under Subcontracts.
 1. No use of a Subcontractor or supplier will relieve CM/GC of any of its obligations or liabilities under this Contract. Except as may expressly otherwise be provided in this Contract, CM/GC will be fully responsible and

liable for the acts or omissions of all Subcontractors and suppliers, including persons directly or indirectly employed by them. CM/GC will have sole responsibility for managing and coordinating the operations of its Subcontractors and suppliers, including the settlement of disputes with or between CM/GC and any such Subcontractor or supplier.

2. CM/GC will include in each subcontract and require each Subcontractor to include in any lower-tier subcontract any provisions necessary to make all of the provisions of the Contract Documents, including the General Conditions, fully effective as applied to Subcontractors. CM/GC will indemnify Owner for any additional cost based on a Subcontractor claim that results from the failure of CM/GC to incorporate the provisions of this Contract in each subcontract. CM/GC will provide all necessary Plans, Specifications, and instructions to its suppliers and Subcontractors to enable them to properly perform their work.
3. Retainage from Subcontractors. Except with Owner's prior approval, unless a Subcontractor submits security as permitted by, and which complies with, ORS 279C.560 and 701.435 for all or a portion of the retainage required herein, payments to Subcontractors will be subject to retainage of no more than 5%. Owner and CM/GC will agree upon a mutually acceptable procedure for review and approval of payments and retainage for Subcontractors.

C. Subcontractor Selection.

1. Unless otherwise provided under this Section XI, CM/GC's Subcontractor selection process must be "competitive," meaning that the process should include publicly advertised subcontractor solicitations and be based on a low-bid competitive method, a low-quote competitive method for contracts in a specified dollar range agreeable to Owner, or a method whereby both price and qualifications of Subcontractors are evaluated in a competitive environment.
2. CM/GC will submit to Owner's Authorized Representative its proposed procurement documents for review and comment before they are issued for solicitation. CM/GC will consider and respond to all Owner comments regarding any proposed Offer packages. As Offers are received, CM/GC will submit to Owner an Offer comparison in a mutually agreeable form, together with any specific backup requested by Owner. The competitive process used to award subcontracts by CM/GC may be monitored by

Owner's Authorized Representative, provided that such monitoring will not excuse CM/GC from compliance with the subcontracting requirements of this Contract. CM/GC will cooperate in all respects with Owner's monitoring. Owner's Authorized Representative will be advised in advance of and be given the opportunity to be present at Offer openings, and CM/GC will provide him or her with a summary or abstract of all Offers in a form acceptable to Owner's Authorized Representative, and copies of particular Offers if requested, prior to CM/GC's selection of Offerors. Prior to opening Offers, CM/GC agrees to disclose in writing to Owner any financial interest it has in any such Subcontractor, supplier, or other contracting party whenever such Subcontractor, supplier, or contracting party intends to compete on any Project work, directly or indirectly, including whether such party is an Affiliate of CM/GC.

3. The following minimum requirements apply to the subcontract solicitation process:
 - (a) Unless other prior arrangement has specifically been made with Owner, all Offers will be written and submitted to a specific location at a specific time. CM/GC will time-stamp all Offers as received. Subcontractors must be qualified to perform the Work for the Project by being appropriately registered with the Oregon Construction Contractors Board.
 - (b) If fewer than three Offers are submitted in response to any solicitation (inclusive of any Offer submitted by CM/GC), prior written approval by Owner will be required to accept the Offer.
 - (c) With Owner's prior written approval, CM/GC may develop and implement a prequalification process for particular solicitations, followed by selection of successful Offers among those Offerors that CM/GC determines meet the prequalification standards.
 - (d) CM/GC will comply, and require Subcontractor compliance with, Oregon Bureau of Labor and Industries (BOLI) prevailing wage rates as specified in the RFP.
 - (e) Owner may, at its sole discretion, require CM/GC to re-solicit for Offers based on the same or modified documents.
 - (f) CM/GC will review all Offers and will work with Offerors to clarify Offers, reduce exclusions, verify scope and quantities, and seek to

minimize work subsequently awarded via the Change Order process.

- (g) CM/GC will document any and all discussions, questions and answers, modifications, and responses to any Offeror and ensure that the same are distributed to all Offerors, and Owner will be entitled to inspect such documentation on request.
 - (h) CM/GC will determine the lowest or best qualified Offer for each solicitation that meets CM/GC's reasonable performance standards for the components of the Work at issue; provided that if CM/GC determines it is unable to execute a suitable subcontract with such Offeror, CM/GC may, with Owner's prior approval, execute a subcontract with the second-lowest or second-best Offeror.
4. When the Subcontractor selection process for a particular Work package will not be "competitive" as provided for in Section XI.C.1, the process must meet the following requirements:
- (a) CM/GC must prepare and submit a written justification to Owner, explaining the project circumstances that support a noncompetitive Subcontractor selection process for a particular Work package, including but not limited to Emergency circumstances, CM/GC's need to utilize a key Subcontractor member of CM/GC's Project Team consistent with CM/GC's Project proposal, the need to meet other specified Contract requirements, the continuation or expansion of an existing Subcontractor agreement that was awarded through a "competitive process" along with facts supporting the continuation or expansion of the Subcontractor agreement, or a "sole source" justification;
 - (b) For a "sole source" selection of a Subcontractor to proceed, Owner must evaluate the written justification provided by CM/GC and must find that critical project efficiencies require utilization of labor, services, or materials from one Subcontractor; that technical compatibility issues on the project require labor, services, or materials from one Subcontractor; that particular labor, services, or materials are needed as part of an experimental or pilot project or as part of an experimental or pilot aspect of the project; or that other project circumstances exist to support the conclusion that the

labor, services, or materials are available from only one Subcontractor;

- (c) CM/GC must provide an independent cost estimate for the Work package that will be subject to the noncompetitive process, if required by Owner;
 - (d) CM/GC must fully respond to any questions or comments submitted to CM/GC by Owner; and
 - (e) Owner must approve CM/GC's use of the noncompetitive Subcontractor selection process prior to CM/GC's pursuit of the noncompetitive process.
5. Under special circumstances and only with prior written authorization by Owner, Work may be subcontracted on other than a low price basis, including without limitation, through competitive negotiation. As a condition to its authorization, Owner may require CM/GC's agreement to establish and implement qualification and performance criteria for Offerors, including a scoring system within requests for proposals. Examples include: where there are single fabricators of materials; special packaging requirements for Subcontractor work; design-build work or, where an alternative contracting method can be demonstrated to clearly benefit Owner.
6. CM/GC will notify Owner in writing in advance before award of any proposed subcontract, which notice will include summaries in a form acceptable to Owner of all Offers received for the subcontract at issue. Owner reserves the right to disapprove any proposed Subcontractors, suppliers, and subcontract or supply contract awards, based on legal standards of responsibility. Owner will not unreasonably disapprove any proposed Subcontractor or supplier, and increased costs due to Owner's disapproval will be cause for an increase in the GMP.
7. Subject to the requirements or limitations of Oregon's public information laws, CM/GC's subcontracting records will not be considered public records, provided, however, that Owner and other agencies of the state will retain the right to audit and monitor the subcontracting process in order to protect Owner's interests.

D. Jobsite GC Work.

1. CM/GC or its Affiliate may provide the jobsite GC Work required to complete the Project with its own forces, without the necessity of subcontracting such work.
2. Except as provided in Section XI.D.1, any other portion of the Work proposed to be performed by CM/GC or any Affiliate, including without limitation provision of any materials, equipment, or supplies, will be subject to the provisions of Section XI.E.

E. Subcontracting by CM/GC.

1. Authorization. CM/GC or an Affiliate or subsidiary of CM/GC may perform or compete with other prospective Subcontractors to perform work under this Contract as provided in this section.
2. CM/GC Self-Performance or Performance by CM/GC Affiliates or Subsidiaries With Competition. If CM/GC or an Affiliate or subsidiary of CM/GC will be included in the subcontractor selection process to perform particular construction Work on the Project, CM/GC must disclose that fact in the selection process documents and announcements. Owner must review and approve the conditions, processes, and procedures CM/GC will utilize in that competitive process in order to make the process impartial, competitive, and fair. Owner will monitor the selection process.
3. CM/GC Self-Performance or Performance by CM/GC Affiliates or Subsidiaries Without Competition. Other than for GC Work, in order for CM/GC or an Affiliate or subsidiary of CM/GC to perform elements of the construction Work without competition from Subcontractors, CM/GC must provide a detailed proposal for performance of the Work by CM/GC or an Affiliate or subsidiary of CM/GC. If required by Owner, CM/GC's Proposal to perform the construction Work must be supported by at least one independent cost estimate prior to the Work being included in this Contract.

F. Award of Subcontracts.

1. Award/Protests. CM/GC will include a notice of intent to award and protest process in its competitive process to award all subcontracts, which process will be subject to approval by Owner. CM/GC will be solely responsible for resolving the procurement protests of Subcontractors and suppliers.

CM/GC will indemnify, defend, protect, and hold harmless Owner from and against any such procurement protests and resulting claims or litigation. CM/GC will act as an independent contractor and not an agent of Owner in connection with any procurement protest. The provisions of this Section XI are solely for the benefit of Owner and do not grant any rights or remedies (including third-party beneficiary rights) to any Offeror or other protester in connection with any procurement protest or claim.

2. Unsuccessful Subcontractor Briefing. If CM/GC receives a timely written request from an unsuccessful subcontractor to discuss the subcontractor qualification and selection process involved, CM/GC will set up a briefing meeting to do so. The purpose of the meeting is solely to discuss the subcontractor qualification and selection process involved and CM/GC's subcontractor selection decisions, in order for the subcontractor to better understand why the subcontractor was not successful in being selected to perform the particular element of the Work and to improve the subcontractor's substantive qualifications or the subcontractor's methods in competing for elements of the Work for the particular project involved, or for future projects. The briefing meetings may be held with individual subcontractors or, if the subcontractors agree, in groups of subcontractors established by bid package or other designation.
 - (a) A subcontractor must submit a written request for a post-selection meeting under this section within 60 days from CM/GC's notice of award of a subcontract for a particular Work package.
 - (b) If a timely request is filed, CM/GC must set a meeting with the subcontractor within 45 days of the subcontractor's written request.

XII. Accounting Records

- A. Accounting; Audit Access. CM/GC will keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract, and the accounting and control systems will be satisfactory to Owner. Owner and Owner's representatives, including the accountants and auditors, shall be afforded reasonable and regular access to CM/GC's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to this Contract, and CM/GC will preserve these for a period of three years after final payment, or for such longer period as may be required by law.

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

XIII. Progress Payments

- A. Integration with the General Conditions. The requirements of this Section XIII and Section XIV are in addition to, and not in lieu of, the requirements of Section 5 of the General Conditions. In the event of conflict among the provisions of Sections XIII and XIV, and Section 5 of the General Conditions, the provision more favorable to Owner will control.
- B. Progress Payments. Based upon applications for payment submitted pursuant to Section 5.2 of the General Conditions, Owner shall make progress payments on account of the Preconstruction Fee, Cost of the Work, and associated CM/GC Fee, less 5% retainage unless the CM/GC submits security as permitted by, and which complies with, ORS 279C.560 and 701.435 for all or a portion of the retainage required herein, to the CM/GC as provided below and elsewhere in the Contract Documents. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein.
- C. Percentage of Completion. Applications for payment will show the percentage of completion of each portion of the Work as of the end of the period covered by the application for payment. The percentage of completion will be the lesser of (1) the percentage of that portion of the Work that has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by CM/GC on account of that portion of the Work for which CM/GC has made or intends to make actual payment prior to the next application for payment by (b) the share of the GMP allocated to that portion of the Work in the Schedule of Values.
- D. Calculation of Payment. Subject to other provisions of the Contract Documents, the amount of each progress payment will be computed as follows:
 - 1. Take that portion of the GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work under the Schedule of Values by the share of the GMP allocated to that portion of the Work in the Schedule of Values. Pending final

determination of cost to Owner of Changes in the Work, amounts not in dispute will be included;

2. Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored and otherwise in compliance with the General Conditions;
3. Add CM/GC's Fee. The portion of CM/GC's Fee payable will be an amount that bears the same ratio to the CM/GC Fee as the sum of the amounts in the two preceding clauses bears to the estimated probable Cost of the Work, but in no event causing total CM/GC Fee payments to exceed the total CM/GC Fee;
4. Subtract the aggregate of previous payments made by and retained by Owner;
5. Subtract the shortfall, if any, indicated by the documentation required to substantiate prior applications for payment, or resulting from errors subsequently discovered by Owner in such documentation;
6. Subtract any amounts for which Owner's Authorized Representative has withheld or nullified payment as provided in the Contract Documents; and
7. Unless CM/GC submits security as permitted by, and which complies with, ORS 279C.560 and 701.435 for all or a portion of the retainage required herein, subtract 5% retainage on the entire progress payment.

XIV. Final Payment

- A. Final Payment Accounting. CM/GC will submit to Owner a final detailed accounting of the Cost of the Work together with CM/GC's final application for payment.
- B. Calculation of Final Payment. The amount of the final payment will be calculated as follows:
 1. Take the sum of the CM/GC Fee, plus the Preconstruction Fee, plus the actual Cost of the Work substantiated by CM/GC's final accounting. Said sum will not exceed the GMP.
 2. Subtract amounts, if any, for which Owner's Authorized Representative withholds, in whole or in part, approval of payment.

3. Subtract the aggregate of previous payments made by Owner to CM/GC. If the aggregate of previous payments made by Owner exceeds the amount due CM/GC, CM/GC will reimburse the difference to Owner within 30 days with interest at the rate applicable to Owner payments under the General Conditions.
- C. Final Payment Review. Owner or its accountants will review and report in writing on CM/GC's final accounting within 15 Business Days after delivery of the final accounting by CM/GC. Based on such Cost of the Work as Owner or Owner's accountants report to be substantiated by CM/GC's final accounting, and provided the other conditions of this Contract have been met, Owner's Authorized Representative will, within five Business Days after receipt of the written report of Owner's accountants, either issue to Owner an approval of CM/GC's final application for payment with a copy to CM/GC or notify CM/GC and Owner in writing of Owner's Authorized Representative's reasons for withholding approval of any part of the application for payment, which disapproval will include Owner's Authorized Representative's estimate of the amount that is due Contractor under the application for payment.
- D. Payment Disputes. If Owner's accountants report the Cost of the Work as substantiated by CM/GC's final accounting to be less than claimed by CM/GC or if Owner's Authorized Representative declines to approve any duly submitted payment request by CM/GC, CM/GC will be entitled to demand a review of the disputed amount by Owner's highest contracting authority. Such demand will be made by CM/GC within 30 days after CM/GC's receipt of a copy of the rejection of the application for payment. Failure to demand additional review within this 30-day period will result in the substantiated amount reported by Owner's accountants becoming binding on CM/GC. In addition, if Owner or any other State agency performs a subsequent audit of the Cost of the Work and determines any item therein to have been unsubstantiated or that CM/GC was otherwise overpaid, CM/GC will have 30 days after delivery of the request for reimbursement by Owner to demand additional review by Owner's highest contracting authority. Failure to make such demand within this 30-day period will result in the requested reimbursement becoming unconditionally due and payable by CM/GC. If CM/GC timely submits a protest to Owner's highest contracting authority, CM/GC's claim will be subject to the claims review process in the General Conditions. Pending a final resolution, Owner will pay CM/GC the amount of the application for payment approved by Owner's Authorized Representative.

- E. Effect of Payment. Approval of an application for payment or a progress payment, release of retainage, final payment, or partial or entire use or occupancy of the Project by Owner does not constitute acceptance of Work not conforming to the Contract Documents or waiver of the right to assert overpayment.

XV. Termination or Suspension

- A. Owner's Right to Terminate Prior to Execution of GMP Amendment. Prior to execution by both Parties of the GMP Amendment, Owner may terminate this Contract at any time without cause. Upon such termination, the amount to be paid to CM/GC will not exceed the Preconstruction Fee payable to the date of termination, together with amounts payable for Early Work if any Early Work Amendment has been executed. If Owner terminates for convenience during the Preconstruction Phase, Owner will be entitled to copies of, and will have the right to use, all Work product of CM/GC and its Subcontractors performed to the date of termination, and CM/GC will deliver copies of the same to Owner on request.
- B. Owner's Right to Terminate after GMP Amendment. Notwithstanding the General Conditions, the provisions of this section prevail in the event of termination by Owner. After the GMP Amendment is executed by both Parties and upon seven days' written notice, Owner may terminate this Contract without penalty, in which case CM/GC will be entitled to payment of the amount stated in Section XV, together with the actual Cost of the Work, plus the CM/GC Fee prorated based on the actual Cost of the Work to the date of termination, but in any event not in excess of the GMP.
- C. Owner's Termination for Cause. In the event of termination of this Contract by Owner for default pursuant to the General Conditions, the amount, if any, to be paid to CM/GC after application of the General Conditions and Owner's rights at law will not exceed the amount CM/GC would be entitled to receive under Section XV.B.
- D. CM/GC Termination for Cause. CM/GC acknowledges that disputes regarding payments and Change Orders may occur as part of the CM/GC process, and that Owner's declining to pay disputed amounts will not be grounds for suspension of the Work or termination for cause by CM/GC. If CM/GC terminates this Contract for Owner's material breach, the amount to be paid to CM/GC will not exceed the amount CM/GC would have been entitled to receive under Section XIII above through termination and demobilization from the Project,

with the CM/GC Fee prorated based on the actual Cost of the Work through the date of termination.

E. Suspension of Contract by Owner. The Parties understand and agree that the Owner may suspend the Parties' performance of this Contract in the event any of the following circumstances arise:

1. Owner fails to receive funding, or appropriations, limitations, or other expenditure authority at levels sufficient to pay for CM/GC's Services. If suspended for this reason, the Contract may be modified to reflect the adjustment of funds;
2. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Services performed under this Contract are prohibited or Owner is prohibited from paying for such Services from the planned funding source;
3. CM/GC, or one of CM/GC's Consultants currently performing Services, no longer holds any license or certificate that is required to perform the Services; and
4. The public interest otherwise requires suspension of performance of the Contract, as reasonably determined by the Owner.

Any suspension of performance under this provision constitutes a temporary stoppage of performance of the Contract and does not constitute a termination of this Contract. In the event that the condition(s) causing the suspension to have been rectified and suspension is no longer required, the Parties will take all actions necessary to reactivate performance of the Contract within seven (7) Days from written notice to resume. In the event that the Owner determines that the conditions causing suspension of the Contract are not likely to be rectified in a reasonable amount of time, the Owner retains the right to terminate this Contract, pursuant to Section XV. In the event of a suspension of performance pursuant to this Section of the Contract, CM/GC agrees to remain contractually obligated to perform the Services under Section III of this Contract and GMP, if executed until _____, 20___. If the Contract is reactivated and CM/GC is required to perform Services beyond this date or such other time period agreed to by the Parties, the Parties may negotiate updated hourly rates for CM/GC and any Consultants and amend this Contract accordingly.

F. Assignment of Subcontracts. Each subcontract and supply contract for any portion of the Work is hereby irrevocably assigned by CM/GC to Owner,

provided that such assignment is effective only after termination of this Contract by Owner, and only for those subcontracts and supply contracts that Owner accepts by notifying the Subcontractor/supplier and CM/GC in writing. For those subcontracts and supply contracts accepted by Owner, if the Work has been suspended for more than 30 days, the Subcontractor's/supplier's compensation will be equitably adjusted for increases in cost resulting from the suspension. CM/GC will include a provision in each subcontract and supply agreement whereby the Subcontractor/supplier acknowledges Owner's rights under this Section XV.F. With respect to any subcontracts/supply contracts that are not accepted by Owner, the provisions of the General Conditions will apply.

XVI. Representations and Warranties

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

4. No material consent, approval, authorization, declaration, or other order of, or registration or filing with, any court or regulatory authority or any third person is required for the valid execution, delivery, and performance of this Contract by CM/GC or its consummation of the transactions contemplated hereby;
5. There is no action, proceeding, suit, investigation, or inquiry pending that questions the validity of this Contract or that would prevent or hinder the consummation of the transactions contemplated hereby; and
6. CM/GC's Project Manager and Assistant Project Manager identified in Section IV are duly appointed representatives and each has the authority to bind CM/GC to any and all duties, obligations, and liabilities under the Contract Documents and any Amendments thereto.

XVII. Miscellaneous

- A. Headings. The headings used in this Contract are solely for convenience of reference, are not part of this Contract, and are not to be considered in construing or interpreting this Contract.
- B. Merger. The Contract Documents constitute the entire contract between the Parties. No waiver, consent, modification, or change of terms of this Contract will bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. CM/GC, by signature of its representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.
- C. Coordination and Communications.
 1. CM/GC will work jointly with Owner's Authorized Representative and Project Manager to review the roles and responsibilities of the Parties related to the Project and assist in developing procedures so that each Party has a clear understanding of the roles of CM/GC and the members of Owner's Project Team.
 2. CM/GC will work with Owner to establish electronic communications, including but not limited to an email system network for the Project. CM/GC will utilize electronic formats for all practical facets of the Project

and Project-related communications and provide, as requested by Owner, any applicable deliverables in electronic format to support an Owner goal of “reduced paper projects.”

3. At Owner’s option, CM/GC will attend meetings with Owner and Project Manager to assure integration of changes brought about by requests for information/Change Order(s) applicable to the overall site-approved design documents, or for other similar reasons.

D. Owner’s Commissioning Plan.

1. CM/GC will coordinate commissioning activities when requested of the Work and sequence Subcontractor commissioning deliverables with Owner’s Commissioning Agent. In conjunction with other scheduled design and construction meetings, CM/GC will attend and participate in meetings with Owner’s Commissioning Agent to review CM/GC’s design decisions concerning systems options, systems testing requirements, and systems specifications during design development phases. CM/GC will observe commissioning activities during “start-up and performance runs” of each type of equipment (mechanical, electrical, and low voltage). CM/GC will provide for regular on-site attendance to confer with the Project Team during “start-up and performance runs” to evaluate performance of equipment, to accomplish equipment adjustments, and to review reruns of “start-up and performance testing,” etc., in concert with the Project Team to meet the commissioning schedule.

E. Closeout Guidelines for the Project.

1. CM/GC will assist Owner with the development of a Project closeout plan in accordance with Owner’s procedures. CM/GC will incorporate a formal Project closeout plan (including but not limited to CM/GC’s participation in Project closeout planning meetings) into Project schedules prior to the Construction Phase.
2. CM/GC will jointly develop and assist Owner in coordination of the use of an Owner-approved Project closeout plan utilizing tracking logs and checklist(s) in a form approved by Owner.
3. CM/GC acknowledges and will comply with Owner’s expectations relating to the requirements of the General Conditions related to Closeout as more fully defined in the Project Closeout planning meetings.

- F. Special Studies and Research. CM/GC will assist in obtaining, coordinating, and managing services for investigation, research, and analysis of Owner's special requirement(s) for the Project and provide documentation of findings, conclusions, and recommendations.
- G. Energy Efficiency. Owner places special emphasis on minimizing the long-term operating costs of the Project CM/GC will assist Architect to ensure that design decisions will incorporate analysis of energy and operating cost impacts.
- H. Recyclable Products. Vendors will use recyclable products to the maximum extent economically feasible in the performance of the Contract Work set forth in this Contract.
- I. Equal Opportunity Employer. CM/GC will endeavor to achieve a workforce that represents the diversity of Oregon and strive to be a leader in providing fair and equal employment opportunity for all interested applicants and employees.
- J. Owner's Security Precautions. CM/GC will at all times have access to the Work, subject to Owner's security provisions.
- K. Requirements for all Reports and Deliverables.
 - 1. CM/GC will deliver all reports and other items to be delivered by CM/GC pursuant to this Contract, and other procedures developed by Owner, in writing and in the form required by Owner. Any itemization of deliverables in this Contract is nonexclusive, and CM/GC acknowledges that the required deliverables include all documents and/or tasks necessary or appropriate for full performance of the Work. If requested by Owner, CM/GC will deliver all deliverables to Owner in draft form for Owner's prior comment. All deliverables will be subject to Owner's comment and final acceptance. CM/GC will correct any deficient deliverable at no additional charge to Owner. Owner's comment upon or acceptance of a deliverable will not be considered a waiver of defects in the deliverable or relieve CM/GC from its obligations regarding such deliverable.
 - 2. CM/GC will note in writing any limitations on the reliability and scope of any deliverable. CM/GC will clearly identify its opinions as such. Each deliverable, regardless of the format in which it is presented, will clearly identify qualifications to its conclusions. CM/GC will prepare all deliverables in accordance with industry standards, except to the extent superior performance specifications are stated herein or in subsequent Owner-developed procedures.

- L. Compliance With Law. CM/GC will comply with all federal, state, and local laws applicable to the Work under this Contract, and all regulations and administrative rules established pursuant to those laws, including without limitation the following requirements of the Oregon Public Contracting Code:
1. ORS 279A.110 (Nondiscrimination Certification). CM/GC will certify that CM/GC has not discriminated and will not discriminate against a Subcontractor in the awarding of a subcontract because the Subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a veteran-owned business, or an emerging small business that is certified under ORS 200.055.
 2. ORS 279C.380 (Performance and Payment Bonds). Unless exempted by Owner in writing pursuant to Owner's local public contracting rules, prior to starting work under this Contract, CM/GC or its Subcontractor will execute and deliver to Owner a good and sufficient performance bond in the form attached as Exhibit I, in a sum equal to 100 percent of the construction portion of the Contract Price, and CM/GC or its Subcontractor will execute and deliver to Owner a good and sufficient payment bond in the form attached as Exhibit J, in a sum equal to 100 percent of the construction portion of the Contract Price, solely for the protection of claimants under ORS 279C.600.
 3. ORS 279C.505 (Prompt Pay Requirement, Liens, Taxes, and Drug Testing). CM/GC will make payment promptly, as due, to all persons supplying to CM/GC labor or material for the performance of the Work provided for in this Contract; pay all contributions or amounts due the Industrial Accident Fund from CM/GC or Subcontractor incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the state or a county, municipality, municipal corporation, or subdivision thereof, County, on account of any labor or material furnished; and pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. CM/GC will further demonstrate that an employee drug testing program is in place.
 4. ORS 279C.510 (Recycling/Composting). If this Contract includes demolition work, CM/GC will salvage or recycle construction and demolition debris, if feasible and cost-effective. If this Contract includes lawn or landscape maintenance, CM/GC will compost or mulch yard waste material at an approved site, if feasible and cost-effective.

5. ORS 279C.515 (Failure to Pay Promptly). If CM/GC fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CM/GC or a Subcontractor by any person in connection with this Contract as such claim becomes due, Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CM/GC by reason of this Contract. The payment of a claim in the manner authorized in this section will not relieve CM/GC or CM/GC's surety from any obligation with respect to any unpaid claims.

Unless the payment is subject to a good faith dispute as defined in ORS 279C.580, if CM/GC or any first-tier Subcontractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by Owner, interest will be due on such claim as specified in ORS 279C.515(2) at the end of the ten-day period that payment is due under ORS 279C.580(4). A person with any such unpaid claim may file a complaint with the Oregon Construction Contractors Board unless the complaint is subject to a good faith dispute as defined in ORS 279C.580.

6. ORS 279C.520 and 279C.540 (Hours of Labor, Holidays, and Overtime). Except as otherwise provided in an applicable collective bargaining agreement with a labor organization, CM/GC will not employ and will require that its Subcontractors not employ any person to perform construction work for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the laborer will be paid at least time-and -a-half pay:
- (a) For all overtime in excess of eight hours a day or 40 hours in any one week when the workweek is five consecutive days, Monday through Friday; and
 - (b) For all overtime in excess of ten hours a day or 40 hours in any one week when the workweek is four consecutive days, Monday through Friday; and
 - (c) For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540(1)(b).

- (d) The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week will not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC §§ 201 to 209 from receiving overtime.
 - (e) CM/GC will and will require its Subcontractors to give notice in writing to their employees who work under this Contract, either at the time of hire or before commencement of Work on this Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
7. ORS 279C.525 (Notice of Environmental Regulations). State law requires that solicitation documents for a public improvement contract make specific reference to federal, state, and local agencies that have enacted ordinances, rules, or regulations dealing with the prevention of environmental pollution or the preservation of natural resources that may affect the performance of this Contract. These agencies include but are not limited to:
- (a) Federal Agencies. U.S. Department of Agriculture; U.S. Forest Service; Natural Resources Conservation Services; U.S. Coast Guard; U.S. Department of Defense; U.S. Army Corps of Engineers; U.S. Department of Emergency Management; Federal Energy Regulatory Commission; U.S. Environmental Protection Agency; U.S. Department of Health and Human Services; U.S. Department of Housing and Urban Development; Solar Energy and Energy Conservation Bank; U.S. Department of Interior; U.S. Bureau of Land Management; U.S. Bureau of Indian Affairs; U.S. Bureau of Mines; U.S. Bureau of Reclamation; U.S. Geological Survey; U.S. Minerals Management Service; U.S. Fish and Wildlife Service; U.S. Department of Labor; U.S. Mine Safety and Health Administration; Occupational Safety and Health Administration; U.S. Department of Transportation; Federal Highway Administration; and U.S. Water Resources Council.
 - (b) State Agencies. Oregon Department of Administrative Services; Oregon Department of Agriculture; Oregon Soil and Water Conservation Commission; Columbia River Gorge Commission; Oregon Department of Energy; Oregon Department of Environmental Quality; Oregon Department of Fish and Wildlife;

Oregon Department of Forestry; Oregon Department of Geology and Mineral Industries; Oregon Department of Human Resources; Oregon Department of Consumer and Business Services; Oregon Land Conservation and Development Commission; Oregon Parks and Recreation Department; Oregon Department of State Lands; and Oregon Water Resources Department.

(c) Local Agencies. City councils, county courts, county boards of commissioners, metropolitan service councils, design commissions, historic preservation commissions, planning commissions, development review commissions, special County boards of directors, and other special County and special governmental agencies such as TriMet, urban renewal agencies, and port.

(d) Tribal Governments.

8. ORS 279C.530 (Payment for Medical Care and Workers' Compensation). CM/GC will promptly, as due, make payments to any person, copartnership, 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 CM/GC, of all sums that CM/GC agrees to pay for such services and all moneys and sums that CM/GC 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.

All employers, including CM/GC, that employ subject workers who work under this Contract in the state of Oregon will comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. CM/GC will ensure that each of its Subcontractors complies with these requirements.

9. ORS 279C.533 (Minimum Hours and Pay for Apprentices; Required Outreach).
- (a) CM/GC Shall establish and implement a plan for outreach to and recruitment and retention of women, minority individuals and veterans to perform work under the public improvement contract, with an aspirational target of having individuals in one or more of these groups to compose at least 15 percent of the total number of workers who perform work under the public improvement contract. The CM/GC's plan for outreach, recruitment and retention must require the contractor to, at a minimum:

- i. Advertise employment opportunities available under the public improvement contract in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minority individuals, women or veterans;
- ii. Follow up on the CM/GC's initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial solicitation to determine with certainty whether the minority individual, woman or veteran is interested in the opportunities described in subparagraph (A) of this paragraph;
- iii. Provide all persons who express continued interest with adequate information about hiring qualifications, pay rates, benefits, the expected duration of employment, work hours and other conditions of employment under the public improvement contract;
- iv. Make efforts to encourage minority individuals, women and veterans to seek employment under the public improvement contract that the contractor may reasonably expect will produce a level of participation that meets the aspirational target described in this paragraph; and
- v. Use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the contractor with outreach, recruitment and retention.
- vi. CMGC shall demonstrate adequate good faith efforts to comply with the requirements of paragraph (a) of this subsection.
 - v. CM/GC shall require any subcontractor with which the contractor has a subcontract with a contract price of \$750,000 or more to comply with the requirements set forth for the contractor in paragraph (a) of this subsection.

(b) CM/GC shall:

i. report the extent of CM/GC's compliance with this section and the compliance of a subcontractor described in subsection 9.a.v of this section to the Owner on forms, in a format and with contents the Commissioner of the Bureau of Labor and Industries specifies by rule, at the same time and on the same schedule as the certified statements required under ORS 279C.845.

ii. Submit for each contract and subcontract the report described in paragraph (a) of this subsection as part of, or as a supplement to, certified statements required under ORS 279C.845, shall require contractors to preserve the reports as provided for certified statements in ORS 279C.845 (5), may disclose the reports as provided in ORS 279C.845 (6) and may enforce a failure to submit a report as provided in ORS 279C.845 (7). The reports described in this subsection must include, at a minimum, for each contract or subcontract related to the public improvement contract:

(A) The name of or other identification for the public improvement project;

(B) The city or county in which the public improvement project is located;

(C) A detailed accounting of:

(i) The total number of hours of work that workers performed under each contract and subcontract;

(ii) The total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on the public improvement;

(iii) The total number of hours of work that apprentices performed for each contract and subcontract on the public improvement; and

(iv) The total number of hours of work that apprentices in each trade or craft performed for each contract and subcontract on the public improvement; and

(v) The total number of workers who performed construction work and the total numbers of minority individuals, women and

veterans who performed construction work under the public improvement contract. A report under this subparagraph must separately list for each worker the worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category. The Commissioner of the Bureau of Labor and Industries by rule may specify a method for identifying, collecting and reporting the information required under this subparagraph, which may consist of methods the United States Equal Employment Opportunity Commission prescribes in regulations the United States Equal Employment Opportunity Commission adopts under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.

10. ORS 279C.545 (Time Limitations on Claims for Overtime). Construction workers employed by CM/GC or its Subcontractor will be foreclosed from the right to collect for any overtime under this Contract unless a claim for payment is filed with CM/GC or Subcontractor within 90 days from the completion of this Contract, providing CM/GC or Subcontractor has:
 - (a) Caused a circular clearly printed in boldface pica type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place that is readily available and freely visible to any or all workers employed on the Work, and
 - (b) Maintained such circular continuously posted from the inception to the completion of this Contract on which workers are or have been employed.

11. ORS 279C.580(3) (Prompt Payment of First-Tier Subcontractors). CM/GC will include in each subcontract for property or services with a first-tier Subcontractor a clause that obligates CM/GC to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to CM/GC by Owner. CM/GC will also include in each subcontract a clause that states that if CM/GC fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by Owner, interest will be due on such claim as specified in ORS 279C.515(2) at the end of the ten-day period that payment is due under ORS 279C.580(3). CM/GC will require each first-tier Subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to

require each of its Subcontractors to include a similar clause in each contract with a lower-tiered Subcontractor or supplier.

12. ORS 279C.605 (Notice of Claim on Bond). Any person claiming a right of action under ORS 279C.600 must file a notice of claim as provided in ORS 279C.605.
13. ORS 279C.800 to 279C.875 (Payment of Prevailing Wage Required).
 - (a) This Contract is subject to payment of prevailing wages under ORS 279C.800 to 279C.875. Each worker the Contractor, subcontractor or other person who is party to the contract uses in performing all or part of this Contract must be paid not less than the applicable prevailing rate of wage for each trade or occupation as defined by the Director of the Oregon Bureau of Labor and Industries (BOLI) in the applicable publication entitled "[Definitions of Covered Occupations for Public Works Contracts in Oregon](#)." The latest prevailing wage rates for public works contracts in Oregon are contained in the following publications: the [date of most current publication] "Prevailing Wage Rates for Public Works Contracts," the [date of most current publication] "PWR Apprenticeship Rates," and any amendments to the PWR rates or apprenticeship rates. Such publications can be reviewed electronically at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage.aspx>.
 - (b) This Contract is /is not also subject to payment of prevailing wages under the federal Davis-Bacon Act (40 USC § 3141 et seq.). Notwithstanding Section XVII.L.13(a) of this section, if this Contract is also subject to payment of prevailing wages under the Davis-Bacon Act, Contractor and any Subcontractors must pay the higher of the federal prevailing wage rate or the state prevailing wage. The latest federal prevailing wage rates can be reviewed electronically at sam.gov/search. Contractors shall follow all prevailing wage rules including posting the Davis-Bacon poster at the worksite and submitting certified payroll records. The poster is available at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fedprojc.pdf>. The payroll form is available at <http://www.dol.gov/whd/forms/wh347instr.htm>.

- (c) The applicable prevailing wages under Sections XVII.L.13(a) and, if applicable, XVII.L.13(b), will be those in effect on the start of the Construction Phase as described in Section III.B of this Contract, and shall be incorporated in the GMP Amendment or, if applicable, the Early Work Amendment.
 - (d) CM/GC and all Subcontractors will keep the prevailing wage rates for the Project posted in a conspicuous and accessible place in or about the Project.
 - (e) Owner will pay a fee to the Commissioner of BOLI as provided in ORS 279C.825. The fee will be paid to the Commissioner under Oregon Administrative Rules Chapter 836, division 25.
 - (f) If CM/GC or any Subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it will post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice will contain information on how and where to make claims and where to obtain future information.
14. ORS 279C.836 (Public Works Bond Required). CM/GC will:
- (a) File a public works bond with the Oregon Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2), (7), or (8).
 - (b) Include in every subcontract a provision requiring the Subcontractor to file a public works bond with the Oregon Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2), (7), or (8).
15. ORS 279C.845 (Prevailing Wage Certification; Additional Retainage).
- (a) CM/GC and every Subcontractor will file certified statements with Owner in writing in the form prescribed by the Commissioner of BOLI, certifying the hourly rate of wage paid each worker whom CM/GC or Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in this Contract, which certificate and statement will be verified by the oath of CM/GC or

CM/GC's surety or Subcontractor or Subcontractor's surety that CM/GC and any Subcontractor has read such statement and certificate and knows the contents thereof, and that the same is true to CM/GC or Subcontractor's knowledge. The certified statements will 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.

- (b) The certified statement will be delivered or mailed by CM/GC or Subcontractor to Owner. Certified statements for each week during which CM/GC or Subcontractor employs a worker upon the public work will be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.875. Notwithstanding any other provision of this Contract and in addition to any other retainage required under this Contract, Owner will retain 25 percent of any amount earned by CM/GC until CM/GC has filed the certified statements with Owner as required by this section. Owner will pay the retainage required under this section within 14 days after CM/GC files the certified statements required by this section.
- (c) CM/GC and each Subcontractor will preserve the certified statements for a period of three years from the date of completion of the Contract.

16. ORS 671.560, 701.026 (Landscape/Construction Contractors License Required). If CM/GC is performing work as a landscape contractor as defined in ORS 671.520(2), CM/GC must have a current, valid landscape contractor's license issued under ORS 671.560. If CM/GC is performing work as a commercial contractor as defined in ORS 701.005(2), CM/GC must have a current, valid construction contractor's license issued under ORS 701.026. CM/GC will further certify that all Subcontractors performing Work described in ORS 701.005(2) are registered with the Oregon Construction Contractors Board or licensed by the Oregon Landscape Contractors Board as required by the above-noted statutes before they commence Work under this Contract. CM/GC will maintain in effect all licenses, permits, and certifications required for the performance of the Work. CM/GC will notify Owner immediately if any license, permit, or

certification required for performance of this Contract will cease to be in effect for any reason.

M. When Work Is Performed on Owner Property , CM/GC Will Comply With the Following.

1. Identification. CM/GC's employees performing works on Owner's property or for Owner will wear identification badges at all times, including the company name. In addition, all such persons will carry photo identification and will present such to anyone upon request. CM/GC will bear the entire cost of producing and assigning such identification.
2. Sign-in Required. As required by County, each day of work CM/GC's employees will sign into the Main Office to receive an site access identification/visitors tag to be displayed on the person at all times they are on the facility grounds, if required by County.
3. No Smoking. Smoking or other use of tobacco is prohibited on Owner's property.
4. No Drugs. Owner's property sites are designated drug-free zones enforced by the Portland Police Bureau.
5. No Weapons or Firearms. Except as provided by Oregon statutes and Owner policy, weapons and firearms are prohibited on Owner's property.
6. Confidentiality. CM/GC will not disclose any information or records regarding students or their families that CM/GC may learn or obtain in the course and scope of CM/GC's performance of this Contract.

N. Conduct of Contractor's Employees/Subcontractors

1. Owner retains the right to stop any activity and/or to require dismissal from the job site of any CM/GC employee or subcontractors whose conduct does not comply, or gives the Owner reasonable suspicion to believe the conduct does not comply, with Owner Policy, or is otherwise unlawful. Activities and/or behaviors may include, but not be limited to, providing a respectful workplace, harassment free workplace, drug and alcohol-free workplace, and a smoke free workplace. The use of tobacco products, marijuana, and inhalant delivery systems is prohibited on any property owned and/or controlled by the Owner, including but not limited to,

buildings, sidewalks, parking lots, vehicles (owned or leased), recreational areas, and landscaped areas.

2. Owner retains the right to stop any activity and/or to require dismissal from the job site any CM/GC employee or subcontractor whose conduct is deemed to be hazardous to Owner employees, members of a user group, students, community members or Owner owned and/or controlled property, or is otherwise unlawful.
3. CM/GC is encouraged to be mindful of any prior misconduct of their employees and/or subcontractors. CM/GC is solely responsible and shall be held solely liable for any misconduct of its employees or subcontractors on County owned and/or controlled property.
4. CM/GC is solely liable for the conduct of Contractor employees and subcontractors while performing services on any Owner owned and/or controlled property. CM/GC is solely responsible for properly addressing allegations of unlawful workplace misconduct or Owner Policy violations among CM/GC's employees and subcontractors on any Owner owned and/or controlled property. CM/GC agrees to cooperate with investigations of alleged Title IX violations committed by CM/GC's employees and subcontractors against Owner employees, members of a user group, students or community members on Owner owned and/or controlled property.

CM/GC DATA AND SIGNATURE

CONTRACT TRACKING NO. _____

Business Name: **TBD**

Business Address:

CM/GC Phone:

Federal Employer ID No. or Social Security No.:

Is CM/GC a nonresident alien? Yes No

Business Designation (check one): Sole Proprietorship Partnership
 Corporation-for profit Corporation-nonprofit
 Other [describe here: _____]

Federal employer identification numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal, and local laws. Payment information will be reported to the Internal Revenue Service under the name and federal employer identification number or, if none, the Social Security number, provided above.

I have read this Contract, including the attached Exhibits. I certify that I have the authority to sign and enter into this Contract. I understand the Contract and agree to be bound by its terms.

Signature Title

Name (please print) Date

LINCOLN COUNTY

SIGNATURE

(This contract is not binding on Owner until signed by the appropriate signing authority.)

Signature Title

Name (please print) Date

Attachment C to RFP

EXHIBIT A

LINCOLN COUNTY GENERAL CONDITIONS FOR CM/GC CONTRACTS MARCH 2026- **DRAFT**

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CM/GC GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT

1. GENERAL PROVISIONS

1.1 DEFINITION OF TERMS

The following terms shall be as defined below in the Contract Documents:

ARCHITECT means the Person appointed by the Owner to make drawings and specifications and to provide contract administration of the Work contemplated by this Contract to the extent provided herein or by supplemental instruction of the County (under which the County may delegate responsibilities of the County's Authorized Representative to Architect. "Architect" includes "engineer" if the chief design professional on the project is a registered engineer.

BENEFICIAL OCCUPANCY means the date on which the Owner will occupy a portion of the Work for its intended use as defined by Substantial Completion, but prior to Substantial Completion of the entirety of the Work (as in phased project completion).

CHANGE ORDER means an approved construction management software process or a written order issued by the Owner's Authorized Representative to CM/GC requiring a change in the Work within the general scope of the Contract Documents, issued under the changes provisions of Section 4 in administering this Contract, including the Owner's written change directives as well as changes reflected in writing and executed by the parties to this Contract and, if applicable, establishing a Contract Price or Contract Time adjustment for the changed Work.

CHANGE REQUEST means an approved electronic process or a written request issued by CM/GC or the Owner's Authorized Representative to CM/GC.

CLAIM means a demand or assertion in writing by one of the parties seeking, as a matter of contract, payment of money or other relief with respect to the terms of this Contract. The term "Claim" also includes other disputes and matters in question between the Owner and CM/GC arising out of or relating to this Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

CONTRACT means the written agreement between the Owner and CM/GC comprising the Contract Documents that describe the Work to be done and the obligations between the parties.

CONTRACT DOCUMENTS means the documents enumerated in the Construction Contract between the Owner and CM/GC and consist of this Contract, Conditions of this Contract (General, Supplementary, and other Conditions), Drawings, Specifications, additions or deletions to, material changes in, or general-interest explanations of a Solicitation Document (“Addenda”) (other than Addenda relating to bidding requirements) issued before the bid, other documents listed in this Contract, and modifications issued after execution of this Contract. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by CM/GC. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. Performance by CM/GC shall be required only to the extent consistent with the Contract Documents and inferable from them as being necessary to produce the indicated results.

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 SCHEDULE means the graphical representation of the practical plan for conducting the Work and completing the Work within the Contract Time as set forth in the Contract Documents. The Contract Schedule provides a list of intended events and times to complete each event as set forth in the Contract Documents.

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

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

DRAWINGS mean the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, including plans, elevations, sections, details, schedules, and diagrams.

DEFECTIVE WORK means Work that a) is performed in an unsatisfactory, faulty, or deficient manner, b) does not conform to the Contract Documents, c) does not meet the requirements of any reference standard, test, or approval referred to or incorporated by the Contract Documents, or d) has been damaged by anyone other than the Owner prior to acceptance of the Work, whether or not such Work is in possession of Owner or in use by Owner.

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 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.

ENTITY means a natural person capable of being legally bound, sole proprietorship, corporation, partnership, limited liability company or partnership, limited partnership, profit or nonprofit unincorporated association, business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.

EQUITABLE ADJUSTMENT means an adjustment to the Contract Price, Contract Time, or both in consideration of costs or credits when the Contract authorizes such a change.

FINAL COMPLETION means the final completion of all requirements under this Contract, including Contract Closeout, as described in Sections 11.1-11.10, but excluding Warranty Work, as described in Section 9.2, and the final payment and release of all retainage, if any.

FORCE MAJEURE means an act, event, or occurrence caused by fire, riot, war, acts of God, nature, sovereign or public enemy, pandemic, epidemic, 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 CM/GC is to proceed with the Work defined in the Contract Documents. Notwithstanding the Notice to Proceed, CM/GC shall not be authorized to proceed with the Work until all initial contract requirements, including this Contract, performance bond, payment bond, and certificates of insurance, have been fully executed and submitted to the Owner in a suitable form.

OFFER means an offer to complete a specific scope for a set price in connection with an invitation to bid and a proposal in connection with a request for proposals.

OFFEROR means an entity that submits an Offer in connection with an invitation to bid and a proposal in connection with a request for proposals.

OVERHEAD means those items that may be included in CN/GC's markup (general and administrative expense and profit) and that shall not be charged as Direct Costs 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) and expenses of CM/GC's offices at the jobsite (e.g., job trailer), including expenses of personnel staffing the jobsite office, commercial general liability insurance, and automobile liability insurance.

OWNER means Lincoln County.

OWNER'S AUTHORIZED REPRESENTATIVE means those individuals identified in writing by the Owner to act on behalf of the Owner for the Project. The Owner may elect, by written notice to CM/GC, 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.

PLANS means the Drawings that show the location, type, dimensions, and details of the Work to be done under this Contract.

PROJECT means the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate CM/GCs.

PROJECT SITE means the property on which the Project lies and the Owner's property that surrounds the Project, extending to the Owner's property boundary.

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

RECORD DOCUMENT means the as-built Plans, Specifications, testing and inspection records, product data, samples, manufacturer and distributor/supplier warranties evidencing transfer to the Owner, operational and maintenance manuals, Shop Drawings, Change Orders, correspondence, certificate(s) of occupancy, and other documents listed in Section 2.9.1 of these General Conditions, recording all services performed.

SCHEDULE OF VALUES means a general itemization of work to be performed accompanied by an associated cost required when the Work, or a portion of the Work, has been priced on a lump sum basis. When accepted by the Owner, the Schedule of Values determines how much

money the CM/GC is entitled to receive for work performed in a given time period based on its progress in completing the items of work listed.

SOLICITATION DOCUMENT means an invitation to bid, 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 this Contract. Specifications 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 this Contract. Specifications may be incorporated by reference and/or may be attached to the Contract Documents.

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

SUBMITTAL means shop drawings, material data, samples, product data and other information provided by the CM/GC to the Owner and/or Architect/Engineer to verify that the correct products will be installed on the project and to transmit other required information.

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, including but not limited to meeting all requirements of the authority having jurisdiction for the Owner to occupy and use the Project for its intended use.

SUBSTITUTIONS means items that in function, performance, reliability, quality, and general configuration are the same as or better than the product(s) specified. The Owner's Authorized Representative shall solely determine approval of any substitute item. 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 this Contract.

UNFORESEEN CONDITIONS means those 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.

WARRANTY means the CM/GC'S guarantee that all work completed, including but not limited to workmanship, materials and equipment is free of defects for the period set forth in the Contract. Unless otherwise specified in the Contract, the Warranty period shall be for a two (2) year period commencing upon the date of Substantial Completion of all successfully completed Work.

WORK means furnishing all materials, labor, equipment, services, subcontracts and/or incidentals according to the Statement of Work and Solicitation Documents necessary to successfully or carry out all the duties and obligations as set forth in the Contract.

1.2 SCOPE OF WORK

The Work contemplated under this Contract includes all labor, materials, transportation, equipment, expense, and services for, and incidental to, the completion of all construction work in connection with the Project described in the Contract Documents. CM/GC 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.

1.3 INTERPRETATION OF CONTRACT DOCUMENTS

1.3.1 Unless otherwise specifically defined in the Contract Documents, words that 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, in descending order of precedence:

1.3.1.1 Contract amendments and Change Orders, with those of later date having precedence over those of an earlier date;

1.3.1.2 Construction Manager/General Contractor Contract Form;

1.3.1.3 the General Conditions;

1.3.1.4 the Plans and Specifications;

1.3.1.5 the Owner's Request for Proposals and any Addenda thereto; and

1.3.1.6 the accepted Proposal.

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

1.3.3 If CM/GC finds discrepancies in or omissions from the Contract Documents, or if CM/GC is in doubt as to their meaning, CM/GC shall at once notify the Owner or the 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. Responses to CM/GC's requests for interpretation of the Contract Documents will be made in writing by the Owner's Authorized Representative within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner's Authorized Representative will be consistent with the intent of and inferable from the Contract Documents. CM/GC shall not proceed without direction in writing from the Owner's Authorized Representative.

1.3.4 References to standard Specifications, manuals, and 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.

1.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE

1.4.1 It is understood that CM/GC, 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 CM/GC as a result of CM/GC'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 Architect/Engineer, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations contained in this Contract.

1.4.2 The Owner shall make available to CM/GC, and CM/GC shall study, the results of test borings and information from the Owner concerning subsurface conditions and site geology. CM/GC shall inform the Owner of any other site investigation, analysis, study, or test conducted by or for CM/GC or its agents and shall make the results available to the Owner upon the Owner's request.

1.4.3 It is the CM/GC's sole responsibility to understand the Work, the Plans and Specifications, determine what notes on the Plans apply to the Work and sequence the Work, coordinate all trade work to reduce and/or avoid conflicts with the Work.

1.4.4 Should the Plans or Specifications fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Work, CM/GC shall have the duty to make inquiry in writing to the Owner's Authorized Representative and Architect/Engineer as to what is required before 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.

1.4.5 Any design conflicts, errors or omissions noted by CM/GC shall be reported in writing promptly to the Owner's Authorized Representative and Architect/Engineer, including without limitation any nonconformity with applicable laws, statutes, ordinances, building codes, rules, and regulations.

1.4.6 If CM/GC 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 CM/GC's notices or requests for information, CM/GC 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 this Contract as soon as possible, but no later than twenty (20) business days after receipt by CM/GC of the clarifications or instructions issued. If the Owner's Authorized Representative denies CM/GC's request for additional compensation, additional Contract Time, or other relief that CM/GC believes results from the clarifications or instructions, CM/GC may proceed to file a Claim under Section 4.3 of this Contract.

1.4.7 If the CM/GC fails to perform the obligations of Sections 1.4.1 to 1.4.6, the CM/GC waives any right to submit a claim and shall pay such costs and damages to the Owner as would have been avoided if the CM/GC had performed such obligations.

1.5 INTERPRETATION OF SPECIFICATIONS

1.5.1 Reference in Specifications to an article, device or piece of equipment in the singular number shall apply to as many such articles as are shown on Plans or required to complete installation. Mention in Specifications or indication on Plans of articles, materials, operations, or methods requires the CM/GC to provide and install such items including all necessary plant, labor and appurtenances.

1.5.2 Notes on the Plans are considered Specifications equal in force to those in the printed text.

1.5.3 When several materials are specified or approved for one use, select for use any of those so specified. For specified materials and brands, no substitutions are permitted other than as approved by addenda before the bid opening or otherwise approved by the Owner's Authorized Representative in writing by Substitution Request.

1.6 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. CM/GC represents and warrants that it is not an officer, employee, or agent of the Owner.

1.7 RETIREMENT SYSTEM STATUS AND TAXES

CM/GC 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. CM/GC 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 CM/GC is subject to backup withholding, the Owner will not withhold from such payments any amount(s) to cover CM/GC's federal or state tax obligations.

1.8 GOVERNMENT EMPLOYMENT STATUS

1.8.1 If this payment is to be charged against federal funds, CM/GC represents and warrants that it is not currently employed by the federal government. This does not preclude CM/GC from holding another contract with the federal government.

1.8.2 CM/GC represents and warrants that CM/GC is not an employee of the Owner for purposes of performing Work under this Contract.

2. ADMINISTRATION OF THIS CONTRACT

2.1 OWNER'S ADMINISTRATION OF THIS CONTRACT

2.1.1 The Owner's Authorized Representative will provide administration of this Contract as described in the Contract Documents (a) during construction, (b) until final payment is due, and (c) 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 this Contract. In performing these tasks, the Owner's Authorized Representative may rely on Architect/Engineer or other consultants to perform some or all of these tasks.

2.1.2 The Owner's Authorized Representative will visit the Project Site at intervals appropriate to the stage of CM/GC's operations (a) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (b) to endeavor to guard the Owner against defects and deficiencies in the Work, and (c) to determine, in general, whether the 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 have no 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.

2.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and CM/GC shall endeavor to communicate with each other through the Owner's Authorized Representative or designee about matters arising out of or relating to this Contract. Communications by and with Architect/Engineer's consultants shall be through Architect/Engineer with a copy to Owner's Authorized Representative. Communications by and with Subcontractors and material suppliers shall be through CM/GC. Communications by and with separate CM/GCs shall be through the Owner's Authorized Representative.

2.1.4 The Owner's Authorized Representative may, upon reasonable notice, call meetings with CM/GC and/or Architect/Engineer and any of CM/GC's representatives and/or Subcontractors and/or others as the Owner's Authorized Representative may determine and reserves the right to determine the frequency, location, participants and the agenda of

meetings and to record and publish minutes of the meetings. CM/GC and Subcontractors shall comply with all such requests as part of the Contract Price.

2.1.5 The Owner's Authorized Representative may consult with the Architect/Engineer on any evaluations of CM/GC's Application for Payment, or unless otherwise stipulated by the Owner's Authorized Representative, Architect/Engineer will review and certify the amounts due CM/GC and will issue Certificates for Payment in such amounts.

2.1.6 The Owner's Authorized Representative's decision will be final, binding and conclusive on the CM/GC on all questions that arise regarding the quantity of materials and work, the quality of materials and work, the acceptability of materials furnished and work performed, the acceptable rate of progress of the Work, the interpretation of the Plans and Specifications, the measurement of all quantities, the acceptable fulfillment of the Contract on the part of the CM/GC, and payments under the Contract.

2.1.7 Owner's decisions on matters relating to aesthetic effect will be final.

2.2 CM/GC'S MEANS AND METHODS; MITIGATION OF IMPACTS

2.2.1 CM/GC shall supervise and direct the Work, using CM/GC's best skill and attention. CM/GC 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 this 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, CM/GC 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.

2.2.2 CM/GC is responsible to protect and maintain the Work and worksite, including any Owner provided staging areas and other work areas off-site, 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.

2.2.3 CM/GC is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the Project. CM/GC shall enforce strict discipline and good order among CM/GC's employees and other persons conducting the Work. CM/GC shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them. The CM/GC

shall promptly comply with any order from the Owner's Authorized Representative to remove any unfit, unskilled or unsafe worker or Subcontractor.

2.2.4 CM/GC is responsible to safely and legally perform the Work according to all state, federal and local laws, codes and regulations, including but not limited to earthwork shoring, confined space entry, hoisting and rigging, and other practices incidental to the normal prosecution of the Work. CM/GC is responsible for all compliance with OR-OSHA job safety requirements to include but not limited to job safety personnel protective equipment, preparing a health and safety plan and providing all safety measures as may be necessary or required.

2.2.5 The Work shall be subject to observation and approval by Owner, Owner's Authorized Representative, Architect/Engineer, special inspectors and representatives of governmental agencies with jurisdiction over the Project. Neither the supervision, inspection, testing, observation, nor approval of the Work by Owner or any of Owner's Authorized Representatives (including, but not limited to, Architect/Engineer and others separately retained by Owner) shall relieve CM/GC from its obligation to perform the Work in strict accordance with the Contract Documents and industry standards.

2.3 MATERIALS AND WORKMANSHIP

2.3.1 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, CM/GC shall employ methods that are accepted and used by the industry, in accordance with industry standards.

2.3.2 CM/GC is responsible to perform the Work as required by the Contract Documents. Defective Work shall be corrected at CM/GC's expense.

2.3.3 Work done and materials furnished shall be subject to inspection and/or observation and testing by the Owner's Authorized Representative to determine whether the Work and materials conform to the Contract Documents. Inspection of the Work by the Owner's Authorized Representative does not relieve CM/GC of responsibility for the Work in accordance with the Contract Documents. The review by the Owner or Architect of any method of construction, invention, appliance, process, article, device, or material of any kind is limited

to a review for adequacy of the Work and is not approval for use by CM/GC in violation of any patent or other rights of any person or entity.

2.3.4 CM/GC 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.

2.3.5 CM/GC shall furnish Samples of materials for testing by the Owner's Authorized Representative and include the cost of the Samples in the Contract Price.

2.3.6 CM/GC shall provide materials in sufficient quantities on hand to ensure uninterrupted progress of Work and shall store materials properly and protect materials as required.

2.3.7 For all materials and equipment specified or indicated in the Drawings, CM/GC shall provide all labor, materials, equipment, and services necessary for complete assemblies and complete working systems, functioning as intended. CM/GC shall furnish incidental items, not indicated in the Drawings nor mentioned in the Specifications, which can be legitimately and reasonably inferred to belong to the Work described or necessary in good practice to provide a complete assembly or system, as though itemized here in every detail. In all instances, CM/GC shall install materials and equipment in strict accordance with each manufacturer's most recent published recommendations and specifications. CM/GC shall be responsible for appropriately sequencing the Work and for verification of suitability of prior work before subsequent construction activities.

2.3.8 CM/GC shall coordinate submittal approvals and place orders for materials and/or equipment so that delivery of materials and/or equipment will be made without delays to the Work. CM/GC shall, upon the Owner's reasonable request, provide documentary evidence that orders have been placed.

2.3.9 If the Owner elects to conduct an independent review, monitoring, inspection, or other oversight of CM/GC's performance of any or all of the Work under this Contract, CM/GC will fully cooperate with the independent reviewer selected by the Owner.

2.4 PERMITS

CM/GC shall obtain and pay for all necessary licenses and trade permits for the construction of the Work relating to temporary obstructions and enclosures for opening of streets for pipes,

walls, utilities, etc., as required for the Project. CM/GC shall be responsible for all violations of the law in connection with the construction or caused by obstructing streets, sidewalks, or otherwise. CM/GC shall give all requisite notices to public authorities. CM/GC shall pay all royalties, taxes, tariffs, and license fees. CM/GC shall defend, indemnify, and hold harmless the Owner and its officers, agents, and employees from all suits or claims for infringement of any patent or other proprietary rights.

2.5 COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS

2.5.1 CM/GC shall become familiar with and comply with all federal, state, and local laws, codes, regulations, and ordinances applicable to the Work and this 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, CM/GC expressly agrees to comply with the following, as applicable:

- 2.5.1.1 Titles VI and VII of the Civil Rights Act of 1964, as amended;
- 2.5.1.2 Sections 503 and 504 of the Rehabilitation Act of 1973, as amended;
- 2.5.1.3 the Health Insurance Portability and Accountability Act of 1996;
- 2.5.1.4 the Americans with Disabilities Act of 1990, as amended;
- 2.5.1.5 ORS Chapter 659A, as amended;
- 2.5.1.6 all regulations and administrative rules established pursuant to the foregoing laws; and
- 2.5.1.7 all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

2.5.2 CM/GC shall comply with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, as set forth more specifically within these General and Supplementary Conditions.

2.5.3 CM/GC shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations; and:

- 2.5.3.1 CM/GC has not and shall not discriminate against disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses, emerging small businesses or historically underutilized businesses,

as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts (ORS 279A.110).

2.5.3.2 CM/GC shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work.

2.5.4 CM/GC's Employees and Subcontractors.

2.5.4.1 Employee Drug Testing Program. CM/GC shall certify to Owner that CM/GC has initiated, and shall maintain through the completion of the Work of the Project, an employee drug testing program.

2.5.4.2 Employee Notice. CM/GC must give to employees who work on a public works contract, notice of the number of hours per day and days per week that the employees may be required to work as specified in ORS 279C.520, either: (a) in writing, either at the time of hire or before commencement of work on the contract, or (b) by posting a notice in a location frequented by employees.

2.5.5 Licensed Contractors.

2.5.5.1 CM/GC and Subcontractors shall be licensed by the Oregon Construction Contractor's Board, and others as required, to perform the Work. Such licenses shall be maintained in good standing throughout the duration of this Contract.

2.5.5.2 Unless contrary to federal law, CM/GC certifies 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 CM/GC.

2.5.5.3 Unless contrary to federal law, CM/GC certifies that each landscape contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape contractor's license issued in accordance with ORS 671.560.

2.5.5.4 Excavation Contractors. The following notice is applicable to CM/GC or a contractor that performs excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those

rules are set forth in Oregon Administrative Rules (OAR) 952- 001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987.

2.5.6 Because the Work will include demolition work, CM/GC shall salvage or recycle construction and demolition debris, if feasible and cost-effective, in accordance with ORS 279C.510.

2.5.7 CM/GC will comply with all provisions of law applicable to public contracts set forth at Section 17(l) of the CM/GC Construction Contract.

2.5.8 Failure to comply with any or all of the requirements of Section 2.5.1 through Section 2.5.7 shall be a breach of contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the sole responsibility of CM/GC and may be deducted from the Contract Price.

2.5.9 CM/GC shall pay all royalties and license fees. CM/GC 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 Owner, and its departments, divisions, members and employees

2.6 SUPERINTENDENT/PROJECT MANAGEMENT

2.6.1 CM/GC shall keep on the Project 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 CM/GC on the Project Site and who will be empowered to obligate CM/GC. Directions given to the Superintendent by the Owner's Authorized Representative shall be confirmed in writing to CM/GC. The Superintendent shall be fluent in both written and spoken English and be able to effectively communicate with the Owner's Authorized Representative.

2.6.2 The Superintendent, Project Manager, and Project Engineer/Assistant Project Manager (if applicable) shall not be removed from the Project by CM/GC without the prior written authorization of the Owner. Requests to replace personnel must be made a minimum of thirty (30) calendar days before the proposed date of replacement, if feasible.

2.6.3 CM/GC shall at all times enforce strict discipline and good order among its Subcontractors and employees and shall not employ or work any unfit person, or anyone not skilled in work assigned to that person. The Owner may require CM/GC to permanently remove

any of its officers, agents, employees, or Subcontractors from all Owner properties in cases where the Owner determines in its sole discretion that removal of such is in the Owner's best interests. CM/GC shall not employ any person whom the Owner may deem incompetent or unfit on the Project except with the prior written consent of the Owner. The Owner may require removal and replacement of any or all construction Superintendents, Project Managers, supervisors, or other staff from the Project upon ten (10) business days' written notice to CM/GC.

2.6.4 CM/GC shall maintain at least one set of reports on the Project prepared by CM/GC's employee(s) present on site, and which includes the following information: a brief description of all Work performed on that day; a summary of all pertinent events and/or occurrences on that day, including records of all tests and inspections; a list of all Subcontractor(s) working on that day; the time Work commenced and ended; weather conditions; accidents or injuries; and Work progress made for that day ("Daily Job Reports"). CM/GC shall keep the Daily Job Reports current and in good order and shall make current copies available to the Owner upon request.

2.7 INSPECTION

2.7.1 The Owner's Authorized Representative and Project team shall have safe access to the Work at all times.

2.7.2 Inspection of the Work will be made by the Owner's Authorized Representative and its designees at its discretion. The Owner's Authorized Representatives 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 CM/GC's expense.

2.7.3 CM/GC 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, CM/GC 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 as part of the Contract Price. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. CM/GC shall give the Owner's Authorized Representative no less than 48 hours' 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 CM/GC and promptly delivered to the Owner's Authorized Representative.

2.7.4 As required by the Contract Documents or as directed by the Owner's Authorized Representative, Work done or materials used without inspection or testing by the Owner's Authorized Representative may be ordered removed at CM/GC's expense.

2.7.5 If directed to do so any time before the Work is accepted, CM/GC shall uncover portions of the completed Work for observation or inspection. After observation or inspection, CM/GC shall restore such portions of Work to the standard required by this 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 CM/GC'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.

2.7.6 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 CM/GC's expense and deducted from the Contract Price.

2.7.6.1 CM/GC shall be granted one reinspection for each inspection required by the Contract Documents. Additional inspections required beyond the initial and reinspection shall be the responsibility of CM/GC. The Owner's testing and inspection firm shall not unreasonably require reinspection.

2.7.7 When the United States government or the State of Oregon 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 this Contract and shall not interfere with the rights of the parties to this Contract. Instructions or orders of such parties shall be transmitted to CM/GC, through the Owner's Authorized Representative.

2.8 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 this Contract did not contain the particular provision held to be invalid.

2.9 ACCESS TO RECORDS

2.9.1 CM/GC shall make available at its office at all reasonable times the materials described in this paragraph for the examination, audit, or reproduction until six (6) years after final payment under this Contract: (a) all Daily Job Reports or other Project records of CM/GC's project manager(s), construction superintendent(s), and/or project foreperson(s); (b) all certified payroll records and/or related documents including, without limitation, payroll, payment, timekeeping and tracking documents; (c) all books, estimates, records, contracts, documents, bid documents, bid cost data, subcontract job cost reports, and other data of CM/GC, any subcontractor, and/or supplier, including computations and projections related to bidding, negotiating, pricing, or performing the Work or Contract modification, in order to evaluate the accuracy, completeness, and currency of the cost, manpower, coordination, supervision, or pricing data at no additional cost to Owner. These documents may be duplicative and/or be in addition to any bid documents held in escrow by Owner. Owner may, at its discretion, perform periodic audits of the aforementioned records.

2.9.2 CM/GC shall retain, and the Owner and its duly authorized representatives shall have access to, for a period not less than six years, all Record Documents, financial and accounting records, and other books, documents, papers, and records of CM/GC that are pertinent to this 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 this Contract participates in a dispute-resolution process, CM/GC shall retain all such records until all disputes are resolved. The Owner and/or its agents shall continue to be provided full access to the records during any dispute-resolution process.

2.10 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.

2.11 SUBCONTRACTS AND ASSIGNMENT

2.11.1 CM/GC 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 CM/GC all of the obligations and responsibilities that CM/GC assumes toward the Owner thereunder, unless (a) the same are clearly inapplicable to the subcontract at issue because of legal requirements or industry practices, or (b) specific exceptions are requested by CM/GC and approved in writing by the Owner. Where appropriate, CM/GC shall require each Subcontractor to enter into similar agreements with sub-subcontractors at any level. CM/GC shall include assignment provisions in each subcontract as indicated in the termination provisions set forth in these General Conditions.

2.11.2 At the Owner's request, CM/GC shall submit to the Owner before its execution either CM/GC's form of subcontract or the subcontract to be executed with any particular Subcontractor. If the Owner disapproves such form, CM/GC shall not execute the form until the matters disapproved are resolved to the Owner's satisfaction. The Owner's review, comment upon, or approval of any such form shall not relieve CM/GC of its obligations under this Contract or be deemed a waiver of such obligations of CM/GC. Owner may request from the CM/GC copies of any executed subcontract, material or supply contract for any Subcontractor at any level.

2.11.3 Owner reserves the right to approve Subcontractors prior to performing any work.

2.11.4 CM/GC 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 CM/GC of any obligations of this Contract, and any transferee shall be considered the agent of CM/GC and bound to perform in accordance with the Contract Documents. CM/GC shall remain liable as between the original parties to this Contract as if no assignment had occurred.

2.11.5 CM/GC shall first notify the Owner before any change in the name or legal nature or status of CM/GC's entity. The Owner shall determine whether CM/GC's intended change is permissible while performing this Contract.

2.11.6 No Contractual Relationship between Owner and any Subcontractor, supplier or manufacturer. Nothing in this Contract shall be construed to establish a contractual relationship between Owner and any Subcontractor, supplier or

manufacturer; provided, however, that nothing in this Contract shall prevent Owner from maintaining any third-party beneficiary claims against Subcontractors, suppliers or manufacturers.

2.12 SUCCESSORS IN INTEREST

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

2.13 OWNER'S RIGHT TO DO WORK

The Owner reserves the right to perform other or additional work at or near the Project Site with other forces than those of CM/GC. If such work takes place within or next to the Project Site, CM/GC 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 CM/GC 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 will be in the sequence that the contracts were awarded.

2.14 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 CM/GC of this Contract will fully cooperate with any and all other contractors without additional cost to the Owner in the manner described in Section 2.13. Specifically, and without limitation:

2.14.1 CM/GC shall coordinate and work in conjunction with the Owner and the Owner's third-party consultants to proactively commission the Project in preparation of the Owner's occupancy and acceptance.

2.14.2 CM/GC shall provide the Owner with a copy of all written communications between CM/GC and the Owner's consultants at the same time as that communication is made to such consultants, including without limitation all requests for information, correspondence, submittals, notices, and Change Order proposals. CM/GC shall confirm oral communications in writing.

2.14.3 CM/GC is liable for costs incurred by the Owner for professional services for interpretations or decisions of matters where the information sought is equally available to the party making the request.

2.15 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.

2.16 DISPUTE RESOLUTION

2.16.1 Arbitration. Any Claim between the Owner and CM/GC that arises from or relates to this Contract and that is not resolved through the Claims Review Process in Section 4.3 is subject to arbitration. Unless the parties mutually agree otherwise, arbitration is to be administered by and in accordance with the rules of the Arbitration Service of Portland, Inc. The arbitrator will be appointed in accordance with the rules of Arbitration Service of Portland, Inc. A demand for arbitration must be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration. Unless the parties agree otherwise in writing, the place of arbitration will be Tigard, Oregon. The award rendered by the arbitrator will be final, binding, and nonappealable, and judgment may be entered on the award in any court having jurisdiction.

2.16.2 Consolidation or Joinder. Either party, at its sole discretion, may consolidate an arbitration conducted under this Contract with any other arbitration to which it is a party provided that (i) the arbitration agreement governing the other arbitration permits consolidation, (ii) the arbitrations to be consolidated involve substantially common questions of law or fact, and (iii) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s). Either party, at its sole discretion, may include in an arbitration proceeding by joinder persons or entities involved in a common question of law or fact whose presence is required if complete relief is to be accorded. Owner and Consultant grant to any person or entity made a party to an arbitration conducted under this Section **Error! Reference source not found.**, whether by joinder or consolidation, the same rights of joinder and consolidation that Owner and Consultant enjoy under this Contract.

2.17 ALLOWANCES

2.17.1 CM/GC 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.

2.17.2 Unless otherwise provided in the Contract Documents:

2.17.2.1 Allowances shall cover the cost to CM/GC of materials and equipment delivered at the Project Site and all required taxes.

2.17.2.2 CM/GC's costs for unloading and handling at the Project Site, labor, installation, Overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the allowances.

2.17.2.3 Unless the Owner requests otherwise, CM/GC shall provide to the Owner a proposed fixed price for any allowance work before its performance.

2.17.2.4 Work will only begin on allowances after approval has been issued by the Owner.

2.18 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

2.18.1 CM/GC shall prepare and keep current, for the approval of the Owner's Authorized Representative, a schedule and list of submittals that are coordinated with CM/GC's construction schedule and allow Architect/Engineer reasonable time, but in no case less than ten business days, to review submittals. The Owner reserves the right to approve the schedule and list of submittals. Submittals include without limitation Shop Drawings, Product Data, and Samples, which are described below:

2.18.1.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by CM/GC or a Subcontractor (including any sub-subcontractor), manufacturer, supplier, or distributor to illustrate some portion of the Work.

2.18.1.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by CM/GC to illustrate materials or equipment for some portion of the Work.

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

2.18.2 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 CM/GC proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by Architect/Engineer or the Owner 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 Architect/Engineer or the Owner, of any construction means, methods, techniques, sequences, or procedures, all of which remain the responsibility of CM/GC as required by the Contract Documents. Architect/Engineer's or the Owner's review of CM/GC's submittals shall not relieve CM/GC of its obligations under the Contract Documents. Architect/Engineer's or the Owner's review of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which Architect/Engineer or the Owner is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned without action.

2.18.3 CM/GC shall review for compliance with the Contract Documents and approve and submit to Architect/Engineer the 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 CM/GCs. Submittals that are not marked as reviewed for compliance with the Contract Documents and approved by CM/GC may be returned without action.

2.18.3.1 CM/GC shall be granted one resubmittal review for each submittal required by the Contract Documents. Additional reviews required beyond the initial submittal and resubmittal shall be the responsibility of CM/GC if the initial submittal or any subsequent submittal does not comply with the Contract Documents. Architect/Engineer shall not unreasonably require resubmittals. The Owner reserves the right to make the final determination if a resubmittal is required or if CM/GC may proceed by incorporating Architect/Engineer's comments.

2.18.4 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, CM/GC represents that CM/GC 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.

2.18.5 CM/GC 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 Architect/Engineer. CM/GC shall be responsible to provide submittals for review by Architect/Engineer and the Owner in a timely

manner to allow sufficient time for review and comment. Delay claims associated with submittals lacking appropriate review-time allowances shall not be considered.

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

2.18.7 If the Owner elects not to have the obligations and duties described under this Section 2.18 performed by Architect/Engineer, or if no Architect/Engineer is employed by the Owner on the Project, all obligations and duties assigned to Architect/Engineer hereunder shall be performed by the Owner's Authorized Representative.

2.19 SUBSTITUTIONS

CM/GC may make Substitutions only with the consent of the Owner and at its sole discretion, 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, CM/GC represents that CM/GC has personally investigated the proposed substitute product; represents that CM/GC will provide the same warranty for the Substitution that CM/GC 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 that 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.

2.20 USE OF PLANS AND SPECIFICATIONS

Plans, Specifications, and related Contract Documents, including those in electronic format, furnished to CM/GC by the Owner or Architect/Engineer shall be used solely for the performance of the Work under this Contract. CM/GC 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 the Owner.

2.21 FUNDS AVAILABLE AND AUTHORIZED

The 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. CM/GC 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 work performed after the last day of the current budget period is contingent on the Owner receiving additional appropriations, limitations or other expenditure authority for this work sufficient to allow the Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract in the next budget period. If additional funds are not made available to finance the cost of this Contract, this Contract will be Terminated according to Section 10.5.

2.22 NO THIRD-PARTY BENEFICIARIES

The Owner and CM/GC 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.

2.23 RULES REGARDING CONTACT WITH THE PRESS AND PUBLICATIONS

CM/GC shall issue no news release, press release, or other statement to members of the news media or any other publication regarding this Contract or the Project within one year of Project completion without the Owner's prior written authorization. CM/GC shall not post or publish any textual or visual representations of the Project without approval of the Owner.

3. WAGES, LABOR, AND PAYMENT

CM/GC will pay the prevailing rates of wages for covered workers and other wage, hour, and payment requirements as set forth in Section 17(l)(xii) to (xv) of the CM/GC Construction Contract.

4. CHANGES IN THE WORK

4.1 CHANGES IN WORK

4.1.1 It is mutually agreed that changes in Plans, Specifications, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction.

4.1.2 CM/GC and Owner further agree that it is inherent in any construction project that minor deviations and conflicts occur between the Plans, Specifications and other design documents and that minor unforeseen issues may be found at the project site. The Owner's Authorized Representative reserves the right to reasonably determine what are minor deviations, conflicts and/or unforeseen conditions. These minor deviations, conflicts and/or unforeseen conditions are not changes in the Work.

4.1.3 CM/GC must have the Owner's Authorized Representative's written authorization prior to proceeding with any changes in the Work. Beginning any changes in the Work without such authorization, unless otherwise provided for in the Contract Documents, will be considered as within the scope of the Work of the Contract with no change to the Contract Price or Contract Time.

4.1.4 All changes to the Contract, including changes to the Work, Contract Price, Contract Time, changes to Plans and Specifications, shall be made by Change Order executed by the parties and shall be signed by a person legally authorized by the CM/GC.

4.1.5 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 4 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. Documentation of the proposed change must include Unit breakdown of the labor and material, applicable allowances, mark-ups, overhead & profit, taxes, freight, and other direct costs.

4.1.6 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 this

Contract, require changes consistent with this Section 4. All Change Order Work shall be executed under the conditions of the Contract Documents. Such changes may include but are not limited to:

- 4.1.6.1 modification of Specifications and design;
- 4.1.6.2 increases or decreases in quantities;
- 4.1.6.3 increases or decreases to the amount of Work;
- 4.1.6.4 addition or elimination of any Work item;
- 4.1.6.5 change in the duration of the Project;
- 4.1.6.6 acceleration or delay in performance of Work; and
- 4.1.6.7 deductive changes.

Subcontractor buy out will not be considered a change in work. Change order mark ups shall only apply to material changes in the contract documents. Deductive changes are those that reduce the scope of the Work and shall be made by mutual agreement whenever feasible. In cases of suspension or partial termination under Section 10 of this Contract, the Owner reserves the right to unilaterally impose a deductive change and to self-perform such Work, for which the provisions of Section 2.13 (Owner's Right to Do Work) shall then apply.

Adjustments in compensation shall be made under the provisions of Section 4.1.7 in which costs for deductive changes shall be based on a Direct Costs adjustment, together with the related percentage markup specified for profit, Overhead, and other indirect costs, unless otherwise agreed to by the Owner.

When a CM/GC considers that the Owner has effected or may effect a change in this Contract that has not been identified as such in writing and signed by the Owner, it is necessary that CM/GC notify the Owner in writing as soon as possible. This will permit the Owner to evaluate the alleged change and:

- 4.1.6.8 confirm that it is a change, direct the mode of further performance, and plan for its funding;
- 4.1.6.9 countermand the alleged change; or
- 4.1.6.10 notify CM/GC that no change is considered to have occurred.

4.1.7 The Owner and CM/GC agree that adjustments to or deletions from the Work shall be administered and compensated according to the following:

4.1.7.1 *Unit pricing* may be utilized at the Owner's option when unit prices or solicitation alternates were provided that established the cost for adjustments to the Work, and a binding obligation exists under this Contract on the parties covering the terms and conditions of the additional Work. Unless otherwise set forth in the Contract unit prices are either additive or deductive to be based on actual Work units performed. The Owner may establish a maximum not to exceed cost which shall not be exceeded without additional authorization by the Owner's Authorized Representative.

4.1.7.2 If the Owner elects not to utilize unit pricing, or if unit pricing is not available or appropriate, *fixed pricing* may be used for adjustments to or deletions from the Work. In fixed pricing, the basis of payments or total price shall be agreed upon in writing between the parties to this Contract and shall be established before the Work is started whenever feasible. Notwithstanding the foregoing, the markups set forth in Section 4.1.7.3 shall be utilized in establishing fixed pricing, and such markups shall not be exceeded. Cost and price data relating to adjustments to or deletions from the Work shall be supplied by CM/GC to the Owner upon request, but the Owner shall be under no obligation to make such requests.

4.1.7.3 If unit pricing and fixed pricing are not utilized, then adjustments to or deletions from the Work shall be performed on a *cost reimbursement* basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable, and allowable cost of labor, equipment, and materials furnished on the Work performed. In addition, the following markups shall be added to CM/GC's or Subcontractor's Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the CM/GC's or Subcontractor's own forces:

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

4.1.7.4 Total mark up for multi-tier Subcontracts shall not exceed 20%. Payments made to CM/GC shall be complete compensation for Overhead, profit, and all costs that were incurred by CM/GC or by other forces furnished by CM/GC, including Subcontractors, for adjustments to or deletions from the Work pursuant to a Change Order. The Owner may

establish a maximum cost for additional Work under this Section 4.1.7, which shall not be exceeded for reimbursement without additional written authorization from the Owner in the form of a Change Order. CM/GC shall not complete such additional Work without additional authorization.

4.1.7.5 Determination of Price by Owner. Upon review and approval of Changes in the form of Work, the Owner's Authorized Representative shall issue a Construction Change Field Directive or Change Order for determining the proposed adjustment in the Contract Price or Contract Time. Upon receipt of a Construction Change Field Directive or Change Order, CM/GC shall promptly advise the Owner's Authorized Representative in writing of CM/GC's agreement or disagreement with the method. If CM/GC does not respond promptly or disagrees with the method for adjustment, and Owner makes a written request for the work to proceed anyway, the method and the adjustment shall be determined by Owner as set forth in Section 4.1.7.3 direct cost reimbursement. In such case, CM/GC shall keep and present (and at all times allow Owner to audit as provided in Section 2.9 above) an itemized accounting of costs together with appropriate supporting data

4.1.8 Any necessary adjustment of Contract Time that may be required as a result of a Change Request must be agreed upon by the parties before the execution of the Change Order unless the Owner's Authorized Representative authorizes CM/GC to start the Work before agreement on Contract Time adjustment. CM/GC shall submit in writing any request for additional compensation (and additional Contract Time if CM/GC was authorized to start Work before an adjustment of Contract Time was approved) as soon as possible, but no later than 30 days after CM/GC first knows or reasonably should have known of the event alleged to have given rise to the changed condition. If CM/GC's request for additional compensation or adjustment of Contract Time is not made within the 30-day time limit, CM/GC's requests pertaining to that change are barred. The 30-day time limit for making requests shall not be extended for any reason, including without limitation CM/GC's claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by the Owner. If the Owner's Authorized Representative denies CM/GC's request for additional compensation or adjustment of Contract Time, CM/GC may proceed to file a Claim under Section 4.3, Claims Review Process. No other reimbursement, compensation, or payment will be made, except as provided in Section 4.1.9 for impact Claims.

4.1.9 If any Change Order Work under Section 4.1.7 causes an increase or decrease in CM/GC's cost of, or the Contract Time required for the performance of, any other part of the Work under this Contract, CM/GC 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 this Contract as soon as possible, but no later than 30 days after receipt of the Change Request by CM/GC. The 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; CM/GC has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the 30-day time limit and including their requests with CM/GC'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 CM/GC in writing with full analysis and justification for the compensation and additional Contract Time requested. CM/GC will analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to CM/GC before including those requests and CM/GC's analysis and evaluation of those requests with CM/GC's requests for additional compensation or Contract Time that CM/GC submits to the Owner's Authorized Representative. Failure of Subcontractors, suppliers, manufacturers, or others to submit their requests to CM/GC for inclusion with CM/GC'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 who is not a party to this 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 CM/GC's request for additional compensation or an extension of Contract Time, CM/GC may proceed to file a Claim under Section 4.3 (Claims Review Process).

4.1.10 No request or Claim by CM/GC for additional costs or an extension of Contract Time shall be allowed if made after receipt of final payment application under this Contract. CM/GC agrees to submit its final payment application within 60 business days after Substantial Completion, unless the Owner grants a written extension. CM/GC 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 the Owner or any other person of matters arising out of or relating to this Contract. If CM/GC fails to submit its final payment application within 60 business days after Substantial Completion, and CM/GC has not obtained written extension by the Owner, all requests or Claims for additional costs or an extension of Contract Time shall be waived.

4.1.11 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. CM/GC is notified that numerous changes may be required and that there will be no compensation made to CM/GC 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.

4.1.12 The Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract.

4.2 DELAYS

4.2.1 Delays in construction include "Avoidable Delays," which are defined in Section 4.2.1.1, and "Unavoidable Delays," defined in Section 4.2.1.2. The effect of Avoidable Delays is described in Section 4.2.2 and the effect of Unavoidable Delays is described in Section 4.2.3.

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

4.2.1.1.1 Materially affect or delay the CM/GC proceeding with the Work and could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the CM/GC or its Subcontractors.

4.2.1.1.2 Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of other parts of the Work or the completion of the whole Work within the Contract Time.

4.2.1.1.3 Do not impact activities on the Owner approved baseline critical path schedule.

4.2.1.1.4 Caused by CM/GC or Subcontractor in sequencing of work, delay in fabrication, obtaining trade permits and any permit inspections,

equipment failure, material shipment delay or other related actions not caused by Force Majeure acts, events or occurrences.

4.2.1.1.5 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.

4.2.1.2 Unavoidable Delays include delays other than Avoidable Delays that are:

4.2.1.2.1 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 that materially affect or delay the CM/GC proceeding with the Work.

4.2.1.2.2 Caused by or resulting from any Unforeseen Conditions if the Owner's Authorized Representative determines such 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.

4.2.1.2.3 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 CM/GC or its Subcontractors.

4.2.1.2.4 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 CM/GC, 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, snow 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:

(a) 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.

(b) Daily rainfall equal to, or greater than, 0.75 inch at any time.

4.2.1.2.5 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.

4.2.2 Except as otherwise provided in ORS 279C.315, CM/GC shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.

4.2.3 In the event of Unavoidable Delays, based on principles of Equitable Adjustment, CM/GC may be entitled to the following:

4.2.3.1 CM/GC may be entitled to additional Contract Price or additional Contract Time, or both, for Unavoidable Delays described in Sections 4.2.1.2.1 and 4.2.1.2.2.

4.2.3.2 CM/GC may be entitled to additional Contract Time for Unavoidable Delays described in Sections 4.2.1.2.3 and 4.2.1.2.4.

4.2.3.3 In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this Section 4.2.3 for Unavoidable Delays, other than requests for additional compensation or additional Contract Time for unforeseen site conditions for which a review process is established under Section 4.2.1.2.2, CM/GC 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 ten (10) days after the cause of the delay has been mitigated, the CM/GC 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 CM/GC'S request for additional compensation or adjustment of Contract Time, the CM/GC may proceed to file a Claim under Section 4.3, Claims Resolution Procedures. If CM/GC does not timely submit the notices required under this Section 4.2, then unless otherwise prohibited by law, CM/GC'S Claim shall be barred.

4.3 CLAIMS RESOLUTION PROCEDURES

4.3.1 This section outlines the exclusive procedure to be followed if the CM/GC believes that it is entitled to additional compensation, additional Contract Time or both. This section applies to all Claims for additional compensation and all requests for additional Contract Time, regardless of whether the basis for the Claim for additional compensation, or request for additional Contract Time, or both, stems from the performance of extra work, changed work, disputes, excusable delays of any nature, suspension of Contract work, or any other reason whatsoever.

4.3.2 When the CM/GC believes it is entitled to be paid more than the Contract Amount, the CM/GC shall notify the Owner's Authorized Representative in writing before beginning any work for which additional compensation is sought. The written Notice shall include:

- 4.3.2.1 A description of the event that requires additional compensation;
- 4.3.2.2 The estimated amount of the additional cost to the Owner; and
- 4.3.2.3 Any Contract provision(s) that support the Claim.

4.3.3 When an event occurs that the CM/GC believes entitles it to more time to complete the Work than Contract Time permits, the CM/GC shall notify the Owner's Authorized Representative in writing when the event occurs. The written Notice shall include:

- 4.3.3.1 A description of the event that permits additional Contract Time;
- 4.3.3.2 An estimate of the delay that the event will cause; and
- 4.3.3.3 Any Contract provision(s) that support the request for additional Contract Time.

4.3.4 If the CM/GC does not provide written Notice of a Claim for additional compensation or additional Contract Time in the time required, the Claim for additional compensation, additional Contract Time, or both, is waived.

4.3.5 If the CM/GC agrees with the CM/GC'S request for additional compensation or Contract Time, the parties shall negotiate a Change Order setting forth their agreement. If the Owner disagrees, the CM/GC shall do the following:

- 4.3.5.1 Continue promptly with the work, including any extra work required by the Owner so the Project is not delayed;

4.3.5.2 Keep complete records of its costs in the manner set forth under Section 4.1.7.3 direct cost reimbursement provisions. The Owner also may elect to keep such records to eliminate later confusion. The keeping of such records by either CM/GC or Owner does not mean that any Claim is valid; and

4.3.5.3 Submit documentation supporting the request for additional compensation, additional time or both.

4.3.6 The CM/GC'S request for additional compensation shall be supported by all documentation substantiating the amount of additional compensation to which it is entitled. The documentation shall include all information required under Section 4.1.7.3 direct cost reimbursement and other relevant documentation, such as payroll records, purchase orders, quotations, invoices, estimates, profit and loss statements, daily logs, ledgers and journals.

4.3.6.1 The documentation shall be submitted within thirty (30) days following completion of any work for which a Claim of additional compensation has been made.

4.3.6.2 If the CM/GC contends that it will incur costs beyond the thirty (30) day time period that should be included in the Claim, the CM/GC shall notify the Owner's Authorized Representative of this fact in writing and provide an estimate of that cost. Thereafter the CM/GC shall provide the Owner with additional documentation when the remainder of its additional costs is known.

4.3.6.3 The Owner will rely on the accuracy of the Claim to make decisions regarding future expenditures. Failure to submit the Claim for Contract Price within thirty (30) days is a conclusive waiver of the CM/GC's right to additional compensation.

4.3.6.4 The Owner may request additional documentation from the CM/GC at any time regarding a Claim. Failure to provide additional documentation when requested and when such documentation exists constitutes a waiver of that portion of the CM/GC's Claim to which the additional documentation relates.

4.3.7 Any request for additional Contract Time shall be supported by documentation that includes a) a description of the event on which the request is based, and b) all information, including a schedule analysis, that shows that the event delayed completion of the Project as a whole.

4.3.7.1 The CM/GC shall submit the documentation within thirty (30) days following the completion of the event that caused the delay and for which additional Contract Time is sought.

4.3.7.2 The Owner will rely on the accuracy of the Claim to make decisions regarding future expenditures. Failure to submit the Claim for Contract Time within 30 (thirty) days is a conclusive waiver of the CM/GC'S right to additional compensation.

4.3.7.3 The Owner may request additional documentation from the CM/GC at any time regarding a Claim. Failure to provide additional documentation when requested and when such documentation exists constitutes a waiver of that portion of the CM/GC's Claim to which the additional documentation relates.

4.3.8 Following receipt of all required documentation, and after the Owner's Authorized Representative has had sufficient period of time to review it in light of work responsibilities, the Owner's Authorized Representative and the CM/GC's Superintendent or project manager shall meet to attempt to resolve the matter if either party requests it. The parties mutually agree to share all relevant information, clearly define issues and exchange proposed methods of resolution in efforts to reasonably resolve and settle the matter. It is the expressed desire of both parties to attempt to reasonably and equitably resolve any and all issues at this step. The parties may agree to convene follow-up discussions as may be reasonable and necessary to reach a proposed solution or range of solutions. If Owner determines that the CM/GC has not provided required documentation, the Owner may still meet with CM/GC to discuss any claim without waiver of the Owner's right to later assert that the CM/GC's claim has been waived for failure to submit documentation.

4.3.9 If the Claim cannot be resolved, it shall be referred to persons with higher authority on the part of the CM/GC and the Owner, who also shall have the authority to resolve the Claim. Those persons shall meet for negotiations at a mutually agreed upon time and place after having had a sufficient time to review the Claim. The Owner's or designee's decision shall be final and shall exhaust the CM/GC'S administrative remedies for resolution of any and all Claims.

4.3.10 If the matter is not resolved by voluntary mediation, all claims, disputes, and other matters in question between Owner and CM/GC arising out of, or relating to the Contract Documents, or the breach thereof except for claims which may have been waived by the making or acceptance of final payment or for acquisition of property subject to eminent

domain, may be decided by arbitration. Owner shall have the sole discretion as to whether or not dispute will be decided by arbitration conducted in Clackamas County, Oregon, rather than through the court process.

4.3.10.1 No demand for arbitration of any claimed dispute or other matter shall be effective until after a claim or demand is made to Owner, and its Board, at its next regularly scheduled meeting, has rendered a written decision with respect thereto denying the claim or demand. No demand for arbitration of any such claim, dispute, or other matter shall be made later than thirty (30) days after the date on which the Owner has rendered its decision under 4.3.9, above. The failure to demand arbitration within said 30 days shall result in Owner's decision being binding upon Owner and CM/GC.

4.3.10.2 Notice of demand for arbitration shall be filed in writing with the other party to the Contract. The demand for arbitration shall be made within the 30-day period specified above. Owner, if not the party demanding arbitration, has the option of allowing the matter to proceed with arbitration, or by written notice within five (5) days after receipt of a demand for arbitration, reject arbitration and require the other party to proceed through the courts for relief. Arbitration shall be conducted under the Uniform Arbitration Act, ORS 36.600 et seq. If the parties are unable to mutually select an arbitrator within twenty (20) days following Owner's decision to pursue arbitration, each party shall then select an arbitrator, and the two arbitrators shall select a single arbitrator. The arbitrator(s) shall have substantial experience in construction disputes. The parties agree that any award rendered by the arbitrator(s) will be final, and judgment may be entered upon the award in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Oregon law.

4.3.10.3 If suit, action or arbitration is brought either directly or indirectly to rescind, interpret or enforce the terms of this agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for Owner to incur the services of an attorney to enforce any provision of this Contract without initiating litigation, CM/GC agrees to pay Owner's attorney's fees so incurred. Such costs and fees shall bear

interest at the maximum legal rate from the date incurred until the date paid by losing party.

4.3.11 The procedures specified in this Section shall be the sole and exclusive procedures for the resolution for disputes between the Owner and CM/GC arising out of or relating to this Contract, except that either may seek preliminary judicial relief or an injunction to avoid irreparable damage. Despite any injunctive relief, the procedures specified in this Contract for the resolution of Claims shall remain applicable.

4.3.12 The Owner is not obligated under the Contract to provide additional Contract Time or additional compensation unless documentation submitted by CM/GC establishes its entitlement to additional compensation, additional Contract Time, or both. The parties agree that it is not a breach of contract to deny a request for additional compensation or request for additional Contract Time if CM/GC fails to submit adequate documentation substantiating its Claim or request for time.

4.3.13 The Owner will not consider and shall reject any and all Claims to include cost, schedule and/or Work submitted from subcontractors, suppliers, manufacturers or others not a party to the contract. All Claims shall be submitted by the CM/GC or entity named on the Contract Documents.

4.3.14 Completion of Work During Claims Review:

4.3.14.1 Unless otherwise directed by Owner's Authorized Representative, CM/GC shall proceed with the work while any dispute or Claim of CM/GC is pending. Regardless of the review period or the final decision of Owner, the CM/GC shall continue to diligently pursue the work as identified in the Contract Documents or otherwise as directed by the Owner's Authorized Representative. In no case is the CM/GC justified or allowed to slow, stop or otherwise impede progress of work without a written "Stop Work Order" by the Owner's Authorized Representative.

4.3.14.2 CM/GC shall not delay any request for interim or final payment application for any reason, including without limitation payment of subcontractors, suppliers, manufacturers or others not a party to this contract, due to lack of resolution of a dispute or Claim with Owner or any other person of matters arising out of or relating to the contract. If CM/GC fails to submit its final payment application within ninety (90) days after Substantial Completion, and CM/GC has not obtained written

extension by Owner, all requests or Claims for additional Contract Price or an extension of Contract Time shall be waived.

4.3.14.3 The Owner, at its sole discretion, pending resolution of any Claim or dispute, may authorize a unilateral Construction Change Field Directive or Change Order to direct the CM/GC to perform work; authorize any estimates amounts for such directed work; authorize any extension to contract performance time; place in retainage or establish within retainage account any sum for outstanding Claims or take any other actions necessary in order to complete the project as set forth under the Contract.

4.3.14.4 The Owner may, at its sole discretion, provide notice to the CM/GC's sureties of any pending claim, mediation, arbitration or other legal action.

5. PAYMENTS

5.1 SCHEDULE OF VALUES

CM/GC shall submit, at least ten business days before submission of its first application for progress payment, a schedule of values ("Schedule of Values") for the contracted Work for the Owner's review and approval. 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 CM/GC's applications for payment. If objected to by the Owner's Authorized Representative, CM/GC shall revise and resubmit the Schedule of Values for approval of the Owner's Authorized Representative.

5.1.1 The Schedule of Values shall be of sufficient detail and organization to interface with the Owner's accounting and funding structure.

5.2 APPLICATIONS FOR PAYMENT

5.2.1 The Owner shall make progress payments on this Contract monthly as Work progresses. Before the submission of each monthly application for payment, CM/GC shall submit and obtain the Owner's approval of a progress schedule update. Payments shall be based on estimates of Work completed, as indicated in the approved progress schedule update and the Schedule of Values. The Owner's Authorized Representative shall approve all payments. A progress payment shall not be considered acceptance or approval of any Work or

waiver of any defects therein. The Owner shall pay to CM/GC interest on the progress payment, not including retainage unless the CM/GC has elected an option in lieu of retainage under Section 5.5 of these General Conditions, due CM/GC. The interest shall commence 30 calendar days after the receipt of an application for payment from CM/GC or 15 calendar days after the payment is approved by the Owner's Authorized Representative, whichever is earlier. 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 County that includes Oregon on the date that is thirty (30) days after receipt of the application for payment from the Contract 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 percent (30%). 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, the Owner shall so notify CM/GC within ten business 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 CM/GC within five business 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. If the defective or improper application for payment is not corrected by CM/GC within five business days after notification, the Owner will reject the application for payment for these reasons, and CM/GC will then be required to resubmit the corrected application for payment with a new application number. Accrual of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and CM/GC.

5.2.2 CM/GC 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. Applications for payment shall include all information required by the Owner or the Owner's Authorized representative and shall be supplemented with all additional information requested before the request for payment will be processed. CM/GC 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:

"The undersigned CM/GC certifies that to the best of the CM/GC'S Knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been

paid by the CM/GC for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

Signed: _____”

Each application for payment shall be signed by a person legally authorized by the CM/GC.

5.2.3 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 the Owner’s sole discretion. Such a payment, if made, will be subject to the following conditions:

5.2.3.1 The request for stored materials shall be submitted at least 25 business 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.

5.2.3.2 CM/GC shall submit applications for payment showing the quantity and cost of the materials stored. The application for payment will include the address of the bonded warehouse where the materials are being stored, the location identification inside the warehouse, any warehouse location identification number associated with the stored materials, and photos showing the materials in the warehouse.

5.2.3.3 The materials shall be stored in a bonded warehouse, and the Owner’s Authorized Representative shall be granted the right to access the materials for the purpose of removal or inspection at any time during the Contract Period.

5.2.3.4 CM/GC 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 CM/GC until it is installed. A certificate noting this coverage shall be issued to the Owner.

5.2.3.5 Payments shall be made for materials only as part of a line item on the Schedule of Values. 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 storage and said inspection shall be borne solely by CM/GC.

5.2.3.6 Within 50 business days of the application for payment, CM/GC shall submit evidence of payment covering the materials stored.

5.2.3.7 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.

5.2.3.8 All required documentation must be submitted with the respective application for payment.

5.2.4 Notwithstanding other parts of this Contract, the Owner reserves the right to withhold all or part of a payment, or may nullify in whole or in part any payment previously made, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss, including withholding from a progress payment or final payment up to two hundred percent (200%) of the potential or actual costs, because of:

5.2.4.1 Work that is defective and not remedied, or that has been demonstrated or identified as failing to conform with the Contract Documents;

5.2.4.2 Work has not been approved by special inspections, permit inspections or by field observation by Owner's Authorized Representative or Architect/Engineer;

5.2.4.3 Third-party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by CM/GC;

5.2.4.4 Failure of CM/GC to:

5.2.4.4.1 submit certified payroll reports, in increments, as required;

5.2.4.4.2 submit claim waivers and releases;

5.2.4.4.3 make payments properly to Subcontractors or suppliers for labor, materials or equipment in which case Owner may issue checks made payable jointly to CM/GC and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level);

5.2.4.4.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;

5.2.4.4.5 damage to the Owner or another contractor;

5.2.4.4.6 reasonable evidence that the Work will not be completed within the Contract Time required by this Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

5.2.4.4.7 failure to conduct the Work in accordance with the Contract Documents;

5.2.4.4.8 failure to provide or obtain the Owner's approval of a monthly progress schedule update;

5.2.4.4.9 failure to maintain updated Record Documents; or

5.2.4.4.10 failure to provide certified payroll reports as required elsewhere in this Contract.

5.2.5 CM/GC's applications for payment may not include requests for payment for portions of the Work for which CM/GC does not intend to pay to a Subcontractor or material supplier.

5.2.6 CM/GC warrants to the Owner that title to all Work covered by an application for payment will pass to the Owner no later than the time of payment. CM/GC 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 CM/GC, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

5.2.7 If CM/GC disputes any determination by the Owner's Authorized Representative with regard to any application for payment, CM/GC nevertheless shall continue to expeditiously prosecute 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 CM/GC of any of its obligations hereunder.

5.2.8 CM/GC will reconcile payment amounts to actual costs for General Conditions and self-performed Work on a monthly basis. Adjustments to the applications for payment will be made to reflect actual allowable Contract costs incurred.

5.3 PAYROLL CERTIFICATION REQUIREMENT

Payroll certification is required before payments are made under this Contract.

5.4 RESERVED

5.5 RETAINAGE

5.5.1 Unless the CM/GC submits security as permitted by, and which complies with, ORS 279C.560 and 701.435 (per 5.5.1.2, below) for all or a portion of the retainage required herein, retainage shall be withheld and released in accordance with ORS 279C.550 to 279C.580.

5.5.1.1 The Owner may reserve as retainage from any progress payment an amount not to exceed 5 percent of the payment. As Work progresses, the 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 this Contract is completed if, in the Owner's sole opinion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by CM/GC, which application shall include written approval of CM/GC's surety; except that when the Work is 97.5 percent complete, the Owner may, at its discretion and without application by CM/GC, reduce the retained amount to 100 percent of the value of the Work remaining to be done. Upon receipt of written application by CM/GC, the Owner shall respond in writing within a reasonable time.

5.5.1.2 In accordance with the provisions of ORS 279C.560 and further set forth under the Owner's Public Contracting Rules, unless the Owner finds in writing that accepting a bond, security or other instrument described in options 5.5.1.2.1 or 5.5.1.2.3 below poses an extraordinary risk that is not typically associated with the bond, security or instrument, the Owner will approve CM/GC's written request::

5.5.1.2.1 To be paid amounts which would otherwise have been retained from progress payments where CM/GC 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 CM/GC. CM/GC 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 Owner, including but not limited to:

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

5.5.1.2.2 That retainage be deposited in an interest-bearing account, in a form acceptable to Owner, in a bank, savings bank, trust company or savings association for the benefit of Owner, with interest from such account accruing to CM/GC; or

5.5.1.2.3 That CM/GC 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 there from 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 CM/GC's election of any of the options above, Owner may recover from CM/GC any additional costs incurred through such election by reducing CM/GC's final payment. Where the Owner has agreed to CM/GC's request to deposit a surety bond, CM/GC shall accept like bonds from Subcontractors and suppliers on the project from which CM/GC has required retainage.

5.5.1.3 CM/GC shall notify the Owner's Authorized Representative at least ten (10) days prior to the first application for payment if retainage is to be held in an interest-bearing account option, the bonds/securities deposit option, or the surety

bond option, under this Section E.5.1.2. Such costs shall not be a reimbursable Cost of the Work under the CM/GC Contract.

5.5.1.4 Unless the CM/GC elects an option in lieu of retained funds under Section 5.5.1.2 of these General Condition, the retainage held by the Owner and any accrued interest shall be included in and paid to CM/GC as part of the final payment of the Contract Price. The Owner shall pay interest to CM/GC at the rate of 1.5 percent per month on the final payment due CM/GC, with interest to commence 30 calendar days after the Work under this Contract has been completed, accepted, and invoiced in accordance with the terms of this Contract. CM/GC shall notify the Owner in writing when CM/GC considers the Work complete, and the Owner shall, within 15 calendar days after receiving the written notice, either accept the Work or notify CM/GC of Work yet to be performed under this Contract. If the Owner does not, within the time allowed, notify CM/GC of Work yet to be performed to fulfill contractual obligations, the interest provided by this section shall commence to run 30 calendar days after the end of the 15-day period.

5.5.1.5 In accordance with the provisions of ORS 279C.560, if the Owner accepts bonds, securities or other instruments deposited as provided in Sections 5.5.1.2.1 and 5.5.1.2.3 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 CM/GC in accordance with ORS 279C.570.

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

5.5.2 The Owner reserves the right to deduct from the final release of retainage all costs for outstanding defective work and/or failure to comply with Contract and permit requirements

5.6 FINAL PAYMENT

5.6.1 Upon reaching Substantial Completion and approval of the Owner's Authorized Representative that all punch-list work and all field work is complete, CM/GC shall make written request for 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 as to the final estimate of the amount due CM/GC. If the Work is not acceptable, the Owner will notify CM/GC within 15 days of CM/GC's request for final payment. Upon approval of this final estimate by the Owner and compliance by CM/GC with the provisions in Section 11.3 (Affidavit/Release of Liens and Claims), and other provisions as may be applicable, the Owner shall pay to CM/GC all monies due under the provisions of the Contract Documents.

5.6.2 Neither final payment nor any remaining retained percentage shall become due until CM/GC submits to the Owner's Authorized Representative (a) a notarized affidavit/release of liens and claims in a form satisfactory to the 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 the Owner) have been paid or otherwise satisfied; (b) 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 30 days' prior written notice has been given to the Owner; (c) a written statement that CM/GC knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; (d) consent of surety, if any, to final payment; and (e) 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 this Contract, to the extent and in such form as may be designated by the Owner. CM/GC 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 CM/GC fails to submit its final payment application within thirty (30) days after Final Completion, and CM/GC has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Contract Time shall be waived. If a Subcontractor refuses to furnish a release or waiver required by the Owner, CM/GC may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains

unsatisfied after payments are made, CM/GC shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorney fees.

5.6.3 Waiver of Claims by CM/GC. Acceptance of final payment by CM/GC, 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.

5.6.4 Waiver of Claims by Owner. The making of final payment shall constitute a waiver of claims by Owner except (1) those claims expressly reserved by Owner at the time of final payment; (2) those arising from claims, bond claims, security interests or encumbrances arising out of the Contract and unsettled; (3) failure of the Work to comply with the requirements of the Contract Documents or industry standards; (4) terms of any warranties required by the Contract Documents; and (5) claims for unknown or latent defects or deficiencies in the Work or for unknown damages or expenses caused by the Work.

5.7 TAXES.

CM/GC shall pay and remit to the applicable governmental agencies sales and use taxes, if any, on labor, supplies, and materials included in the Work. When requested by the CM/GC or a subcontractor, and to the extent applicable, the Owner will comply with such regulations as the Secretary of the Treasury or his delegate shall prescribe to obtain exemption from the application of federal excise tax.

5.8 SAVINGS AND DISCOUNTS ACCRUE TO OWNER

Cash discounts obtained on payments made by CM/GC or Subcontractors shall accrue to Owner if, before making the payment, CM/GC included them in an application for payment and received payment for them from Owner. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to Owner, and CM/GC shall make provisions so that they can be secured. Amounts which accrue to Owner in accordance with this provision shall be credited to Owner as a deduction from the Contract Price. It is the responsibility of the CM/GC to promptly notify the Owner of any savings and discounts that are realized, including any through Subcontractors

6. JOBSITE CONDITIONS

6.1 USE OF PREMISES

CM/GC shall confine equipment, storage of materials, and operation of Work to the limits indicated by the Contract Documents, law, ordinances, permits, or directions of the Owner's Authorized Representative. CM/GC shall follow any and all instructions or requirements regarding the use of premises given by the Owner's Authorized Representative. CM/GC shall not use or disturb the Owner's property, materials, or documents except for the purpose of responding to the Owner's request for proposals or invitation to bid or pursuant to completion of the Work under this Contract. CM/GC shall treat all documents as confidential and shall not disclose such documents without approval from the Owner. Any unauthorized disclosure of documents or removal of Owner property will be deemed a substantial breach of this Contract. CM/GC shall bear sole responsibility for any liability, including but not limited to attorney fees, resulting from any action or suit brought against the Owner as a result of CM/GC's willful or negligent release of information, documents, or property contained in or on Owner property. The Owner hereby deems all information, documents, and property contained in or on Owner property privileged and confidential.

6.2 PROTECTION OF WORKERS, PROPERTY, AND THE PUBLIC

6.2.1 CM/GC shall maintain continuous and adequate protection of all of the Work from damage, and shall protect the Owner's Authorized Representative, the Owner's workers, staff, administrators, and adjacent high school students, the general public, and property from injury or loss arising in connection with this Contract. CM/GC shall remedy 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. CM/GC shall adequately protect adjacent property as provided by law and the Contract Documents. If any person suffers physical injury or property damage arising from the Work, regardless of the cause, the party shall immediately give notice of such injury or damage, whether or not insured, to the Owner and CM/GC with sufficient detail to enable the Owner and any other affected party to investigate the matter.

6.2.2 CM/GC shall take all necessary precautions for the safety of all personnel on the jobsite, 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. CM/GC 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. CM/GC shall designate a responsible employee or associate on the Project 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 Project Site safety. Project Site safety is solely the responsibility of CM/GC.

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

6.2.4 CM/GC is responsible for protection of adjacent work areas, including impacts brought about by activities, equipment, labor, utilities, and materials on the Project Site.

6.2.5 CM/GC 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.

6.2.6 In an emergency affecting the safety of life or of the Work or of adjoining property, CM/GC, 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 CM/GC on account of emergency work shall be determined in accordance with Section 4 of this Contract.

6.2.7 CM/GC shall protect and preserve established benchmarks and monuments and shall not change locations of benchmarks and monuments without the Owner or agency having the jurisdiction's prior written approval. CM/GC shall replace any benchmark or monument that is lost or destroyed, after proper notification of the Owner and with the Owner's approval, at CM/GC's sole cost.

6.2.8 Before commencement of the Work, CM/GC shall review the Project Site with the Owner in detail and identify the area of the Work, staging areas, connections or interfacing with existing structures and operations, and restrictions on the Project Site area. CM/GC shall

ensure that all workforces on the Project Site are instructed about the acceptable working and staging areas and restrictions on use of the Project Site. CM/GC, with advance consent of the Owner, shall erect such barriers and devices as are necessary to restrict access within the Project Site to authorized areas and to prevent unauthorized access to non-Work areas.

6.2.9 Utility Locates. CM/GC will be responsible to locate existing utilities and underground facilities that are indicated in the Contract Documents or that are known or should be known to exist in the proximity to the Work. CM/GC shall provide timely notice and locate requests with any affected utility or through contact with appropriate notification centers before commencing excavation or demolition Work that CM/GC knows, or should know, is in proximity to such utilities or facilities. CM/GC assumes the sole risk and will be responsible for all delay and expense arising out of CM/GC's failure to do so.

6.2.10 This Contract and all individual contracts and purchase orders incorporate, by this reference, the Owner's safety policies current as of the date of commencement of the Work, which have been or will be made available to CM/GC. CM/GC shall schedule and attend a preconstruction meeting with the Owner. CM/GC, as a condition to commencement of the Work, shall instruct all personnel of CM/GC and its Subcontractors, before their performing any of the Work, of the elements of these policies with which the personnel will be required to comply. A copy of CM/GC's safety program for the Project will be submitted as part of the formal submittal process to the Owner's Authorized Representative for review and comment.

6.2.11 In addition to the policies identified above, CM/GC shall review with all Subcontractors the methods, materials, tools, and equipment to be used to verify their compliance with all safety standards and laws, and CM/GC shall comply with them to ensure safe, hazard-free conditions for all persons visiting or working on the entire Project Site and the Owner's adjoining facilities. CM/GC shall implement and maintain a safety program that is specifically adapted for the Project and complies with all applicable requirements of the Oregon Occupational Safety and Health Division. CM/GC shall furnish a copy of the safety program to the Owner before commencing Work.

6.2.12 CM/GC shall maintain good housekeeping practices to reduce the risk of fire damage and shall make a fire extinguisher, fire blanket, and/or fire watch, as applicable, available at each location where cutting, braising, soldering, and/or welding is being performed or where there is an increased risk of fire.

6.2.13 CM/GC shall ensure that all existing or operating systems, utilities, existing on-site services, and access avenues are on and in operating condition before leaving the Project Site each day. If any system, utility, or access avenue is inoperative, CM/GC shall notify the Owner before CM/GC leaves the Project Site that day.

6.3 CUTTING AND PATCHING

6.3.1 CM/GC shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts properly come together and fit to receive or be received by work of other CM/GCs or Subcontractors shown upon, or implied by, the Contract Documents.

6.3.2 CM/GC 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 CM/GC shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

6.3.3 CM/GC shall not endanger any Work performed by it or anyone else by cutting, excavating, or otherwise altering Work and shall not cut or alter Work of any other contractor except with consent of the Owner.

6.4 CLEANING UP

CM/GC shall be responsible as part of the Contract Price to maintain a clean and orderly jobsite at all times in order to promote a safe and efficient work environment. Should the jobsite fall into a state of disorder, the Owner may order CM/GC to, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work and bring the jobsite to a state of cleanliness and order deemed satisfactory by the Owner's Authorized Representative. If CM/GC fails to do so within 24 hours after written notification by the Owner, the cleanup work may be done by others and the cost charged to CM/GC and deducted from payment due CM/GC. Any directive by the Owner's Authorized Representative shall not relieve CM/GC in any way or manner for the safety of the jobsite for construction workers or the public.

6.5 ENVIRONMENTAL CONTAMINATION

6.5.1 CM/GC will be held responsible for and shall indemnify, defend (with counsel of the Owner's choice), and hold harmless the 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 this Contract that occur as a result of or are contributed to by the negligence or actions of CM/GC 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), but only to the extent that such costs, expenses, claims, or causes of action result from (1) spills, releases, discharges, or leaks of hazardous substances brought on the project site, or produced on the project site, by CM/GC or its personnel, agents, or subcontractors; or (2) spills, releases, discharges, or leaks resulting from the CM/GC's or its personnel's, agents', or subcontractors' defective work, negligence, recklessness, or failures to perform in accordance with the contract documents. Nothing in this Section 6.5.1 shall limit CM/GC's responsibility for obtaining insurance coverages required under Section 7.3 of these General Conditions, and CM/GC shall take no action that would void or impair such coverages. To the extent Owner or its subcontractors bring hazardous substances to the project site or produce hazardous substances at the project site, the Owner shall indemnify and hold harmless the CM/GC from any such cleanup costs, fines, penalties, or other damages, unless the harm is caused by the CM/GC's, or its personnel's, agents', or subcontractors' defective work, negligence, recklessness, or failure to perform in accordance with the contract documents.

6.5.1.1 CM/GC agrees to promptly contain, minimize, and dispose of such spills, releases, discharges, or leaks to the satisfaction of the Owner and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Owner and be performed by properly qualified personnel.

6.5.1.2 CM/GC shall obtain the Owner's written consent before bringing onto the Project Site any (a) environmental pollutants or (b) hazardous substances or materials, as defined in Section 6.6.1 of this Contract. Notwithstanding such written consent from the Owner, CM/GC, at all times, shall:

6.5.1.2.1 responsibly manage, label, use, and dispose of all environmental pollutants and hazardous substances or materials brought onto the Project Site in accordance with all applicable federal, state, or local statutes, rules, or ordinances;

6.5.1.2.2 be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials that CM/GC has brought onto the Project Site; and

6.5.1.2.3 promptly clean up, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all applicable federal, state, or local statutes, rules, or ordinances.

6.5.1.3 With respect to hazardous materials to be used during the course of the Work, CM/GC will implement and enforce a program to inventory and properly store and secure all hazardous materials that may be used or present on the Project Site, maintain available for inspection at the Project Site all material safety data sheets, and comply with all regulations required by law for the storage, use, and disposal of hazardous materials. The program must provide for notification of all personnel of potential chemical hazards. Review of these hazards must be included in CM/GC's safety training program.

6.5.2 CM/GC shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities of hazardous substances are listed in the Code of Federal Regulations (CFR) (40 CFR § 302.4, tbl. 302.4), and in OAR Chapter 340, Division 108, for all products addressed therein. Upon discovery, regardless of quantity, CM/GC must telephonically report all releases to the Owner. A written follow-up report shall be submitted to the Owner within 24 hours of the telephonic report. Such written report shall contain, at a minimum:

6.5.2.1 Description of items released (identity, quantity, manifest number, and all other documentation required by law).

6.5.2.2 Whether quantity of items released is reportable to the United States Environmental Protection Agency (EPA) or Oregon Department of Environmental Quality (DEQ), and, if so, when it was reported.

6.5.2.3 Exact time and location of release, including a description of the area involved.

6.5.2.4 Containment procedures initiated.

6.5.2.5 Summary of communications about the release that CM/GC has had with members of the press or state officials other than the Owner.

6.5.2.6 Description of cleanup procedures employed or to be employed at the Project Site, including disposal location of spill residue.

6.5.2.7 Personnel injuries, if any, resulting from or aggravated by the release.

6.6 ENVIRONMENTAL CLEANUP

6.6.1 Unless disposition of environmental pollution is specifically a part of this Contract or was caused by CM/GC as described in Section 6.5 of this Contract, CM/GC shall immediately notify the Owner of any hazardous substance(s) that CM/GC 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 pt 261 and defined as hazardous in 40 CFR Section 261.3.

In addition to notifying the Owner of any hazardous substance(s) discovered or encountered, CM/GC 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 CM/GC's or any Subcontractor's workforce.

6.6.2 Upon being notified by CM/GC of the presence of hazardous substance(s) on the Project Site, the Owner shall arrange for the proper disposition of such hazardous substance(s).

6.6.3 Asbestos Abatement. The Work under this Contract may include removal and abatement of asbestos (and proper transportation and disposal). All such Work shall be performed in compliance with the Plans and Specifications if it is determined that Hazardous Materials need to be abated. This Work (if required) shall be performed by an asbestos abatement contractor licensed under ORS 468A.720, employing Oregon certified asbestos workers, and a certified asbestos supervisor shall be on site at all times during which asbestos abatement Work is being performed. All federal, state, and local laws, statutes, regulations, administrative rules, ordinances, standards, directives, and other legal requirements, and all rules and regulations pertaining to the safe removal of asbestos, including but not limited to those of DEQ, EPA, the Occupational Safety and Health Administration (OSHA), and other authorities having jurisdiction, shall be complied with at all times. CM/GC shall provide the

Owner with air sampling records (including clearance sampling documentation) before the commencement of any construction or abatement activities, as well as at completion of the asbestos abatement Work. CM/GC shall include these asbestos provisions and requirements in any subcontract(s) related to the asbestos abatement Work.

6.6.4 Lead and Other Hazardous Material Abatement. The Work under this Contract may also include removal and abatement (and proper transportation and disposal) of all other Hazardous Materials or substances (not covered by Section 6.6.3) from the Project Site as necessary for full legal compliance, including but not limited to lead. Proper identification, assessment, notifications, handling, testing, certifications, removal, transportation, and disposal are the responsibility of CM/GC. All applicable federal, state, and local laws, statutes, regulations, administrative rules, ordinances, standards, directives, and other legal requirements shall be complied with at all times, including but not limited to those of DEQ, EPA, and OSHA. All such Work shall be performed in compliance with the applicable Plans and Specifications being prepared by Architect.

6.7 SECURITY AND SITE BEHAVIOR

6.7.1 CM/GC, its officers, agents, and Subcontractors shall comply with the Owner's policies and requirements to obtain, display, and return identification badges at any time while they are present on the Owner's property. As required by Fairgrounds and other Owner locations, the Owner may require personnel to sign in before entering Owner properties.

6.8 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 prevent successful performance of this Contract.

7. **INDEMNITY, BONDING, AND INSURANCE**

7.1 RESPONSIBILITY FOR DAMAGES/INDEMNITY

7.1.1 CM/GC 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 CM/GC, its Subcontractors, personnel, or agents.

7.1.2 To the fullest extent permitted by law, CM/GC shall indemnify, defend (with counsel approved by the Owner) and hold harmless the Owner, the Owner's Authorized Representative, the Owner's third-party consultants and contractors working on the Project Site, 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 arising out of, result from, or are related to:

7.1.2.1 any damage, injury, loss, expense, inconvenience, or delay described in this Section 7.1.2 to the extent that CM/GC could or should have prevented it;

7.1.2.2 any accident or occurrence that 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 before the time the Work is fully completed in all respects to the extent that this Contract could or should have reasonably prevented it;

7.1.2.3 any failure of CM/GC to observe or perform any duty or obligation under the Contract Documents that is to be observed or performed by CM/GC, or any breach of any agreement, representation, or warranty of CM/GC contained in the Contract Documents or in any subcontract;

7.1.2.4 the negligent acts or omissions of CM/GC, 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 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

7.1.2.5 any lien filed on 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 that would otherwise exist as to a party or person described in this Section 7.1.2.

7.1.3 In claims against any person or entity indemnified under Section 7.1.2 by an employee of CM/GC, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 7.1.2 shall not be limited by a limitation on amount or type of damages, compensation, or benefits

payable by or for CM/GC or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.1.4 Notwithstanding anything to the contrary in this Section 7, CM/GC is not required to indemnify the Owner and its employees, directors, officers, agents, and representatives for, from, and against liability for damage arising out of death or bodily injury to persons or damage to property caused in whole or in part by the negligence or willful misconduct of the Owner and its employees, directors, officers, agents, and representatives, but CM/GC is required to indemnify the Owner and its employees, directors, officers, agents, and representatives for, from, and against liability for damage arising out of death or bodily injury to persons or damage to property to the extent that the death or bodily injury to persons or damage to property arises out of the fault of CM/GC, or the fault of CM/GC's agents, representatives, or Subcontractors.

7.1.5 The indemnities and other covenants of this Section 7 shall survive the termination of the Contract.

7.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND

7.2.1 CM/GC will provide performance and payment bonds as required by this Contract.

7.2.2 Bond forms furnished by the Owner and notarized by awarded CM/GC'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.

7.2.3 Notice of claims will be filed as provided in Section 4.5

7.2.4 CM/GC will file the required public works bonds as provided in Section 17(l)(xiv) of the CM/GC Construction Contract.

7.3 INSURANCE.

See the Requirements in Exhibit D of the CM/GC Construction Contract.

8. **SCHEDULE OF WORK**

8.1 CONTRACT PERIOD

8.1.1 Time is of the essence on this Contract. CM/GC shall at all times diligently perform the Work with required crew sizes, without delay, and punctually fulfill all

requirements herein. CM/GC shall commence Work on the Project Site within ten business days of Notice to Proceed, unless directed otherwise.

8.1.2 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 to the extent such overtime is not required to achieve Substantial Completion. Such accelerated Work shall be subject to the Change Order process of Section 4.1. If overtime or other acceleration is required to achieve the Substantial Completion date in the Contract Documents, CM/GC shall be responsible for the additional cost.

8.1.3 Failure to complete the Work within the stipulated Contract Time may result in delay damages and Owner assessment of liquidated damages or other remedies as set forth in the Contract.

8.1.4 The Owner shall not waive any rights under this Contract by permitting CM/GC to continue or complete the Work or any part of it after the date described in Section 8.1.2, above.

8.2 SCHEDULE

CM/GC shall provide, by ten business days before the preconstruction conference, a detailed master construction schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by significant Project components, significant labor trades, and long lead items, categorized by building and/or floor where applicable. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. Included within the schedule are the following: Notice to Proceed, any interim or phased-work completions, Substantial Completion, and Final Completion. Schedules will be updated monthly and submitted with the monthly payment application. When requested by Owner's Authorized Representative, CM/GC shall update the schedule to account for any approved changes in the Work and/or changed conditions. Acceptance of the master construction schedule by the Owner does not constitute agreement by the Owner as to CM/GC's sequencing, means, methods, or allocated Contract Time. Any positive difference between CM/GC's scheduled completion and Final Completion is float owned by CM/GC, with the exception of float included for weather delays. In no case shall CM/GC make a request for additional compensation for delays if the Work is completed within the Contract Time but after CM/GC's scheduled completion. CM/GC must notify the Owner if float is going to be used in any adjustment to the Master Schedule.

8.3 PARTIAL OCCUPANCY OR USE

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 CM/GC 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 CM/GC to partial occupancy or use shall not be unreasonably withheld. Immediately before such partial occupancy or use, the Owner and CM/GC 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.

8.4 BENEFICIAL OCCUPANCY OR USE

The Owner may take possession of areas of the Project as a part of a scheduled, phased occupancy. Where such Beneficial Occupancy occurs, CM/GC shall facilitate such occupancy, shall agree to work around occupied areas and shall conduct the balance of the construction of the Work in a fashion that avoids impeding or otherwise obstructing the access to or activities conducted within the occupied space.

9. **CORRECTION OF WORK**

9.1 CORRECTION OF WORK BEFORE FINAL PAYMENT

CM/GC warrants to the Owner that materials and equipment furnished under this 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. CM/GC 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 CM/GC shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. CM/GC shall be allowed a period of no longer than 60 calendar days

for completion of defective (punch list) work, unless otherwise agreed. At the end of that period, or earlier if requested by CM/GC, the Owner shall arrange for inspection of the Work by Architect/Engineer. Should the Work not be complete, and all corrections made, the costs for all subsequent reinspections shall be borne by CM/GC. If CM/GC fails to complete the punch list work within the above time period, without affecting CM/GC's obligations the Owner may perform such work and CM/GC shall reimburse the Owner all costs of the same within 25 days after demand through the implementation of a deductive Change Order.

9.2 WARRANTY WORK

9.2.1 CM/GC shall perform the Work in a workmanlike manner and in strict accordance with the Contract Documents and industry standards. The following are the minimum warranty requirements.

9.2.2 CM/GC shall promptly correct, at no cost to Owner, all Work rejected by Owner and all Work rejected by such government representatives. CM/GC warrants to Owner that the materials and equipment furnished under this Contract will be of good quality and new, unless otherwise required by the Contract Documents, that the Work will be free of defects, and that the Work will strictly conform to the Contract Documents and industry standards

9.2.3 Neither the final certificate for payment nor any provision of the Contract Documents shall relieve CM/GC from responsibility for defective Work and, unless a longer period is specified, CM/GC 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 CM/GC at any time they become apparent. When Beneficial Occupancy is established for any portion of the Work, the warranty period for that portion of the Work and the systems that support that portion of the Work begins at the time of notice of Beneficial Occupancy.

9.2.4 The Owner shall give CM/GC notice of defects with reasonable promptness. CM/GC shall perform such warranty work within a reasonable time after the Owner's demand. CM/GC shall perform warranty work with least impact to Owner use / operations. CM/GC shall obtain and pay for any and all permits required for warranty work. If CM/GC fails to complete the warranty work within such period as the Owner determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, without affecting CM/GC's obligations the Owner may perform such work and CM/GC shall reimburse Owner all costs of the same within 30 days after demand.

9.2.5 This provision does not negate guarantees or warranties for periods longer than two years, including without limitation such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment, or fixtures.

9.2.6 In addition to CM/GC'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. CM/GC shall collect and submit to Owner, as a condition to Final Payment, all standard and special warranties from Subcontractors, distributors, and manufacturers, and assign to Owner all rights under such warranties. All of the warranties above are in addition to, and not in lieu of, other remedies Owner may have, all of which are fully reserved by Owner

9.2.7 Notice from Owner of such defects shall toll the two (2)-year warranty period, which shall reset to two (2) years for CM/GC correction of Work shall be extended with respect to portions of Work performed after Substantial Completion or Beneficial Occupancy by the period of time between Substantial Completion or Beneficial Occupancy and the actual performance of the Work and shall be extended by corrective Work performed by CM/GC under this section as to the Work corrected. CM/GC shall remove from the Project Site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by CM/GC nor accepted by the Owner.

9.2.8 Nothing contained in this Section 9.2 shall be construed to establish a period of limitation with respect to other obligations that CM/GC might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section 9.2 relates only to the specific obligation of CM/GC 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 CM/GC's liability with respect to CM/GC's obligations, other than specifically to correct the Work.

9.2.9 If the Owner prefers to accept Work that 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 made whether or not final payment has been made.

10. SUSPENSION AND/OR TERMINATION OF THE WORK

10.1 OWNER'S RIGHT TO SUSPEND THE WORK

10.1.1 The Owner and/or the Owner's Authorized Representative has the authority to suspend portions or stop all of the Work Due to any of the following causes:

10.1.1.1 Failure of the CM/GC to correct unsafe conditions;

10.1.1.2 Failure of the CM/GC to carry out any provision of the Contract;

10.1.1.3 Failure of the CM/GC to carry out orders;

10.1.1.4 Failure to comply with permit requirements and inspections;

10.1.1.5 Conditions, in the opinion of the Owner's Authorized Representative, which are unsuitable for performing the Work;

10.1.1.6 Time required to investigate differing site conditions, perform any environmental investigation or work; or

10.1.1.7 Any reason considered to be in the public interest.

10.1.2 The Owner shall notify CM/GC and CM/GC's surety in writing of the effective date and time of the suspension and shall notify CM/GC and its surety in writing to resume Work.

10.2 CM/GC'S RESPONSIBILITIES

10.2.1 During the period of the suspension, CM/GC is responsible to continue maintenance at the Project 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 cleanup.

10.2.2 When the Work is recommenced after the suspension, CM/GC 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.

10.3 COMPENSATION FOR SUSPENSION

10.3.1 Depending on the reason for suspension of the Work, CM/GC or the Owner may be due compensation by the other party. If the suspension was required due to acts or omissions of CM/GC, the Owner may assess CM/GC actual costs of the suspension in terms of administration, remedial work by the Owner's forces or another CM/GC 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, CM/GC shall be due compensation, which shall be defined using Section 4, Changes in the Work. If the suspension was required through no fault of CM/GC or the Owner, neither party owes the other for the impact.

10.4 OWNER'S RIGHT TO TERMINATE CONTRACT

10.4.1 The Owner may, without prejudice to any other right or remedy, and after giving CM/GC five business days' written notice and an opportunity to cure, terminate this Contract in whole or in part under the following conditions:

10.4.1.1 If CM/GC should voluntarily or involuntarily seek protection under the United States Bankruptcy Code, and CM/GC, as debtor-in-possession or the trustee for the estate, fails to assume this Contract within a reasonable time;

10.4.1.2 If CM/GC should make a general assignment for the benefit of CM/GC's creditors;

10.4.1.3 If a receiver should be appointed on account of CM/GC's insolvency;

10.4.1.4 If CM/GC should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to perform the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;

10.4.1.5 If CM/GC should repeatedly fail to make prompt payment to Subcontractors or for materials or labor, or should disregard laws, ordinances, or the instructions of the Owner or its Authorized Representative; or

10.4.1.6 If CM/GC is otherwise in material breach of any part of this Contract.

10.4.2 At any time that any of the above occurs, the Owner may exercise all rights and remedies available to the Owner at law or in equity, and, in addition, the 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, CM/GC 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, CM/GC shall pay the difference to the Owner.

10.4.3 If a termination under this Section 10.4 of the General Conditions is later determined to be unsupported, the termination will be converted to a termination for convenience under Section 10.5 of these General Conditions.

10.5 TERMINATION FOR CONVENIENCE

10.5.1 The Owner may terminate this Contract in whole or in part whenever the Owner determines that termination of this Contract is in the best interest of the public.

10.5.2 The Owner will provide CM/GC with five business days' prior written notice of a termination for public convenience. After such notice, CM/GC shall provide the Owner with immediate and peaceful possession of the premises and materials located on and off the premises for which CM/GC received progress payment under Section 5. Compensation for Work terminated by the Owner under this provision will be according to Section 5. In no circumstance shall CM/GC be entitled to lost profits for Work not performed due to termination.

10.6 ACTION UPON TERMINATION

10.6.1 Upon receiving a notice of termination, and except as directed otherwise by the Owner, CM/GC shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, unless assigned as provided in Section 10.6.4, below, CM/GC 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.

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

10.6.3 CM/GC and all Subcontractors shall, promptly quit all Work, demobilize and vacate the project site..

10.6.4 CM/GC shall reach binding agreement with the Subcontractor's, before CM/GC can submit to Owner final pay application along with supporting detail per Section 5.

10.6.5 Owner is only liable for reasonable settlement costs between CM/GC and Subcontractors. Reasonable settlement costs do not include the Subcontractor's anticipated profits on unperformed work, any loss of work or consequential damages or other similar costs.

10.6.6 In Owner's sole discretion, CM/GC shall assign to Owner each subcontract agreement for a portion of the Work provided that: (a) assignment is effective only after termination of this Contract by the Owner for cause or stoppage of the Work by the Owner,

and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and CM/GC in writing; and

(b) assignment is subject to the prior rights of the surety, if any, obligated under bond relating to this Contract. Upon such assignment, if the Work has been suspended for more than 30 days, the Owner shall equitably adjust Subcontractor's compensation for increases in cost resulting from the suspension.

10.6.7 CM/GC shall above with all other instructions by Owner.

11. CONTRACT CLOSE OUT

11.1 SUBSTANTIAL COMPLETION DOCUMENTATION.

In addition to other requirements specified in the contract, the following deliverables are required in order for Substantial Completion to be achieved:

11.1.1.1 A written punch list of known outstanding or corrective work has been prepared by the CM/GC and submitted at least a week prior to Substantial Completion so that the Owner can prepare a supplemental punch list;

11.1.1.2 Both O&M Manuals and Record Documents have been submitted to the County for review;

11.1.1.3 The Authority Having Jurisdiction has granted a certificate of occupancy;

11.1.1.4 Have all training sessions scheduled with County staff;

11.1.1.5 Final clean has been completed.

11.2 RECORD DOCUMENTS

As a condition of final payment (refer also to Section 5.6), CM/GC shall comply with the following: CM/GC shall provide Record Documents of the entire Project to the Owner's Authorized Representative. Record Documents shall depict the Project as constructed and shall reflect each and every change, modification, and deletion made during construction. Record Documents are part of the Work and shall be provided before the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed.

11.3 OPERATION AND MAINTENANCE MANUALS

As part of the Work, CM/GC shall submit completed operation and maintenance manuals ("O & M Manuals") in electronic format (.pdf) for review by the Owner's Authorized Representative. The O & M Manual shall contain a complete set of all submittals; all product data as required by the Specifications; training information; phone list of consultants, manufacturers, installers, and suppliers; manufacturer's printed data; record and Shop Drawings; schematic diagrams of systems; appropriate equipment indices and warranties; and bonds. The Owner's Authorized Representative shall review and return an electronic copy of the O & M Manual for any modifications or additions required. Before submission of its request for final payment, CM/GC shall deliver three complete and approved bound paper copies of the O & M Manual and one electronic copy delivered in either compact disc or flash drive format to the Owner's Authorized Representative.

11.4 AFFIDAVIT/RELEASE OF LIENS AND CLAIMS

As a condition of final payment, CM/GC shall submit to the Owner's Authorized Representative a notarized affidavit/release of liens and claims form, in a form satisfactory to the Owner, stating 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 CM/GC's knowledge, there are no claims of any kind outstanding against the Project. CM/GC shall indemnify, defend (with counsel of the Owner's choice), and hold harmless the Owner from all claims for labor and materials furnished under this Contract. CM/GC 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. CM/GC shall collect all affidavit and lien release documents to deliver to the Owner in a single, consolidated package.

11.5 COMPLETION NOTICES

11.5.1 CM/GC shall provide the Owner with notice of Beneficial Occupancy, Substantial Completion, and Final Completion. The notice of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and CM/GC for security, maintenance, heat, utilities, damage to the Work, and insurance, and the time within which CM/GC shall finish all items on the punch list accompanying the notice of Substantial Completion. Beneficial Occupancy and both completion notices must be signed by CM/GC and the Owner to be valid. The Owner shall provide the final signature on the notices. The notices shall take effect on the date the Owner signs them.

11.5.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, and HVAC) shall be that degree of completion that has provided a minimum of 30 continuous days of successful, trouble-free operation with normal operational staffing experience and levels, 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 intended manner, shall be complete on the Substantial Completion date. CM/GC may request that a punch list be prepared by the Owner's Authorized Representative with submission of the request for the Substantial Completion notice. In cases of Beneficial Occupancy, the 30-day operating period before the issuance of the notice may be waived by the Project Manager at the County's sole discretion.

11.6 TRAINING

As part of the Work, and before submission of the request for final payment, CM/GC shall schedule training sessions for all equipment and systems with the Owner's Authorized Representative, as required in the individual specifications sections. CM/GC shall schedule training sessions at least ten business days 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.

11.7 EXTRA MATERIALS

As part of the Work, CM/GC shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the Specifications before final payment. Delivery point for extra materials shall be designated by the Owner's Authorized Representative.

11.8 ENVIRONMENTAL CLEANUP

As part of the notice of Final Completion, or as a separate written notice submitted with or before the notice of Final Completion, CM/GC shall notify the Owner that all environmental pollution that was cleaned up 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 6.5.1, above.

11.9 CERTIFICATE OF OCCUPANCY

CM/GC 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 the Owner.

11.10 OTHER CM/GC RESPONSIBILITIES

CM/GC shall be responsible for returning to the Owner all items issued during performance of the Work, such as keys, security passes, identification badges, and all other pertinent items. CM/GC shall be responsible for notifying the appropriate utility companies to transfer utility charges from CM/GC 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 Occupancy of the facility and CM/GC's forces continue with the Work.

11.11 SURVIVAL

All warranty and indemnification provisions of this Contract, and all of CM/GC'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 this Contract.

Attachment D

Lincoln County Commons Project

Newport, Oregon, January 2026

Project Scope Outline

The goal of this project is to create a space that can be used year-round for the community with a focus on the County Fair. Please note that the master plan and scope listed below are an approximation which the County reserves the right to make changes.

- 1) Project Budget approx. \$17M, Construction Budget approx. \$12M, construction start summer 2026, construction end approx. summer/fall 2027
- 2) New Multipurpose Building to replace existing Main Hall(pg.3 #2) (approx. 15,000sqft)
 - a. In extremely poor condition and will need to be removed and rebuilt. The location is also in a position that adversely affects site development.
- 3) New, partially covered pavilion to replace indoor and outdoor Arena facilities (approx. 24,000sqft)
 - a. Riding arena – poor condition, not structurally sound and overgrown(pg.3 #6)
 - b. 4H/Livestock Barn – exterior envelope replace. Additional work TBD.
 - c. 4H Building – demolished and removed
 - d. Outdoor Arena – Goal is to relocate to north end of site where the soil is not appropriate for building on. This will need an in-depth look as building a covered pavilion is in play which soil compatibility will effect final placement. (pg.3 #9)
- 4) Renovated Floral Building (approx. 5000sqft)(pg.3 #4)
 - a. Has already been demolished.
- 5) Rabbit Barn/Storage Shed (pg.3 #5)
 - a. Gone. Utilities capped or abandoned.
- 6) New gateway feature to the commons (pg.4 #16)
 - a. This will be a standout point that welcomes visitors in as well as providing security. The entire site will also need updated fencing and security (i.e. possible lighting, cameras, electronic locks, etc). The fencing will also need to be designed in a way to allow the ability to open parts of the site at a time to maximize the ability of the community to use it.

- 7) New stage (pg. 4 #8)
 - a. Will be most likely be mobile and be OFOI
 - b. Add a sunken amphitheater to the site.
- 8) New outdoor plaza (pg. 4 #12)
 - a. The space will be designed to withstand vehicles such as food trucks or overflow parking. Proper drainage and reinforcement will be key to ensure no sinking or standing water through the rainy seasons. The plaza will be a multiuse space between all site buildings that can be used year-round.
- 9) Food cart pavilion. (pg. 4 #13ish)
 - a. Currently the idea is to put it where the existing 4-H building is with special fencing and gate access for the students on their lunch break. This will require its own waste, water, and power hookups.
- 10) Complete update of landscaping for community events and outdoor activities. (see pg.4 master plan for approximation)
 - a. This includes grass as well as trees, shrubs, irrigation systems, and integrated storm water plants/layouts. Seating, pathways, and possible community artwork such as sculpture or murals should be considered also.
- 11) Update/Addition of Parking Lots (see pg.4 master plan for approximation)
 - a. Layout, drainage, use, traffic flow, and landscaping should all be considered.
 - b. No work on east side of NE Harney St. at this time.
- 12) Site Utilities
 - a. Updated power, water, and sewer lines will need to be planned to better serve the updated site. Possible use of existing utilities but expect larger requirements as increased infrastructure is needed to grow with the new site.
- 13) Other design components to be developed once AE is on board.

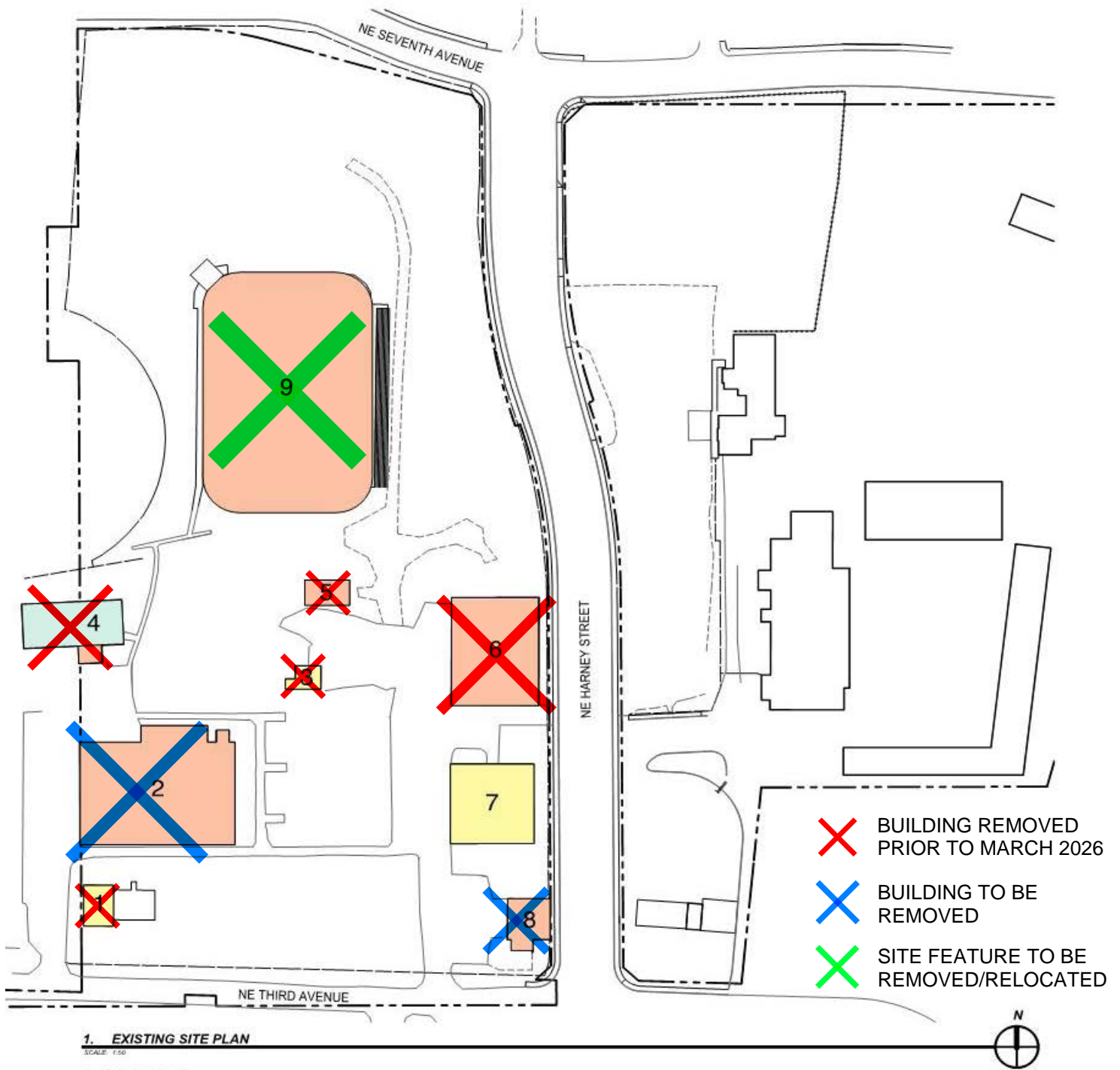


Figure 3. Lincoln County Commons Existing Conditions

KEY NOTES

SITE IMPROVEMENTS

- ① PAVILION BUILDING
Initial Phase - 20,000 SF
Future Addition - 15,000 SF
- ② MULTI-PURPOSE BUILDING
Initial Phase - 15,000 SF
Future Addition - 6,000 SF
- ③ STORAGE AREA
- ④ PARKING LOT - 130 TOTAL SPACES
- ⑤ PARKING LOT - 60 TOTAL SPACES
- ⑥ PARKING LOT - 104 TOTAL SPACES
- ⑦ ADA PARKING SPACE - TYP.
- ⑧ STAGE
- ⑨ COMMON GREEN
Open Space / U12 Youth Soccer
- ⑩ PICNIC AREA
Open Space / Play Area
- ⑪ OPEN SPACE
Overflow Parking / U10 Youth Soccer
- ⑫ PLAZA
Overflow Parking
- ⑬ FOOD COURT
- ⑭ VEHICLE GATE
- ⑮ PEDESTRIAN GATE
- ⑯ GATEWAY ENTRY FEATURE
- ⑰ SEATWALL
- ⑱ FEATURE COLUMNS - TYP.
- ⑲ PERMANENT FENCING
- ⑲ REMOVEABLE FENCING
- ⑲ LANDSCAPE PLANTING
- ⑲ TREES - PROPOSED
- ⑲ ACCENT TREES - PROPOSED
- ⑲ SCREEN PLANTING - TYP.
- ⑲ TRASH ENCLOSURE
- ⑲ SCREEN PLANTING AT TRASH ENCLOSURE
- ⑲ STORMWATER PLANTING - TYP.
- ⑲ PERVIOUS PAVEMENT - TYP.



I see no need for us to turn off water or power for them.
Something to verify where service lines run.

Power and Water:

There is currently power and water in the Barn, we would need to have access to both during Fair.

There is power and water in the Rodeo Arena, at this time, I am not sure if it is turned on or off. We can make the event work without power or water, but if it is available we would like access.

There are 10 minions that run along the Northeast corner (see arrow). We typically use these as RV sites during a normal year, but I may need them for the Carnival, at minimum access to water.

Ingress/Egress

We would need access to the yellow gates (3, 4 and 5).

No issue. Temporary
fence will keep it
separate without issue.

We have enough panels to create temporary fencing for the Rodeo arena and to go around the Barn to restrict access to the rest of the grounds.

The Exhibit Hall is currently where all of our equipment is stored: tractors and implements, paneling, tables and chairs, large tents, picnic tables, and miscellaneous supplies. We would need access to move everything out the week of Fair (June 28-July 6) and use the tractors to prep the arena. Only staff and volunteers would need access for prepping, we will not be using this for the event.

Panels mowers etc are stored in main hall. Tractor and mower are first use items to rip the dirt

LC Commons | Schedule- DRAFT



Date of Update: March 9, 2026

Primary Column	Start	Finish	Duration	% Complete	2026												2027											
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1																												
2	DPM Company, LLC	12/08/25	12/08/25	0	100%																							
3																												
4	AE Procurement	12/29/25	03/11/26	53d	95%																							
5	RFP/Selection	12/29/25	03/11/26	53d	95%																							
6																												
7	CONSULTANTS- Procurement	02/14/26	03/03/27	274d	16%																							
8	Geotech- Foundation Engineering, Inc.	02/17/26	05/21/26	68d	80%																							
9	Special Inspection- TBD	07/03/26	03/03/27	174d																								
10	Hazmat/Environmental- Apex/PBS	02/14/26	04/24/26	51d	25%																							
11	Traffic- Under LRS	04/13/26	05/06/26	18d																								
12	Survey- Central West/Verdantas?	03/10/26	06/10/26	67d	10%																							
13	Commissioning Agent- TBD	06/11/26	10/14/26	90d																								
14																												
15	DESIGN	03/11/26	07/30/27	363d																								
16	Pre-Design	03/11/26	04/07/26	20d																								
17	Schematic Design (SD)	04/07/26	05/25/26	35d																								
18	Design Development (DD)	05/25/26	07/17/26	40d																								
19	Construction Documents (CD)	07/17/26	09/24/26	50d																								
20	Construction Administration (CA)	08/03/26	07/30/27	260d																								
21	Permitting	07/01/26	09/08/26	50d																								
22																												
23																												
24	CM/GC	02/19/26	11/24/26	199d	7%																							
25	Exemption Process	03/01/26	03/19/26	14d	75%																							
26	Findings of Fact Public Review	03/01/26	03/18/26	14d	75%																							
27	Public Hearing/Resolution	03/19/26	03/19/26	0																								
28	CM/GC RFP Development	02/19/26	04/06/26	33d	25%																							
29	RFP Issuance and Selection	04/06/26	05/15/26	30d																								
30	Contract Negotiations	05/15/26	05/28/26	10d																								
31	Preconstruction Period	06/01/26	08/21/26	60d																								
32	Early Work Amendment (EWAs) #1- Long Lead Procurement	07/03/26	07/30/26	20d																								
33	Early Work Amendment #2- Site	07/22/26	11/24/26	90d																								
34	Bid/Buyout Process	08/14/26	09/17/26	25d																								
35	GMP Established	09/01/26	09/01/26	0																								
36	CONSTRUCTION	09/10/26	12/31/27	342d																								
37	Mobilization	09/10/26	09/10/26	0																								
38	Construction	09/10/26	11/19/27	312d																								
39	Phase 1- Rodeo Grounds/Temp Vendor Plaza	09/10/26	06/23/27	205d																								
40	Substantial Completion- Phase 1	06/23/27	06/23/27	0																								

ATTACHMENT E

Pre-Construction Phase Services Scope of Work (Phase 1)

The following services shall be provided as a part of the Pre-Construction Phase Services (Phase 1) for the Project. Services shall pertain throughout the Pre-Construction Phase of the Project, regardless of how they are segregated within this Attachment. Construction Manager / General Contractor (CM / GC), in conjunction with Lincoln County ("County"), Architect and Project Manager shall coordinate timing, duration and extent to which Pre- Construction Services are carried out in support of the Project.

The CM / GC will proceed with these services, based upon direction provided by the County, in cooperation with the County, Architect and Project Manager. Compensation will be based upon time and material basis using the hourly billing rates included in the CM / GC's proposal. This list is in conjunction with other duty lists contained in the RFP and contract documents.

1. General

- A. Meet with County, Architect and Project Manager as requested by the County.
- B. Proceed with any Preconstruction Phase services required by the County.
- C. Consult with, advise, assist, and provide recommendations on all aspects of planning and design.
- D. Work with the County, Architect, Project Manager and others identified by the County (permitting agencies, etc.) throughout the design process to understand the interrelationships between project systems, provide recommendations, functional evaluations, cost comparisons and assessments to assist the County, Architect and Project Manager.
- E. Review all available information pertaining to the Project and become familiar with all reports including but is not limited to the following:
 1. Survey
 2. Hazardous material
 3. Utility
 4. As-Built and/or other record documents
 5. Americans with Disabilities Act
 6. Seismic
 7. Building Commissioning
 8. Building Envelope Commissioning
 9. Traffic
 10. Geotech
 11. Special Inspections
 12. Other project related reports by owner or team member
- F. Review Schematic Design information and become familiar with existing design efforts and progress and provide review comments resulting from the review
- G. Conduct site reviews to become familiar with Project existing conditions.
- H. Review construction budget and make recommendations to accommodate current market trends.
- I. Review and understand County's Design Standards and County Rules of procurement if they are in effect.
- J. Provide a Preconstruction Work Plan.
- K. Prepare phasing work plans around adjacent high school and city street, utility, sidewalk projects
- L. Prepare phased schedule to accomplish County goals of partial fair/rodeo opening in June 2027 and remaining project by end of 2027.

2. Schematic Design Phase

- A. Provide Schematic Design estimate of construction cost. CM/GC shall reconcile with design estimates to adequately compare.
- B. Provide recommendations to reconcile estimate with budget.
- C. CM / GC shall maintain a log which delineates all bid document modifications necessary to reconcile the

- estimate of construction cost with the budget.
- D. Provide design review comments for constructability, material and system total-cost-of-ownership, procurement, pedestrian and vehicle access, project phasing and safety.
- E. Review Master Plan and Schedule and provide recommendations.
- F. Develop a phasing plan which may including early or separate work packages and assist Architect in developing bid documents and temporary construction requirements.
- G. Provide Subcontractors as required for Pre-Construction Services.
Trade partner analysis shall be provided to justify the use of trade partnering at owner and team's review and approval
- H. Conduct explorations of existing systems, structures, finishes, etc., to fully understand the existing facility and systems.
- I. Confirm as-built conditions (critical dimensions, demarcation point locations, interface requirements for connections to systems, structures to remain, etc.
- J. Provide patches/covers to areas where destructive testing was required to the satisfaction of the County.
- K. CM / GC shall maintain a log which delineates all bid document modifications necessary to reconcile the estimate of construction cost with the budget. Utilize Bluebeam, SmartSheet or other PMIS system the owner requires.
- L. With County initiate and / or support coordination and communication with agencies having jurisdiction. Create a log of each agencies requests.

3. Design Development Phase

- A. Prepare and update throughout the remaining phases, a site logistics / construction phasing plan for review and approval by the County.
- B. Provide estimates of construction cost and reconcile with AE estimates.
- C. Provide recommendations to reconcile estimate with budget.
- D. Identify significant differences affecting the estimate compared to the Schematic Design estimate.
- E. Participate and lead value engineering throughout the Construction Document Phase.
- F. Provide design review comments, through the Construction Document Phase, for constructability, material and system total-cost-of-ownership, procurement, pedestrian and vehicle access, project phasing and safety.
- G. Back-check review comments for constructability, etc., to ensure issues have been addressed.
- H. Identify significant differences between the Schematic Design and Design Development Submittals affecting budget and schedule.
- I. Lead clash detection and other virtual design and construction related activities with assistance from Architect through the Construction Document Phase.
- J. Participate and provide input throughout the design process, including the Construction Document Phase, with the Architect and Architect's Subconsultants to ensure anticipated construction means and methods can be achieved with the final design documents.
- K. Develop and facilitate, through the Construction Document Phase, Subcontractor and vendor outreach efforts to generate local market interest and to Disadvantaged, Minority, Women and Emerging Small Businesses.
- L. Develop and facilitate subcontractor outreach efforts, through the Construction Document Phase, to generate opportunities for County subcontractors and vendors, providing learning opportunities and providing mentorship opportunities.
- M. Assist County as required to facilitate community outreach, education and information sessions.
- N. Provide all necessary field investigation work (Special Testing and Inspection Services, Equipment, etc.) required to fully understand the scope of work for both site and building conditions. Note - All public facing finishes shall be made fully safe and/or returned to their original condition prior to the space being returned to public use.
- O. Provide a preliminary Guaranteed Maximum Price with full documentation of costs, allowances, contingencies and other costing information as well as qualifications, exclusions, etc. for County review.
- P. Develop Master Construction Schedule that completely describes the strategy and details for County review. Show critical path and associated logic data.

- Q. Develop detailed phasing and sequencing plans for incorporation into bid packages.
- R. Prepare for the County's review, a procurement schedule for items that must be ordered in advance of the start of construction.
- S. Coordinate the ordering and delivery of items that must be ordered in advance of the start of construction based upon direction provided by County. This could become an early procurement package.

4. Construction Documents Phase

- A. Develop and align Subcontracting bid packages with Master Construction Schedule and preliminary Guaranteed Maximum Price
- B. In conjunction with Architect and Project Manager provide recommendations for reconciling the preliminary Guaranteed Maximum Price with the scope of work.
- C. Complete estimates of construction cost at the 50% and 90% completion points and others required by Target Value Design (TVD) principles.
- D. Provide recommendations to reconcile estimates with budget with the assistance of Architect and Project Manager.
- E. Develop a estimate(s) of construction in a format to allow a direct comparison with the anticipated bids.
- F. Identify significant differences between the Design Development and Construction Document estimates of construction cost.
- G. Develop a GMP for County review and at a point in pre-construction designated by the Owner.
- H. Value Engineering. Note - Substantial changes to previous County approvals may be considered additional services by the Architect and may adversely impact the schedule. The CM / GC will endeavor to make recommendations that achieve the budget, schedule and quality expectations while remaining consistent with previous direction.
- I. Back-check previous Design Development and 50% Construction Document recommendations to ensure issues have been addressed.
- J. Identify significant differences between the Design Development and Construction Document submittals affecting budget and schedule.
- K. Review all hazardous materials survey reports and bidding documents and coordinate all abatement for the project.
- L. Work closely with County Team including athletics department heads to ensure proper coordination of all on site activities for safety of students, faculty and public.
- M. Utilize GMP Contingency Spend Down Log via SmartSheet or other PMIS system agreed to be team or deemed required by County to manage all changes withing the GMP, see RFP and base contract for management definitions.

5. Land Use and Permitting

- A. Assist County in obtaining land use approvals, building permits, various inspections and permitting as required

6. General Subcontractor Bidding

- A. Manage Subcontractor bidding process with a lowest responsible bid strategy with best value presented to the County. Trade partnering shall be pre-approved by County and an analysis to justify first presented to County for review and approval if CM/GC recommends Trade Partnering.
- B. Coordinate pre-bid conferences, bid day specific requirements and facilitate bid package review by County, Architect and Project manager.
- C. CM / GC shall publicly advertise, actively solicit bids from Subcontractors and accept all bids.
- D. Solicitation of Subcontractors bids will be made pursuant to the following procedures:
 - 1. Solicitations must be advertised at least fourteen (14) calendar days in advance in the Daily Journal of Commerce. DJC Advertisement shall run a minimum of 5 publication days.
 - 2. CM / GC must obtain at least three (3) competitive bids for each Subcontractor's scope of work. If less than three (3) bids are received the County may require the rebidding of this element of work.
 - 3. If CM / GC intends to provide a bid for any element of work, the bid must be provided to the County twenty four (24) hours in advance of the established bid date and time.
 - 4. Project Manager will be present where the bids are received until such time that a complete

- preliminary bid list has been assembled.
5. Prior to leaving the CM / GC 's, the CM / GC will provide to the County representative, copies of all bids and indicate on the bid tabulation sheet which bids appear to be complete.
- E. Provide County with recommendations for Subcontractor, Manufacturer, Vendor, etc. award:
1. Provide a summary of bids received including allowances allow for a direct comparison of individual bids. Summary should show GMP line item associated with that bid line item such that County and team can easily distinguish between budgeting amounts in the GMP and bid amounts, prior to normalization of bids.
 2. Identify which bids are not complete and provide rationale and documentation requested by County.
 3. Provide a bid tabulation sheet which identifies the lowest responsive bidder for each element of work.
 4. Provide a recommendation for the award of the individual elements of work. Note – The County has the final approval authority for all awards.
 5. All buyout savings revert back to owner who may wish to increase GMP contingency or realize as GMP savings. County will be involved in all CM/GC buy-out process and selection.

Attachment F

Price Proposal

From section E in RFP.

Preconstruction Fee _____

Fee% _____

General Conditions_____