ARTICLE 0: INSTRUCTIONS TO GC/CM PROPOSERS

0.1 Explanation to Prospective Proposers

Any prospective proposer desiring an explanation or interpretation of the solicitation, specifications, RFQ, RFFP, etc., must make a request in writing to the Facility Professional Services project manager no later than seven (7) days before the bid due date. Oral explanations or instructions given before the award of a contract will not be binding. Any information given to a prospective proposer concerning a solicitation will be furnished promptly to all other prospective proposers as an addendum to the solicitation, if the information is necessary to submitting bids or if the lack of it would be prejudicial to other prospective proposers.

0.2 Preparation of GC/CM Final Price Proposal Form

The proposer shall include the following in their bid:

- GC/CM Fee percentage
- Specified general conditions work

The Total Contract Cost (TCC) contract will include:

- The fixed amount for the specified general conditions work
- The negotiated MACC
- The GC/CM fee percentage applied to the MACC

The estimated MACC is to facilitate the GC/CM selection process. The negotiated MACC shall be determined by negotiation between the selected GC/CM firm and the Owner during the design process, no earlier than 90% design completion.

The bid provided by the GC/CM will become part of the criteria used to evaluate proposals. The Owner shall proceed to negotiate a contract with the responsible firm with the best combined proposal and price.

0.3 Form of Bid

The proposer shall not make any other entries, modifications, or qualifications to the bid. Failure to comply in full with these requirements shall be grounds for the bid being declared non-responsive.

The proposer shall complete all other required information on the bid proposal form, including signature in ink by an authorized official of the firm. Failure to complete the bid proposal form in full may result in a bid being declared non-responsive.

The proposer shall submit the proposal form in a sealed envelope **prior to 3:00 pm on August 25, 2020**

Mail to: **Dept. of Enterprise Services**
Attn: Facility Professional Services
PO Box 41476
Olympia, WA 98504-1476

Hand deliver between the hours of 1:00 pm and prior to 3:00 pm on August 25, 2020 to Secure bid box in front of building:

Dept. of Enterprise Services
Facility Professional Services
1500 Jefferson Street SE
Olympia, WA 98501

A virtual Public Bid Opening will be held after the selection team have scored all proposals and interviews. The virtual bid opening will then be posted on YouTube: https://youtu.be/hhrGLbaYgRQ

0.4 Bid Guarantee

The proposer shall furnish a bid guarantee in the form of a firm commitment, such as a bid bond, postal money order, certified check or cashier's check, payable to the Washington State Treasurer, in an amount equal to at least 5% of the *Pre-construction Services (Lump Sum)* estimated by the time set for receiving the bid**. Proposers shall use an assumed amount of $150,000 for Pre-construction Services for project number 2020-472G(1-1) 416 Bed Community RTF unless otherwise provided through Addendum prior to bid.** If the proposer fails to furnish a bid guarantee, the bid will be determined non-responsive. The Owner will return bid guarantees other than bid bond, which becomes the property of the Owner.

The proposer will allow the Owner 60 days for acceptance of its bid. The proposer will submit an executed contract within fifteen (15) days after receipt of the contract forms from the Owner. Upon successful completion of the MACC negotiation, the GC/CM shall submit an insurance certificate and payment and performance bond.

The Owner may terminate the award of the contract if the apparent successful proposer fails to execute all contractual documents or provide a bond and insurance as required by the solicitation within the time specified.

In the event a proposer discovers an error in its bid following submission of its bid to the Owner, the proposer may request to withdraw its bid under the following conditions:

- Submittal of timely written notification of the proposer's intent to withdraw the bid due to an error.
- The proposer must provide documentation of the claimed error to the satisfaction of the Owner.
- The Owner will approve or disapprove the request for withdrawal of the bid in writing. If the proposer's request for withdrawal of its bid is approved, the proposer will be released from further obligation to the State of Washington.

0.5 Acknowledgment of Addenda to Invitations for Bids

The proposer shall acknowledge receipt of any addenda to this solicitation by identifying the addenda numbers and dates in the space provided for this purpose on the GC/CM Final Price Proposal Form. Failure to acknowledge addenda may result in the bid being

declared non-responsive.

0.6 Site Investigation and Conditions Affecting the Work

The Contractor acknowledges that it has taken steps necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to:

- Conditions bearing upon transportation, disposal, handling and storage of materials.
- The availability of labor, water, electric power and road.
- Uncertainties of weather, river stages, tides or similar physical conditions at the site.
- The conformation and conditions of the grounds.
- The character of equipment and facilities needed preliminary to and during the work.

The Contractor also acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work.

0.7 Taxes

The bid amount *shall not* include Washington State Sales Tax (WSST) on the total submitted bid. All other taxes imposed by law, including B&O taxes, shall be included in the bid amount. The calculation of B&O taxes is based on the estimated Maximum Allowable Construction Cost (MACC). The Owner will include WSST in progress payments. The Contractor shall pay the WSST to the Department of Revenue and shall furnish proof of payment to the Owner upon request.

0.8 Diverse Business Inclusion Plan and Participation

To be considered responsive, Finalists must submit a Diverse Business Inclusion Plan (Attachment 6) with their Final Proposal.

DES Diversity Compliance Program. The successful Proposer is required to register and create an account in the DES Diversity Compliance Program (B2Gnow) at https://des.diversitycompliance.com. Every month for the duration of your contract, and while your contract is active in the B2Gnow system, submit and accurately maintain the following payment information through B2Gnow:

1. Payments received by the prime contractor from the Agency
2. Payments paid to each subcontractor
3. Payments paid to each supplier

0.9 Apprenticeship Requirement

In accordance with RCW 39.04.320, for all public works estimated to cost one million dollars or more, the State of Washington requires no less than 15% of the labor hours be performed by apprentices. A contractor or subcontractor may not be required to exceed the

15% requirement. On applicable projects, the bid advertisement and Bid Form shall establish a minimum required percentage of apprentice labor hours compared to the total labor hours.

1. Incentives - The Contractor who meets or exceeds this utilization requirement on eligible contracts, will be awarded a monetary incentive described in the Apprentice Utilization Requirements section of the Bid Form.

2. Penalties - The Contractor who fails to meet the utilization requirement and fails to demonstrate a Good Faith Effort, as outlined below, is subject to penalties described in the Apprentice Utilization Requirements section of the contract Bid Form. Contractor will receive an invoice payable to the Owner within 30 days.

3. Cost Value - The expected cost value associated with meeting the goal is included in the Base Bid as described on the Bid Form.

4. Utilization Plan - The Contractor shall provide an Apprentice Utilization Plan (Plan) demonstrating how and when they intend to achieve the Apprenticeship Utilization Requirement. The Plan shall have enough information to track the Contractor's progress in meeting the utilization requirement. The Contractor shall submit the Plan on the Apprentice Utilization Plan template (on the DES Public Works Forms website) within 10 business days of Notice to Proceed of the contract and prior to submitting the first invoice. The Contractor shall provide an updated Plan during the course of construction when there are significant changes to the Plan which may affect their ability to meet the requirement.

(a) The Plan shall be uploaded to the Department of Labor & Industries' (L&I) Prevailing Wage Intents and Affidavit (PWIA) system on L&I's website.

(b) The Plan is not submitted for approval.

(c) It is expected that the Contractor will actively seek out opportunities to meet the Apprentice Utilization Requirement during construction even if the Plan indicates a shortfall in meeting the requirement.

(d) If the Plan indicates that the Contractor will not attain the Apprentice Utilization Requirement, then Contractor must submit "Good Faith Effort" (GFE) documentation with their Plan to L&I's PWIA system.

5. Good Faith Effort (GFE)

(a) Good Faith Effort (GFE) documentation shall describe in detail why the Contractor is not or was not able to attain the Apprentice Utilization Requirement.

1. Contractors may submit Good Faith Effort (GFE) documentation at any time during the construction.

2. All GFE documentation must be submitted no later than 30 days before substantial completion.

(b) Good Faith Effort (GFE) documentation must be in signed letter format uploaded to the PWIA system and include:

1. The contract number, title and the apprentice utilization requirements,

2. The amount of apprentice labor hours the contract can or did attain along with the percentage of labor hours,

3. Contractors may receive a GFE credit for graduated Apprentice hours through the end of the calendar year for all projects worked on as long as the Apprentice remains continuously employed with the same Contractor they were working for when they graduated. If an Apprentice graduates during employment on a project of significant duration, they may be counted towards a GFE credit for up to one year after their graduation or until the end of the project (whichever comes first). Determination of whether or not Contract requirements were met in good faith will be made by subtracting the hours from the journeyman total reported hours for the project and adding them to the apprentice hour total. If the new utilization percentage meets the Contract requirement, the Contractor will be reported as meeting the requirement in good faith,

4. Anticipated or actual shortfall (in apprentice labor hours and percentage) and the reason(s) for not attaining the required apprentice labor hours,

5. Information from one or more of the following areas:

(a) Names of any State-Approved Apprentice Training Programs contacted with the name(s) of person(s) contacted and dates of contacts, and a copy of each response from the Training Program(s),

(b) Reference Contract Specifications or documents that affected the Contractor's ability to attain apprentice utilization,

(c) Discuss efforts the Contractor has taken to require Subcontractors to solicit and employ apprentices,

6. Backup documentation to the letter consisting of the following: Letters, emails, phone logs including names dates and outcomes, posters, photos, payrolls, time cards, schedules, copies or references to other contract specifications or documents.

<u>Additional Resource Information</u>

(a) For questions regarding how to complete the Apprentice Utilization Plan template or Good Faith Effort documentation, please contact the Project Manager listed in the Bid Advertisement.

(b) Step-by-step instructions on how to access and navigate the L&I's PWIA system, including uploading required documents can be found on the L&I website.

(c) Additional information about apprentice utilization on Public Works Project can be found on the L&I website.

0.10 Submission of Bids

Proposals must be submitted before the time shown on the GC/CM Final Price Proposal Form in a clearly marked separate sealed envelope.

Any modification to the price proposal shall be submitted in sealed envelopes prior to the time shown, shall be addressed to the office specified in the solicitation, and shall include:

- The time specified for receipt
- The project number and description
- The name and address of the proposer

The only acceptable evidence to establish the time of receipt at the office designated in the solicitation is the time/date stamped or hand printed by the Owner's representative on the bid wrapper or other documentary evidence of receipt maintained by the Owner. Any bid or modification of a bid received after the times specified will not be considered.

A bid will be considered responsive if it meets the following requirements:

- It is received at the proper time and place
- It meets the stated requirements of the bid proposal
- It is submitted by a licensed/registered contractor within the State of Washington at the time of bid opening and is not banned from bidding by the Department of Labor and Industries
- It is accompanied by a bid guarantee, if required

All bids will be formally opened virtually after scoring of the interviews and proposals. The virtual bid opening date and time will be published by addendum. A bid may be withdrawn in person by a proposer's authorized representative before the opening of bids. The proposer(s) representative will be required to show ID and sign on the bid summary sheet before it is released. The Owner reserves the right to accept or reject any or all bid proposals and to waive informalities.

0.11 Bid Results

After the bid opening, proposers may obtain bid results on the DES website at: https://fortress.wa.gov/ga/apps/EASBids/BidResult.aspx. Bid results will be posted within 24 hours after bid opening.

0.12 Contract Award

The contract award will be based on the combined submittal scores, interview, and the total project bid. The initial contract award will be for pre-construction services only. Award of construction services is contingent upon the successful MACC negotiations. Award of future services is contingent upon successful MACC negotiations and Legislative funding approval.

The contract will only become effective when signed by the Owner. Prior to the Owner’s signature, any and all costs incurred shall be the sole responsibility of the proposer.

Note: AIA Payment Bond and Performance Bond forms (A312) are required upon successful completion of MACC negotiations. *These forms will not be provided by the Owner.*

0.13 Partnering

Partnering will be required throughout the project. The GC/CM, A/E firm and the Owner may choose the form of team collaboration to be used during the project. The intent of partnering is to encourage productive communication, improve the level of mutual trust, respect and cooperation, and expedite issue resolution.

0.16 Reciprocity

In accordance with RCW 39.04.380 effective *March 30, 2012* the state of Washington is enforcing a **Reciprocal Preference for Resident Contractors**. Any public works bid received from a nonresident contractor from a state that provides an in-state percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor.

A nonresident contractor from a state that provides a percentage bid preference means a contractor that:

a) is from a state that provides a percentage bid preference to its resident contractors bidding on public works contracts.
b) at the time of bidding on a public works project, does not have a physical office located in Washington State.

The state of residence for a nonresident contractor is the state in which the contractor was incorporated or, if not a corporation, the state where the contractor's business entity was formed.

All nonresident contractors will be evaluated for out of state proposer preference. If the state of the nonresident contractor provides an in-state contractor preference, a comparable percentage disadvantage will be applied to their bid prior to contract award.

This section does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280, or any other procurement exempt from competitive bidding.

For a public works bid received from a nonresident contractor from a state that provides an in-state percentage bidding preference, a Comparable Percentage Disadvantage (CPD) will be applied to the bid of that nonresident contractor. The CPD is the in-state contractor percent advantage provided by the contractor's home state.

For the purpose of determining the successful proposer, multiply the Nonresident Contractor bid amount by the CPD. The "bid amount" shall be the total of the base bid and all accepted alternate bid items. The CPD shall be added to the Nonresident Contractor bid amount which equates to the Nonresident Disadvantage Total. The Nonresident Disadvantage Total shall be compared to the Washington contractor bid

amounts. The proposer with the lowest total shall be the successful proposer. See example below.

EXAMPLE: Alaska Nonresident Contractor Bid Amount	$100,000
Multiplied by the Alaska CPD	x 0.05
Alaska CPD Total	$ 5,000
Alaska Nonresident Contractor Bid Amount	$100,000
Alaska CPD Total	$ 5,000
Nonresident Disadvantage Total	$105,000*

* Note – If the Nonresident Disadvantage Total is lower than all other Washington contractor bid amounts, the Alaska Nonresident Contractor is the successful proposer and will be awarded a contract for the bid amount of $100,000.
If the Nonresident Disadvantage Total is higher than a Washington contractor bid amount, the successful Washington proposer will be awarded a contract for the bid amount.

0.17 The Contract will only become effective when signed by the Owner. Prior to the Owner's signature, any and all costs incurred shall be the sole responsibility of the proposer.

PART 1 - GENERAL PROVISIONS 4
1.01 DEFINITIONS 4
1.02 ORDER OF PRECEDENCE 5
1.03 EXECUTION AND INTENT 6
PART 2 – INSURANCE AND BONDS 6
2.01 CONTRACTOR'S LIABILITY INSURANCE 6
2.02 COVERAGE LIMITS 7
2.03 INSURANCE COVERAGE CERTIFICATES 8
2.04 PAYMENT AND PERFORMANCE BONDS 9
2.05 ALTERNATIVE SURETY 9
2.06 BUILDER'S RISK 9
PART 3 – TIME AND SCHEDULE 10
3.01 PROGRESS AND COMPLETION 10
3.02 CONSTRUCTION SCHEDULE 10
3.03 OWNER'S RIGHT TO SUSPEND THE WORK FOR CONVENIENCE 11
3.04 OWNER'S RIGHT TO STOP THE WORK FOR CAUSE 11
3.05 DELAY 12
3.06 NOTICE TO OWNER OF LABOR DISPUTES 12
3.07 DAMAGES FOR FAILURE TO ACHIEVE TIMELY COMPLETION 13
PART 4 – SPECIFICATIONS, DRAWINGS, AND OTHER DOCUMENTS 13
4.01 DISCREPANCIES AND CONTRACT DOCUMENT REVIEW 13
4.02 PROJECT RECORD 14
4.03 SHOP DRAWINGS 14
4.04 ORGANIZATION OF SPECIFICATIONS 15
4.05 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS 15
PART 5 – PERFORMANCE 16
5.01 CONTRACTOR CONTROL AND SUPERVISION 16
5.02 PERMITS, FEES, AND NOTICES 17
5.03 PATENTS AND ROYALTIES 17
5.04 PREVAILING WAGES 17
5.05 HOURS OF LABOR 18
5.06 NONDISCRIMINATION 19
5.07 SAFETY PRECAUTIONS 19
5.08 OPERATIONS, MATERIAL HANDLING, AND STORAGE AREAS 21
5.09 PRIOR NOTICE OF EXCAVATION 22
5.10 UNFORESEEN PHYSICAL CONDITIONS 22
5.11 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT, VEGETATION, UTILITIES AND IMPROVEMENTS 23
5.12 LAYOUT OF WORK 23

5.13 MATERIAL AND EQUIPMENT 23
5.14 AVAILABILITY AND USE OF UTILITY SERVICES 24
5.15 TESTS AND INSPECTION 24
5.16 CORRECTION OF NONCONFORMING WORK 25
5.17 CLEAN UP 26
5.18 ACCESS TO WORK 26
5.19 OTHER CONTRACTS 26
5.20 SUBCONTRACTORS AND SUPPLIERS 26
5.21 WARRANTY OF CONSTRUCTION 29
5.22 INDEMNIFICATION 29
PART 6 – PAYMENTS AND COMPLETION 30
6.01 CONTRACT SUM 30
6.02 SCHEDULE OF VALUES 30
6.03 APPLICATION FOR PAYMENT 30
6.04 PROGRESS PAYMENTS 31
6.05 PAYMENTS WITHHELD 31
6.06 RETAINAGE AND BOND CLAIM RIGHTS 32
6.07 SUBSTANTIAL COMPLETION 32
6.08 PRIOR OCCUPANCY 32
6.09 FINAL COMPLETION, ACCEPTANCE, AND PAYMENT 32
PART 7 – CHANGES 33
7.01 CHANGE IN THE WORK 33
7.02 CHANGE IN THE CONTRACT SUM 34
7.03 CHANGE IN THE CONTRACT TIME 40
PART 8 – CLAIMS AND DISPUTE RESOLUTION 42
8.01 CLAIMS PROCEDURE 42
8.02 ARBITRATION 43
8.03 CLAIMS AUDITS 44
PART 9 – TERMINATION OF THE WORK 45
9.01 TERMINATION BY OWNER FOR CAUSE 45
9.02 TERMINATION BY OWNER FOR CONVENIENCE 47
PART 10 – MISCELLANEOUS PROVISIONS 47
10.01 GOVERNING LAW 47
10.02 SUCCESSORS AND ASSIGNS 47
10.03 MEANING OF WORDS 48
10.04 RIGHTS AND REMEDIES 48
10.05 CONTRACTOR REGISTRATION 48
10.06 TIME COMPUTATIONS 48
10.07 RECORDS RETENTION 48

10.08 THIRD-PARTY AGREEMENTS 48
10.09 ANTITRUST ASSIGNMENT 48
10.10 HEADINGS AND CAPTIONS 49
10.11 DIVERSE BUSINESS PARTICIAPTION 49
10.12 MINIMUM LEVELS OF APPRENTICESHIP PARTICIPATION 49
10.13 SPECIAL CONDITIONS 50

PART 1 - GENERAL PROVISIONS

1.01 DEFINITIONS

A. "Application for Payment" means a written request submitted by Contractor to A/E for payment of Work completed in accordance with the Contract Documents and approved Schedule of Values, supported by such substantiating data as Owner or A/E may require.

B. "Architect," "Engineer," or "A/E" means a person or entity lawfully entitled to practice architecture or engineering, representing Owner within the limits of its delegated authority.

C. "Change Order" means a written instrument signed by Owner and Contractor stating their agreement upon all of the following: (1) a change in the Work; (2) the amount of the adjustment in the Contract Sum, if any, and (3) the extent of the adjustment in the Contract Time, if any.

D. "Claim" means Contractor's exclusive remedy for resolving disputes with Owner regarding the terms of a Change Order or a request for equitable adjustment, as more fully set forth in Part 8.

E. "Contract Award Amount" is the sum of the Base Bid and any accepted Alternates**.**

F. "Contract Documents" means the Advertisement for Bids, Instructions for Bidders, completed Bid Form, General Conditions, Modifications to the General Conditions, Supplemental Conditions, Public Works Contract, other Special Forms, Drawings and Specifications, and all addenda and modifications thereof.

G. "Contract Sum" is the total amount payable by Owner to Contractor, for performance of the Work in accordance with the Contract Documents, including all taxes imposed by law and properly chargeable to the Work, except Washington State sales tax.

H. "Contract Time" is the number of calendar days allotted in the Contract Documents for achieving Substantial Completion of the Work.

I. "Contractor" means the person or entity who has agreed with Owner to perform the Work in accordance with the Contract Documents.

J. "Day(s): Unless otherwise specified, day(s) shall mean calendar day(s)."

K. "Drawings" are the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, and may include plans, elevations, sections, details, schedules, and diagrams.

L. "Final Acceptance" means the written acceptance issued to Contractor by Owner after Contractor has completed the requirements of the Contract Documents, as more fully set forth in Section 6.09 B.

M. "Final Completion" means that the Work is fully and finally complete in accordance with the Contract Documents, as more fully set forth in Section 6.09 A.

N. "Force Majeure" means those acts entitling Contractor to request an equitable adjustment in the Contract Time, as more fully set forth in paragraph 3.05A.

O. "Notice" means a written notice that has been delivered to the authorized representative or officer of the addressed party by registered or certified mail, or by email as a PDF attachment. Notices should clearly identify the project number and date of notice.

P. "Notice to Proceed" means a notice from Owner to Contractor that defines the date on which the Contract Time begins to run.

Q. "Owner" means the state agency, institution, or its authorized representative with the authority to enter into, administer, and/or terminate the Work in accordance with the Contract Documents and make related determinations and findings.

R. "Person" means a corporation, partnership, business association of any kind, trust, company, or individual.

S. "Prior Occupancy" means Owner's use of all or parts of the Project before Substantial Completion, as more fully set forth in Section 6.08 A.

T. "Progress Schedule" means a schedule of the Work, in a form satisfactory to Owner, as further set forth in Section 3.02.

U. "Project" means the total construction of which the Work performed in accordance with the Contract Documents may be the whole or a part and which may include construction by Owner or by separate contractors.

V. "Project Record" means the separate set of Drawings and Specifications as further set forth in paragraph 4.02A.

W. "Schedule of Values" means a written breakdown allocating the total Contract Sum to each principal category of Work, in such detail as requested by Owner.

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

Y. "Subcontract" means a contract entered into by Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind for or in connection with the Work.

Z. "Subcontractor" means any person, other than Contractor, who agrees to furnish or furnishes any supplies, materials, equipment, or services of any kind in connection with the Work.

AA. "Substantial Completion" means that stage in the progress of the Work when the construction is sufficiently complete, as more fully set forth in Section 6.07.

AB. "Work" means the construction and services required by the Contract Documents, and includes, but is not limited to, labor, materials, supplies, equipment, services, permits, and the manufacture and fabrication of components, performed, furnished, or provided in accordance with the Contract Documents.

1.02 ORDER OF PRECEDENCE

Any conflict or inconsistency in the Contract Documents shall be resolved by giving the documents precedence in the following order:

1. Signed Public Works Contract, including any Change Orders.
2. Supplemental Conditions.
3. Modifications to the General Conditions.
4. General Conditions.
5. Specifications. Provisions in Division 1 shall take precedence over provisions of any other Division.

6. Drawings. In case of conflict within the Drawings, large-scale drawings shall take precedence over small-scale drawings.
7. Signed and Completed Bid Form.
8. Instructions to Bidders.
9. Advertisement for Bids.

1.03 EXECUTION AND INTENT

Contractor Representations: Contractor makes the following representations to Owner:

1. Contract Sum reasonable: The Contract Sum is reasonable compensation for the Work and the Contract Time is adequate for the performance of the Work, as represented by the Contract Documents;

2. Contractor familiar with project: Contractor has carefully reviewed the Contract Documents, visited and examined the Project site, become familiar with the local conditions in which the Work is to be performed, and satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished and all other requirements of the Contract Documents, as well as the surface and subsurface conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof;

3. Contractor financially capable: Contractor is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the Work and perform Contractor's obligations required by the Contract Documents; and

4. Contractor can complete Work: Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform the obligations required by the Contract Documents and has sufficient experience and competence to do so.

PART 2 – INSURANCE AND BONDS

2.01 CONTRACTOR'S LIABILITY INSURANCE

General insurance requirements: Prior to commencement of the Work, Contractor shall obtain all the insurance required by the Contract Documents and provide evidence satisfactory to Owner that such insurance has been procured. Review of the Contractor's insurance by Owner shall not relieve or decrease the liability of Contractor. Companies writing the insurance to be obtained by this part shall be licensed to do business under Chapter 48 RCW or comply with the Surplus Lines Law of the State of Washington. Contractor shall include in its bid the cost of all insurance and bond costs required to complete the base bid work and accepted alternates. Insurance carriers providing insurance in accordance with the Contract Documents shall be acceptable to Owner, and its A.M. Best rating shall be indicated on the insurance certificates.

A. Term of insurance coverage: Contractor shall maintain the following insurance coverage during the Work and for one year after Final Acceptance. Contractor shall also maintain the following insurance coverage during the performance of any corrective Work required by Section 5.16.

   1. General Liability Insurance: Commercial General Liability (CGL) on an Occurrence Form. Coverage shall include, but not be limited to:

      a. Completed operations/products liability;
      b. Explosion, collapse, and underground; and
      c. Employer's liability coverage.

2. Automobile Liability Insurance: Automobile liability

B. Industrial Insurance compliance: Contractor shall comply with the Washington State Industrial Insurance Act and, if applicable, the Federal Longshoremen's and Harbor Workers' Act and the Jones Act.

C. Insurance to protect for the following: All insurance coverages shall protect against claims for damages for personal and bodily injury or death, as well as claims for property damage, which may arise from operations in connection with the Work whether such operations are by Contractor or any Subcontractor.

D. Owner as Additional Insured: All insurance coverages shall be endorsed to include Owner as an additional named insured for Work performed in accordance with the Contract Documents, and all insurance certificates shall evidence the Owner as an additional insured.

2.02 COVERAGE LIMITS

A. Insurance Coverage Certificates and Policies

The Contractor shall furnish acceptable proof of insurance coverage on the state of Washington Certificate of Insurance form SF500A, dated 07/02/92 or ACORD form, as well as copies of insurance policies.

B. Required Insurance Coverages

1. For a contract less than $100,000.00, the coverage required is:

a. Comprehensive General Liability Insurance – The Contractor shall at all times during the term of this contract, at its cost and expense, carry and maintain general public liability insurance, including contractual liability, against claims for bodily injury, personal injury, death or property damage occurring or arising out of services provided under this contract. This insurance shall cover claims caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or servants. The limits of liability insurance, which may be increased as deemed necessary by the contracting parties, shall be:

Each Occurrence	$1,000,000.00
General Aggregate Limits (other than products – commercial operations)	$1,000,000.00
Products – Commercial Operations Limit	$1,000,000.00
Personal and Advertising Injury Limit	$1,000,000.00
Fire Damage Limit (any one fire)	$50,000.00
Medical Expense Limit (any one person)	$5,000.00

b. If the contract is for underground utility work, then the Contractor shall provide proof of insurance for that above in the form of Explosion, Collapse and Underground (XCU) coverage.

c. Employers Liability on an occurrence basis in an amount not less than $1,000,000.00 per occurrence.

2. For contracts over $100,000.00 but less than $5,000,000.00 the contractor shall obtain the coverage limits as listed for contracts below $100,000.00 and General Aggregate and Products – Commercial Operations Limit of not less than $2,000,000.00.

3. Coverage for Comprehensive General Bodily Injury Liability Insurance for a contract over $5,000,000.00 is:

Each Occurrence	$2,000,000.00
General Aggregate Limits	$4,000,000.00
(other than products – commercial operations)	
Products – Commercial Operations limit	$4,000,000.00
Personal and Advertising Injury Limit	$2,000,000.00
Fire Damage Limit (any one fire)	$50,000.00
Medical Expense Limit (any one Person)	$5,000.00

4. For all Contracts – Automobile Liability: in the event that services delivered pursuant to this contract involve the use of vehicles or the transportation of clients, automobile liability insurance shall be required. If Contractor-owned personal vehicles are used, a Business Automobile Policy covering at a minimum Code 2 "owned autos only" must be secured. If Contractor employee's vehicles are used, the Contractor must also include under the Business Automobile Policy Code 9, coverage for non-owned autos. The minimum limits for automobile liability is: $1,000,000.00 per occurrence, using a combined single limit for bodily injury and property damage.

5. For Contracts for Hazardous Substance Removal (Asbestos Abatement, PCB Abatement, etc.)

   a. In addition to providing insurance coverage for the project as outlined above, the Contractor shall provide Pollution Liability insurance for the hazardous substance removal as follows:

EACH OCCURRENCE	AGGREGATE
$500,000.00	$1,000,000.00

   or $1,000,000.00 each occurrence/aggregate bodily injury and property damage combined single limit.

      i. Insurance certificate must state that the insurer is covering hazardous substance removal.
      ii. Should this insurance be secured on a "claims made" basis, the coverage must be continuously maintained for one year following the project's "final completion" through official completion of the project, plus one year following.

   For Contracts where hazardous substance removal is a subcomponent of contracted work, the general contractor shall provide to the Owner a certificate of insurance for coverage as defined in 5a. above. The State of Washington must be listed as an additional insured. This certificate of insurance must be provided to the Owner prior to commencing work.

2.03 INSURANCE COVERAGE CERTIFICATES

A. Certificate required: Prior to commencement of the Work, Contractor shall furnish to Owner a completed certificate of insurance coverage.

B. List Project info: All insurance certificates shall name Owner's Project number and Project title.

C. Cancellation provisions: All insurance certificates shall specifically require 45 Days prior notice to Owner of cancellation or any material change, except 30 Days for surplus line insurance.

2.04 PAYMENT AND PERFORMANCE BONDS

Conditions for bonds: Payment and performance bonds for 100% of the Contract Award Amount, plus state sales tax, shall be furnished for the Work, using the Payment Bond and Performance Bond form published by and available from the American Institute of Architects (AIA) – form A312. Prior to execution of a Change Order that, cumulatively with previous Change Orders, increases the Contract Award Amount by 15% or more, the Contractor shall provide either new payment and performance bonds for the revised Contract Sum, or riders to the existing payment and performance bonds increasing the amount of the bonds. The Contractor shall likewise provide additional bonds or riders when subsequent Change Orders increase the Contract Sum by 15% or more.

No payment or performance bond is required if the Contract Sum is $150,000 or less and the Contractor or General Contractor/Construction Manager agrees that Owner may, in lieu of the bond, retain 10% of the Contract Sum for the period allowed by RCW 39.08.010.

2.05 ALTERNATIVE SURETY

When alternative surety required: Contractor shall promptly furnish payment and performance bonds from an alternative surety as required to protect Owner and persons supplying labor or materials required by the Contract Documents if:

A. Owner has a reasonable objection to the surety; or

B. Any surety fails to furnish reports on its financial condition if required by Owner.

2.06 BUILDER'S RISK

A. Contractor to buy Property Insurance: Contractor shall purchase and maintain property insurance in the amount of the Contract Sum including all Change Orders for the Work on a replacement cost basis until Substantial Completion. For projects not involving New Building Construction, "Installation Floater" is an acceptable substitute for the Builder's Risk Insurance. The insurance shall cover the interest of Owner, Contractor, and any Subcontractors, as their interests may appear.

B. Losses covered: Contractor property insurance shall be placed on an "all risk" basis and insure against the perils of fire and extended coverage and physical loss or damage including theft, vandalism, malicious mischief, collapse, false work, temporary buildings, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for A/E's services and expenses required as a result of an insured loss.

C. Waiver of subrogation rights: Owner and Contractor waive all subrogation rights against each other, any Subcontractors, A/E, A/E's subconsultants, separate contractors described in Section 5.20, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this section or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by Owner as fiduciary. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

PART 3 – TIME AND SCHEDULE

3.01 PROGRESS AND COMPLETION

Contractor to meet schedule: Contractor shall diligently prosecute the Work, with adequate forces, achieve Substantial Completion within the Contract Time, and achieve Final Completion within a reasonable period thereafter.

3.02 CONSTRUCTION SCHEDULE

A. Preliminary Progress Schedule: Unless otherwise provided in Division 1, Contractor shall, within 14 Days after issuance of the Notice to Proceed, submit a preliminary Progress Schedule. The Progress Schedule shall show the sequence in which Contractor proposes to perform the Work, and the dates on which Contractor plans to start and finish major portions of the Work, including dates for shop drawings and other submittals, and for acquiring materials and equipment.

B. Form of Progress Schedule: The Progress Schedule shall be in the form of a Critical Path Method (CPM) logic network or, with the approval of the Owner, a bar chart schedule may be submitted. The scheduling of construction is the responsibility of the Contractor and is included in the contract to assure adequate planning and execution of the work. The schedule will be used to evaluate progress of the work for payment based on the Schedule of Values. The schedule shall show the Contractor's planned order and interdependence of activities, and sequence of work. As a minimum the schedule shall include:

1. Date of Notice to Proceed;
2. Activities (resources, durations, individual responsible for activity, early starts, late starts, early finishes, late finishes, etc.);
3. Utility Shutdowns;
4. Interrelationships and dependence of activities;
5. Planned vs. actual status for each activity;
6. Substantial completion;
7. Punch list;
8. Final inspection;
9. Final completion, and
10. Float time

The Schedule Duration shall be based on the Contract Time of Completion listed on the Bid Form. The Owner shall not be obligated to accept any Early Completion Schedule suggested by the Contractor. The Contract Time for Completion shall establish the Schedule Completion Date.

If the Contractor feels that the work can be completed in less than the Specified Contract Time, then the Surplus Time shall be considered Project Float. This Float time shall be shown on the Project Schedule. It shall be available to accommodate changes in the work and unforeseen conditions.

Neither the Contractor nor the Owner have exclusive right to this Float Time. It belongs to the project.

C. Owner comments on Progress Schedule: Owner shall return comments on the preliminary Progress Schedule to Contractor within 14 Days of receipt. Review by Owner of Contractor's schedule does not constitute an approval or acceptance of Contractor's construction means, methods, or sequencing, or its ability to complete the Work within the Contract Time. Contractor shall revise and resubmit its schedule, as necessary. Owner may withhold a portion of progress payments until a Progress Schedule has been submitted which meets the requirements of this section.

D. Monthly updates and compliance with Progress Schedule: Contractor shall utilize and comply with the Progress Schedule. On a monthly basis, or as otherwise directed by Owner, Contractor shall submit an updated Progress Schedule at its own expense to Owner indicating actual progress. If, in the opinion of Owner, Contractor is not in conformance with the Progress Schedule for reasons other than acts of Force Majeure as identified in Section 3.05, Contractor shall take such steps as are necessary to bring the actual completion dates of its work activities into conformance with the Progress Schedule, and if directed by Owner, Contractor shall submit a corrective action plan or revise the Progress Schedule to reconcile with the actual progress of the Work.

E. Contractor to notify Owner of delays: Contractor shall promptly notify Owner in writing of any actual or anticipated event which is delaying or could delay achievement of any milestone or performance of any critical path activity of the Work. Contractor shall indicate the expected duration of the delay, the anticipated effect of the delay on the Progress Schedule, and the action being or to be taken to correct the problem. Provision of such notice does not relieve Contractor of its obligation to complete the Work within the Contract Time.

3.03 OWNER'S RIGHT TO SUSPEND THE WORK FOR CONVENIENCE

A. Owner may suspend Work: Owner may, at its sole discretion, order Contractor, in writing, to suspend all or any part of the Work for up to 90 Days, or for such longer period as mutually agreed.

B. Compliance with suspension; Owner's options: Upon receipt of a written notice suspending the Work, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost of performance directly attributable to such suspension. Within a period up to 90 Days after the notice is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, Owner shall either:

1. Cancel the written notice suspending the Work; or

2. Terminate the Work covered by the notice as provided in the termination provisions of Part 9.

C. Resumption of Work: If a written notice suspending the Work is cancelled or the period of the notice or any extension thereof expires, Contractor shall resume Work.

D. Equitable Adjustment for suspensions: Contractor shall be entitled to an equitable adjustment in the Contract Time, or Contract Sum, or both, for increases in the time or cost of performance directly attributable to such suspension, provided Contractor complies with all requirements set forth in Part 7.

3.04 OWNER'S RIGHT TO STOP THE WORK FOR CAUSE

A. Owner may stop Work for Contractor's failure to perform: If Contractor fails or refuses to perform its obligations in accordance with the Contract Documents, Owner may order Contractor, in writing, to stop the Work, or any portion thereof, until satisfactory corrective action has been taken.

B. No Equitable Adjustment for Contractor's failure to perform: Contractor shall not be entitled to an equitable adjustment in the Contract Time or Contract Sum for any increased cost or time of performance attributable to Contractor's failure or refusal to perform or from any reasonable remedial action taken by Owner based upon such failure.

3.05 DELAY

A. Force Majeure actions not a default; Force Majeure defined: Any delay in or failure of performance by Owner or Contractor, other than the payment of money, shall not constitute a default hereunder if and to the extent the cause for such delay or failure of performance was unforeseeable and beyond the control of the party ("Force Majeure"). Acts of Force Majeure include, but are not limited to:

1. Acts of God or the public enemy;
2. Acts or omissions of any government entity;
3. Fire or other casualty for which Contractor is not responsible;
4. Quarantine or epidemic;
5. Strike or defensive lockout;
6. Unusually severe weather conditions which could not have been reasonably anticipated; and
7. Unusual delay in receipt of supplies or products which were ordered and expedited and for which no substitute reasonably acceptable to Owner was available.

B. Contract Time adjustment for Force Majeure: Contractor shall be entitled to an equitable adjustment in the Contract Time for changes in the time of performance directly attributable to an act of Force Majeure, provided it makes a request for equitable adjustment according to Section 7.03. Contractor shall not be entitled to an adjustment in the Contract Sum resulting from an act of Force Majeure.

C. Contract Time or Contract Sum adjustment if Owner at fault: Contractor shall be entitled to an equitable adjustment in Contract Time, and may be entitled to an equitable adjustment in Contract Sum, if the cost or time of Contractor's performance is changed due to the fault or negligence of Owner, provided the Contractor makes a request according to Sections 7.02 and 7.03.

D. No Contract Time or Contract Sum adjustment if Contractor at fault: Contractor shall not be entitled to an adjustment in Contract Time or in the Contract Sum for any delay or failure of performance to the extent such delay or failure was caused by Contractor or anyone for whose acts Contractor is responsible.

E. Contract Time adjustment only for concurrent fault: To the extent any delay or failure of performance was concurrently caused by the Owner and Contractor, Contractor shall be entitled to an adjustment in the Contract Time for that portion of the delay or failure of performance that was concurrently caused, provided it makes a request for equitable adjustment according to Section 7.03, but shall not be entitled to an adjustment in Contract Sum.

F. Contractor to mitigate delay impacts: Contractor shall make all reasonable efforts to prevent and mitigate the effects of any delay, whether occasioned by an act of Force Majeure or otherwise.

3.06 NOTICE TO OWNER OF LABOR DISPUTES

A. Contractor to notify Owner of labor disputes: If Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance in accordance with the Contract Documents, Contractor shall immediately give notice, including all relevant information, to Owner.

B. Pass through notification provisions to Subcontractors: Contractor agrees to insert a provision in its Subcontracts and to require insertion in all sub-subcontracts, that in the event timely performance of any such contract is delayed or threatened by delay by any actual or potential labor dispute, the Subcontractor or Sub-subcontractor shall immediately notify the next higher tier Subcontractor or Contractor, as the case may be, of all relevant information concerning the dispute.

3.07 DAMAGES FOR FAILURE TO ACHIEVE TIMELY COMPLETION

A. Liquidated Damages

1. Reason for Liquidated Damages: Timely performance and completion of the Work is essential to Owner and time limits stated in the Contract Documents are of the essence. Owner will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time. However, it would be difficult if not impossible to determine the exact amount of such damages. Consequently, provisions for liquidated damages are included in the Contract Documents.

2. Calculation of Liquidated Damages amount: The liquidated damage amounts set forth in the Contract Documents will be assessed not as a penalty, but as liquidated damages for breach of the Contract Documents. This amount is fixed and agreed upon by and between the Contractor and Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain. This amount shall be construed as the actual amount of damages sustained by the Owner, and may be retained by the Owner and deducted from periodic payments to the Contractor.

3. Contractor responsible even if Liquidated Damages assessed: Assessment of liquidated damages shall not release Contractor from any further obligations or liabilities pursuant to the Contract Documents.

B. Actual Damages

Calculation of Actual Damages: Actual damages will be assessed for failure to achieve Final Completion within the time provided. Actual damages will be calculated on the basis of direct architectural, administrative, and other related costs attributable to the Project from the date when Final Completion should have been achieved, based on the date Substantial Completion is actually achieved, to the date Final Completion is actually achieved. Owner may offset these costs against any payment due Contractor.

PART 4 – SPECIFICATIONS, DRAWINGS, AND OTHER DOCUMENTS

4.01 DISCREPANCIES AND CONTRACT DOCUMENT REVIEW

A. Specifications and Drawings are basis of the Work: The intent of the Specifications and Drawings is to describe a complete Project to be constructed in accordance with the Contract Documents. Contractor shall furnish all labor, materials, equipment, tools, transportation, permits, and supplies, and perform the Work required in accordance with the Drawings, Specifications, and other provisions of the Contract Documents.

B. Parts of the Contract Documents are complementary: The Contract Documents are complementary. What is required by one part of the Contract Documents shall be binding as if required by all. Anything mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both.

C. Contractor to report discrepancies in Contract Documents: Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by Owner. If, during the performance of the Work, Contractor finds a conflict, error, inconsistency, or omission in the Contract Documents, it shall promptly and before proceeding with the Work affected thereby, report such conflict, error, inconsistency, or omission to A/E in writing.

D. Contractor knowledge of discrepancy in documents – responsibility: Contractor shall do no Work without applicable Drawings, Specifications, or written modifications, or Shop Drawings where required, unless instructed to do so in writing by Owner. If Contractor performs any construction activity, and it knows or reasonably should have known that any of the Contract Documents contain a conflict, error, inconsistency, or omission, Contractor shall be responsible for the performance and shall bear the cost for its correction.

E. Contractor to perform Work implied by Contract Documents: Contractor shall provide any work or materials the provision of which is clearly implied and is within the scope of the Contract Documents even if the Contract Documents do not mention them specifically.

F. Interpretation questions referred to A/E: Questions regarding interpretation of the requirements of the Contract Documents shall be referred to the A/E.

4.02 PROJECT RECORD

A. Contractor to maintain Project Record Drawings and Specifications: Contractor shall legibly mark in ink on a separate set of the Drawings and Specifications all actual construction, including depths of foundations, horizontal and vertical locations of internal and underground utilities and appurtenances referenced to permanent visible and accessible surface improvements, field changes of dimensions and details, actual suppliers, manufacturers and trade names, models of installed equipment, and Change Order Proposals (COP). This separate set of Drawings and Specifications shall be the “Project Record.”

B. Update Project Record weekly and keep on site: The Project Record shall be maintained on the project site throughout the construction and shall be clearly labeled “PROJECT RECORD.” The Project Record shall be updated at least weekly noting all changes and shall be available to Owner at all times.

C. Final Project Record to A/E before Final Acceptance: Contractor shall submit the completed and finalized Project Record to A/E prior to Final Acceptance.

4.03 SHOP DRAWINGS

A. Definition of Shop Drawings: “Shop Drawings” means documents and other information required to be submitted to A/E by Contractor pursuant to the Contract Documents, showing in detail: the proposed fabrication and assembly of structural elements; and the installation (i.e. form, fit, and attachment details) of materials and equipment. Shop Drawings include, but are not limited to, drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, samples, and similar materials furnished by Contractor to explain in detail specific portions of the Work required by the Contract Documents. For materials and equipment to be incorporated into the Work, Contractor submittal shall include the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the item. When directed, Contractor shall submit all samples at its own expense. Owner may duplicate, use, and disclose Shop Drawings provided in accordance with the Contract Documents.

B. Approval of Shop Drawings by Contractor and A/E: Contractor shall coordinate all Shop Drawings, and review them for accuracy, completeness, and compliance with the Contract Documents and shall indicate its approval thereon as evidence of such coordination and review.

Where required by law, Shop Drawings shall be stamped by an appropriate professional licensed by the state of Washington. Shop Drawings submitted to A/E without evidence of Contractor's approval shall be returned for resubmission. Contractor shall review, approve, and submit Shop Drawings with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Owner or separate contractors. Contractor's submittal schedule shall allow a reasonable time for A/E review. A/E will review, approve, or take other appropriate action on the Shop Drawings. Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings until the respective submittal has been reviewed and the A/E has approved or taken other appropriate action. Owner and A/E shall respond to Shop Drawing submittals with reasonable promptness. Any Work by Contractor shall be in accordance with reviewed Shop Drawings. Submittals made by Contractor which are not required by the Contract Documents may be returned without action.

C. Contractor not relieved of responsibility when Shop Drawings approved: Approval, or other appropriate action with regard to Shop Drawings, by Owner or A/E shall not relieve Contractor of responsibility for any errors or omissions in such Shop Drawings, nor from responsibility for compliance with the requirements of the Contract Documents. Unless specified in the Contract Documents, review by Owner or A/E shall not constitute an approval of the safety precautions employed by Contractor during construction, or constitute an approval of Contractor's means or methods of construction. If Contractor fails to obtain approval before installation and the item or work is subsequently rejected, Contractor shall be responsible for all costs of correction.

D. Variations between Shop Drawings and Contract Documents: If Shop Drawings show variations from the requirements of the Contract Documents, Contractor shall describe such variations in writing, separate from the Shop Drawings, at the time it submits the Shop Drawings containing such variations. If A/E approves any such variation, an appropriate Change Order will be issued. If the variation is minor and does not involve an adjustment in the Contract Sum or Contract Time, a Change Order need not be issued; however, the modification shall be recorded upon the Project Record.

E. Contractor to submit 5 copies of Shop Drawings: Unless otherwise provided in Division 1, Contractor shall submit to A/E for approval 5 copies of all Shop Drawings. Unless otherwise indicated, 3 sets of all Shop Drawings shall be retained by A/E and 2 sets shall be returned to Contractor.

4.04 ORGANIZATION OF SPECIFICATIONS

Specification organization by trade: Specifications are prepared in sections which conform generally with trade practices. These sections are for Owner and Contractor convenience and shall not control Contractor in dividing the Work among the Subcontractors or in establishing the extent of the Work to be performed by any trade.

4.05 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS

A. A/E, not Contractor, owns Copyright of Drawings and Specifications: The Drawings, Specifications, and other documents prepared by A/E are instruments of A/E's service through which the Work to be executed by Contractor is described. Neither Contractor nor any Subcontractor shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by A/E, and A/E shall be deemed the author of them and will, along with any rights of Owner, retain all common law, statutory, and other reserved rights, in addition to the copyright. All copies of these documents, except Contractor's set, shall be returned or suitably accounted for to A/E, on request, upon completion of the Work.

B. Drawings and Specifications to be used only for this Project: The Drawings, Specifications, and other documents prepared by the A/E, and copies thereof furnished to Contractor, are for use solely with respect to this Project. They are not to be used by Contractor or any Subcontractor

on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner and A/E. Contractor and Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents prepared by A/E appropriate to and for use in the execution of their Work.

C. Shop Drawing license granted to Owner: Contractor and all Subcontractors grant a non-exclusive license to Owner, without additional cost or royalty, to use for its own purposes (including reproduction) all Shop Drawings, together with the information and diagrams contained therein, prepared by Contractor or any Subcontractor. In providing Shop Drawings, Contractor and all Subcontractors warrant that they have authority to grant to Owner a license to use the Shop Drawings, and that such license is not in violation of any copyright or other intellectual property right. Contractor agrees to defend and indemnify Owner pursuant to the indemnity provisions in Section 5.03 and 5.22 from any violations of copyright or other intellectual property rights arising out of Owner's use of the Shop Drawings hereunder, or to secure for Owner, at Contractor's own cost, licenses in conformity with this section.

D. Shop Drawings to be used only for this Project: The Shop Drawings and other submittals prepared by Contractor, Subcontractors of any tier, or its or their equipment or material suppliers, and copies thereof furnished to Contractor, are for use solely with respect to this Project. They are not to be used by Contractor or any Subcontractor of any tier, or material or equipment supplier, on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner. The Contractor, Subcontractors of any tier, and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Shop Drawings and other submittals appropriate to and for use in the execution of their Work under the Contract Documents.

PART 5 – PERFORMANCE

5.01 CONTRACTOR CONTROL AND SUPERVISION

A. Contractor responsible for Means and Methods of construction: Contractor shall supervise and direct the Work, using its best skill and attention, and shall perform the Work in a skillful manner. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents give other specific instructions concerning these matters. Contractor shall disclose its means and methods of construction when requested by Owner.

B. Competent Superintendent required: Performance of the Work shall be directly supervised by a competent superintendent who has authority to act for Contractor. The superintendent must be satisfactory to the Owner and shall not be changed without the prior written consent of Owner. Owner may require Contractor to remove the superintendent from the Work or Project site, at no cost to the Owner for delay or any other claim, if Owner reasonably deems the superintendent incompetent, negligent, or otherwise objectionable, provided Owner has first notified Contractor in writing and allowed a reasonable period for transition. Noncompliance with the Owner's request to remove and replace the superintendent for a material reason shall also be grounds for terminating the Contract for cause.

C. Contractor responsible for acts and omissions of self and agents: Contractor shall be responsible to Owner for acts and omissions of Contractor, Subcontractors, and their employees and agents.

D. Contractor to employ competent and disciplined workforce: Contractor shall enforce strict discipline and good order among all of the Contractor's employees and other persons performing the Work. Contractor shall not permit employment of persons not skilled in tasks assigned to them. Contractor's employees shall at all times conduct business in a manner which assures fair, equal, and nondiscriminatory treatment of all persons. Owner may, by written notice, require

Contractor to remove from the Work or Project site, at no cost to the Owner for delay or any other claim, any employee Owner reasonably deems incompetent, negligent, or otherwise objectionable. Noncompliance with the Owner's request to remove and replace personnel at any level for a material reason shall also be grounds for terminating the Contract for cause.

E. Contractor to keep project documents on site: Contractor shall keep on the Project site a copy of the Drawings, Specifications, addenda, reviewed Shop Drawings, and permits and permit drawings.

F. Contractor to comply with ethical standards: Contractor shall ensure that its owner(s) and employees, and those of its Subcontractors, comply with the Ethics in Public Service Act RCW 42.52, which, among other things, prohibits state employees from having an economic interest in any public works contract that was made by, or supervised by, that employee. Contractor shall remove, at its sole cost and expense, any of its, or its Subcontractors' employees, if they are in violation of this act.

5.02 PERMITS, FEES, AND NOTICES

A. Contractor to obtain and pay for permits: Unless otherwise provided in the Contract Documents, Contractor shall pay for and obtain all permits, licenses, and inspections necessary for proper execution and completion of the Work. Prior to Final Acceptance, the approved, signed permits shall be delivered to Owner.

B. Allowances for permit fees: The actual cost of the general building permit (only) and the public utility hook-up fees will be a direct reimbursement to the Contractor or paid directly to the permitting agency by the Owner. ***Fees for these permits should not be included by the Contractor in his bid amount.***

C. Contractor to comply with all applicable laws: Contractor shall comply with and give notices required by all federal, state, and local laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.

D. Contractor to submit copies: The General Contractor shall submit copies of each valid permit required on the project to the Owner's representative. Nothing in this part shall be construed as imposing a duty upon the Owner or A/E to secure permits.

5.03 PATENTS AND ROYALTIES

Payment, indemnification, and notice: Contractor is responsible for, and shall pay, all royalties and license fees. Contractor shall defend, indemnify, and hold Owner harmless from any costs, expenses, and liabilities arising out of the infringement by Contractor of any patent, copyright, or other intellectual property right used in the Work; however, provided that Contractor gives prompt notice, Contractor shall not be responsible for such defense or indemnity when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents. If Contractor has reason to believe that use of the required design, process, or product constitutes an infringement of a patent or copyright, it shall promptly notify Owner of such potential infringement.

5.04 PREVAILING WAGES

A. Contractor to pay Prevailing Wages or applicable Federal Wages: Contractor shall pay the prevailing rate of wages to all workers, laborers, or mechanics employed in the performance of any part of the Work in accordance with RCW 39.12 and the rules and regulations of the Department of Labor and Industries (L&I). The schedule of prevailing wage rates for the locality or localities of the Work, is determined by the Industrial Statistician of the Department of Labor and Industries. It is the Contractor's responsibility to verify the applicable prevailing wage rate. If applicable, the Contractor shall comply with all Federal Funding requirements of the Davis

Bacon Act that will be addressed in a separate "DIVISION 00 SPECIAL CONDITIONS" specification section that will be based on the specific requirements of the funding source.

B. Statement of Intent to Pay Prevailing Wages: Before payment is made by the Owner to the Contractor for any work performed by the Contractor and subcontractors whose work is included in the application for payment, the Contractor shall submit, or shall have previously submitted to the Owner for the Project, a Statement of Intent to Pay Prevailing Wages, approved by the L&I, certifying the rate of hourly wage paid and to be paid each classification of laborers, workers, or mechanics employed upon the Work by Contractor and Subcontractors. Such rates of hourly wage shall not be less than the prevailing wage rate.

C. Affidavit of Wages Paid: Prior to release of retainage, the Contractor shall submit to the Owner an Affidavit of Wages Paid, approved by the L&I, for the Contractor and every subcontractor, of any tier, that performed work on the Project.

D. Disputes: Disputes regarding prevailing wage rates shall be referred for arbitration to the Director of the L&I. The arbitration decision shall be final and conclusive and binding on all parties involved in the dispute as provided for by RCW 39.12.060.

E. Statement with pay application; Post Statements of Intent at job site: Each Application for Payment submitted by Contractor shall state that prevailing wages have been paid in accordance with the prefiled statement(s) of intent, as approved. Copies of the approved intent statement(s) shall be posted on the job site with the address and telephone number of the Industrial Statistician of the L&I where a complaint or inquiry concerning prevailing wages may be made.

F. Contractor to pay for Statements of Intent and Affidavits: In compliance with chapter 296-127 WAC, Contractor shall pay to the L&I the currently established fee(s) for each statement of intent and/or affidavit of wages paid submitted to the L&I for certification.

G. Certified Payrolls: Consistent with RCW 31.12.120, contractors, subcontractors, or employers shall file a copy of its certified payroll records using the L&I' online system at least once per month. If the L&I' online system is not used, a contractor, subcontractor, or employer shall file a copy of its certified payroll records directly with the L&I in a format approved by the L&I at least once per month. A contractor, subcontractor, or employer's noncompliance with this section constitutes a violation of RCW 39.12.050.

H. Compliance with Federal Funding requirements: If applicable, the Contractor shall comply with all Federal Funding requirements of the Davis Bacon Act that will be addressed in a separate "DIVISION 00 SPECIAL CONDITIONS" specification section that will be based on the specific requirements of the funding source.

5.05 HOURS OF LABOR

A. Overtime: Contractor shall comply with all applicable provisions of RCW 49.28 and they are incorporated herein by reference. Pursuant to that statute, no laborer, worker, or mechanic employed by Contractor, any Subcontractor, or any other person performing or contracting to do the whole or any part of the Work, shall be permitted or required to work more than eight hours in any one calendar day, provided, that in cases of extraordinary emergency, such as danger to life or property, the hours of work may be extended, but in such cases the rate of pay for time employed in excess of eight hours of each calendar day shall be not less than one and one-half times the rate allowed for this same amount of time during eight hours of service.

B. 4-10 Agreements: Notwithstanding the preceding paragraph, RCW 49.28 permits a contractor or subcontractor in any public works contract subject to those provisions, to enter into an agreement with its employees in which the employees work up to ten hours in a calendar day. No such agreement may provide that the employees work ten-hour days for more than four

calendar days a week. Any such agreement is subject to approval by the employees. The overtime provisions of RCW 49.28 shall not apply to the hours, up to forty hours per week, worked pursuant to any such agreement.

5.06 NONDISCRIMINATION

A. Discrimination prohibited by applicable laws: The Contractor and all Subcontractors shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement

B. During performance of the Work:

1. Protected Classes: Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability, Vietnam era veteran status, or disabled veteran status, nor commit any other unfair practices as defined in RCW 49.60.

2. Advertisements to state nondiscrimination: Contractor shall, in all solicitations or advertisements for employees placed by or for it, state that all qualified applicants will be considered for employment, without regard to race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.

3. Contractor to notify unions and others of nondiscrimination: Contractor shall send to each labor union, employment agency, or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union, employment agency, or workers' representative of Contractor's obligations according to the Contract Documents and RCW 49.60.

4. Owner and State access to Contractor records: Contractor shall permit access to its books, records, and accounts, and to its premises by Owner, and by the Washington State Human Rights Commission, for the purpose of investigation to ascertain compliance with this section of the Contract Documents.

5. Pass through provisions to Subcontractors: Contractor shall include the provisions of this section in every Subcontract.

5.07 SAFETY PRECAUTIONS

A. In performing this contract, the Contractor shall provide for protecting the lives and health of employees and other persons; preventing damage to property, materials, supplies, and equipment; and avoid work interruptions. For these purposes, the Contractor shall:

1. Follow Washington Industrial Safety and Health Act (WISHA) regional directives and provide a site-specific safety program that will require an accident prevention and hazard analysis plan for the contractor and each subcontractor on the work site. The Contractor shall submit a site-specific safety plan to the Owner's representative prior to the initial scheduled construction meeting.

2. Provide adequate safety devices and measures including, but not limited to, the appropriate safety literature, notice, training, permits, placement and use of barricades, signs, signal lights, ladders, scaffolding, staging, runways, hoist, construction elevators, shoring, temporary lighting, grounded outlets, wiring, hazardous materials, vehicles, construction

processes, and equipment required by all applicable state, federal, and local laws and regulations.

3. Comply with the State Environmental Policy Act (SEPA), Clean Air Act, Shoreline Management Act, and other applicable federal, state, and local statutes and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources.

4. Post all permits, notices, and/or approvals in a conspicuous location at the construction site.

5. Provide any additional measures that the Owner determines to be reasonable and necessary for ensuring a safe environment in areas open to the public. Nothing in this part shall be construed as imposing a duty upon the Owner or A/E to prescribe safety conditions relating to employees, public, or agents of the Contractors.

B. Contractor safety responsibilities: In carrying out its responsibilities according to the Contract Documents, Contractor shall protect the lives and health of employees performing the Work and other persons who may be affected by the Work; prevent damage to materials, supplies, and equipment whether on site or stored off-site; and prevent damage to other property at the site or adjacent thereto. Contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; shall erect and maintain all necessary safeguards for such safety and protection; and shall notify owners of adjacent property and utilities when prosecution of the Work may affect them.

C. Contractor to maintain safety records: Contractor shall maintain an accurate record of exposure data on all incidents relating to the Work resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. Contractor shall immediately report any such incident to Owner. Owner shall, at all times, have a right of access to all records of exposure.

D. Contractor to provide HazMat training: Contractor shall provide all persons working on the Project site with information and training on hazardous chemicals in their work at the time of their initial assignment, and whenever a new hazard is introduced into their work area.

1. Information. At a minimum, Contractor shall inform persons working on the Project site of:

   a. WAC: The requirements of chapter 296-62 WAC, General Occupational Health Standards;

   b. Presence of hazardous chemicals: Any operations in their work area where hazardous chemicals are present; and

   c. Hazard communications program: The location and availability of written hazard communication programs, including the required list(s) of hazardous chemicals and material safety data sheets required by chapter 296-62 WAC.

2. Training. At a minimum, Contractor shall provide training for persons working on the Project site which includes:

   a. Detecting hazardous chemicals: Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);

b. Hazards of chemicals: The physical and health hazards of the chemicals in the work area;

c. Protection from hazards: The measures such persons can take to protect themselves from these hazards, including specific procedures Contractor, or its Subcontractors, or others have implemented to protect those on the Project site from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and

d. Hazard communications program: The details of the hazard communications program developed by Contractor, or its Subcontractors, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

E. Hazardous, toxic or harmful substances: Contractor's responsibility for hazardous, toxic, or harmful substances shall include the following duties:

1. Illegal use of dangerous substances: Contractor shall not keep, use, dispose, transport, generate, or sell on or about the Project site, any substances now or hereafter designated as, or which are subject to regulation as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "hazardous substances"), in violation of any such law, regulation, statute, or ordinance, but in no case shall any such hazardous substance be stored more than 90 Days on the Project site.

2. Contractor notifications of spills, failures, inspections, and fines: Contractor shall promptly notify Owner of all spills or releases of any hazardous substances which are otherwise required to be reported to any regulatory agency and pay the cost of cleanup. Contractor shall promptly notify Owner of all failures to comply with any federal, state, or local law, regulation, or ordinance; all inspections of the Project site by any regulatory entity concerning the same; all regulatory orders or fines; and all responses or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Project site.

F. Public safety and traffic: All Work shall be performed with due regard for the safety of the public. Contractor shall perform the Work so as to cause a minimum of interruption of vehicular traffic or inconvenience to pedestrians. All arrangements to care for such traffic shall be Contractor's responsibilities. All expenses involved in the maintenance of traffic by way of detours shall be borne by Contractor.

G. Contractor to act in an emergency: In an emergency affecting the safety of life or the Work or of adjoining property, Contractor is permitted to act, at its discretion, to prevent such threatened loss or injury, and Contractor shall so act if so authorized or instructed.

H. No duty of safety by Owner or A/E: Nothing provided in this section shall be construed as imposing any duty upon Owner or A/E with regard to, or as constituting any express or implied assumption of control or responsibility over, Project site safety, or over any other safety conditions relating to employees or agents of Contractor or any of its Subcontractors, or the public.

5.08 OPERATIONS, MATERIAL HANDLING, AND STORAGE AREAS

A. Limited storage areas: Contractor shall confine all operations, including storage of materials, to Owner-approved areas.

B. Temporary buildings and utilities at Contractor expense: Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be provided by Contractor only with the consent of Owner

and without expense to Owner. The temporary buildings and utilities shall be removed by Contractor at its expense upon completion of the Work.

C. Roads and vehicle loads: Contractor shall use only established roadways or temporary roadways authorized by Owner. When materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by federal, state, or local law or regulation.

D. Ownership and reporting by Contractor of demolished materials: Ownership and control of all materials or facility components to be demolished or removed from the Project site by Contractor shall immediately vest in Contractor upon severance of the component from the facility or severance of the material from the Project site. Contractor shall be responsible for compliance with all laws governing the storage and ultimate disposal. Contractor shall provide Owner with a copy of all manifests and receipts evidencing proper disposal when required by Owner or applicable law.

E. Contractor responsible for care of materials and equipment on-site: Contractor shall be responsible for the proper care and protection of its materials and equipment delivered to the Project site. Materials and equipment may be stored on the premises subject to approval of Owner. When Contractor uses any portion of the Project site as a shop, Contractor shall be responsible for any repairs, patching, or cleaning arising from such use.

F. Contractor responsible for loss of materials and equipment: Contractor shall protect and be responsible for any damage or loss to the Work, or to the materials or equipment until the date of Substantial Completion, and shall repair or replace without cost to Owner any damage or loss that may occur, except damages or loss caused by the acts or omissions of Owner. Contractor shall also protect and be responsible for any damage or loss to the Work, or to the materials or equipment, after the date of Substantial Completion, and shall repair or replace without cost to Owner any such damage or loss that might occur, to the extent such damages or loss are caused by the acts or omissions of Contractor, or any Subcontractor.

5.09 PRIOR NOTICE OF EXCAVATION

A. Excavation defined; Use of locator services: "Excavation" means an operation in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means, except the tilling of soil less than 12 inches in depth for agricultural purposes, or road ditch maintenance that does not change the original road grade or ditch flow line. Before commencing any excavation, Contractor shall provide notice of the scheduled commencement of excavation to all owners of underground facilities or utilities, through locator services.

5.10 UNFORESEEN PHYSICAL CONDITIONS

A. Notice requirement for concealed or unknown conditions: If Contractor encounters conditions at the site which are subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then Contractor shall give written notice to Owner promptly and in no event later than 7 Days after the first observance of the conditions. Conditions shall not be disturbed prior to such notice.

B. Adjustment in Contract Time and Contract Sum: If such conditions differ materially and cause a change in Contractor's cost of, or time required for, performance of any part of the Work, the Contractor may be entitled to an equitable adjustment in the Contract Time or Contract Sum, or both, provided it makes a request therefore as provided in Part 7.

5.11 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT, VEGETATION, UTILITIES AND IMPROVEMENTS

A. Contractor to protect and repair property: Contractor shall protect from damage all existing structures, equipment, improvements, utilities, and vegetation: at or near the Project site; and on adjacent property of a third party, the locations of which are made known to or should be known by Contractor. Contractor shall repair any damage, including that to the property of a third party, resulting from failure to comply with the requirements of the Contract Documents or failure to exercise reasonable care in performing the Work. If Contractor fails or refuses to repair the damage promptly, Owner may have the necessary work performed and charge the cost to Contractor.

B. Tree and vegetation protection: Contractor shall only remove trees when specifically authorized to do so, and shall protect vegetation that will remain in place.

5.12 LAYOUT OF WORK

A. Advanced planning of the Work: Contractor shall plan and lay out the Work in advance of operations so as to coordinate all work without delay or revision.

B. Layout responsibilities: Contractor shall lay out the Work from Owner-established baselines and bench marks indicated on the Drawings, and shall be responsible for all field measurements in connection with the layout. Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the Work. Contractor shall be responsible for executing the Work to the lines and grades that may be established. Contractor shall be responsible for maintaining or restoring all stakes and other marks established.

5.13 MATERIAL AND EQUIPMENT

A. Contractor to provide new and equivalent equipment and materials: All equipment, material, and articles incorporated into the Work shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract Documents. References in the Specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard quality and shall not be construed as limiting competition. Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of A/E, is equal to that named in the specifications, unless otherwise specifically provided in the Contract Documents.

B. Use of asbestos-containing building materials: The use of asbestos-containing building materials in new construction or renovation work is strictly prohibited. For the determination of asbestos-containing building materials, the following shall apply:

1. Until January 1, 2025, asbestos deliberately added in any concentration that contains more than one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in bulk building materials, EPA/600/R-93/116, July 1993.

2. Following January 1, 2025, asbestos building material deliberately added in any concentration that contains more than 1/10th of one percent asbestos by weight or area for the determination of asbestos in bulk building materials, EPA/600/R-93/116, July 1993.

C. Contractor responsible for fitting parts together: Contractor shall do all cutting, fitting, or patching that may be required to make its several parts fit together properly, or receive or be received by work of others set forth in, or reasonably implied by, the Contract Documents. Contractor shall

not endanger any work by cutting, excavating, or otherwise altering the Work and shall not cut or alter the work of any other contractor unless approved in advance by Owner.

D. Owner may reject defective Work: Should any of the Work be found defective, or in any way not in accordance with the Contract Documents, this work, in whatever stage of completion, may be rejected by Owner.

5.14 AVAILABILITY AND USE OF UTILITY SERVICES

A. Owner to provide and charge for utilities: Owner shall make all reasonable utilities available to Contractor from existing outlets and supplies, as specified in the Contract Documents. Unless otherwise provided in the Contract Documents, the utility service consumed shall be charged to or paid for by Contractor at prevailing rates charged to Owner or, where the utility is produced by Owner, at reasonable rates determined by Owner. Contractor will carefully conserve any utilities furnished.

B. Contractor to install temporary connections and meters: Contractor shall, at its expense and in a skillful manner satisfactory to Owner, install and maintain all necessary temporary connections and distribution lines, together with appropriate protective devices, and all meters required to measure the amount of each utility used for the purpose of determining charges. Prior to the date of Final Acceptance, Contractor shall remove all temporary connections, distribution lines, meters, and associated equipment and materials.

5.15 TESTS AND INSPECTION

A. Contractor to provide for all testing and inspection of Work: Contractor shall maintain an adequate testing and inspection program and perform such tests and inspections as are necessary or required to ensure that the Work conforms to the requirements of the Contract Documents. Contractor shall be responsible for inspection and quality surveillance of all its Work and all Work performed by any Subcontractor. Unless otherwise provided, Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. Contractor shall give Owner timely notice of when and where tests and inspections are to be made. Contractor shall maintain complete inspection records and make them available to Owner.

B. Owner may conduct tests and inspections: Owner may, at any reasonable time, conduct such inspections and tests as it deems necessary to ensure that the Work is in accordance with the Contract Documents. Owner shall promptly notify Contractor if an inspection or test reveals that the Work is not in accordance with the Contract Documents. Unless the subject items are expressly accepted by Owner, such Owner inspection and tests are for the sole benefit of Owner and do not:

1. Constitute or imply acceptance;

2. Relieve Contractor of responsibility for providing adequate quality control measures;

3. Relieve Contractor of responsibility for risk of loss or damage to the Work, materials, or equipment;

4. Relieve Contractor of its responsibility to comply with the requirements of the Contract Documents; or

5. Impair Owner's right to reject defective or nonconforming items, or to avail itself of any other remedy to which it may be entitled.

C. Inspections or inspectors do not modify Contract Documents: Neither observations by an inspector retained by Owner, the presence or absence of such inspector on the site, nor inspections, tests, or approvals by others, shall relieve Contractor from any requirement of the Contract Documents, nor is any such inspector authorized to change any term or condition of the Contract Documents.

D. Contractor responsibilities on inspections: Contractor shall promptly furnish, without additional charge, all facilities, labor, material and equipment reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner. Owner may charge Contractor any additional cost of inspection or testing when Work is not ready at the time specified by Contractor for inspection or testing, or when prior rejection makes reinspection or retest necessary. Owner shall perform its inspections and tests in a manner that will cause no undue delay in the Work.

5.16 CORRECTION OF NONCONFORMING WORK

A. Work covered by Contractor without inspection: If a portion of the Work is covered contrary to the requirements in the Contract Documents, it must, if required in writing by Owner, be uncovered for Owner's observation and be replaced at the Contractor's expense and without change in the Contract Time.

B. Payment provisions for uncovering covered Work: If, at any time prior to Final Completion, Owner desires to examine the Work, or any portion of it, which has been covered, Owner may request to see such Work and it shall be uncovered by Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an adjustment in the Contract Sum for the costs of uncovering and replacement, and, if completion of the Work is thereby delayed, an adjustment in the Contract Time, provided it makes such a request as provided in Part 7. If such Work is not in accordance with the Contract Documents, the Contractor shall pay the costs of examination and reconstruction.

C. Contractor to correct and pay for non-conforming Work: Contractor shall promptly correct Work found by Owner not to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. Contractor shall bear all costs of correcting such nonconforming Work, including additional testing and inspections.

D. Contractor's compliance with warranty provisions: If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or within one year after the date for commencement of any system warranties established under Section 6.08, or within the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner to do so. Owner shall give such notice promptly after discovery of the condition. This period of one year shall be extended, with respect to portions of Work first performed after Substantial Completion, by the period of time between Substantial Completion and the actual performance of the Work. Contractor's duty to correct with respect to Work repaired or replaced shall run for one year from the date of repair or replacement. Obligations under this paragraph shall survive Final Acceptance.

E. Contractor to remove non-conforming Work: Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by Contractor nor accepted by Owner.

F. Owner may charge Contractor for non-conforming Work: If Contractor fails to correct nonconforming Work within a reasonable time after written notice to do so, Owner may replace, correct, or remove the nonconforming Work and charge the cost thereof to the Contractor.

G. Contractor to pay for damaged Work during correction: Contractor shall bear the cost of correcting destroyed or damaged Work, whether completed or partially completed, caused by Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

H. No Period of limitation on other requirements: Nothing contained in this section shall be construed to establish a period of limitation with respect to other obligations which Contractor might have according to the Contract Documents. Establishment of the time period of one year as described in Section 5.16D relates only to the specific obligation of Contractor to correct the Work, and has no relationship to the time within which the Contractor's obligation to comply with the Contract Documents may be sought to be enforced, including the time within which such proceedings may be commenced.

I. Owner may accept non-conforming Work and charge Contractor: If Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, Owner may do so instead of requiring its removal and correction, in which case the Contract Sum may be reduced as appropriate and equitable.

5.17 CLEAN UP

Contractor to keep site clean and leave it clean: Contractor shall at all times keep the Project site, including hauling routes, infrastructures, utilities, and storage areas, free from accumulations of waste materials. Before completing the Work, Contractor shall remove from the premises its rubbish, tools, scaffolding, equipment, and materials. Upon completing the Work, Contractor shall leave the Project site in a clean, neat, and orderly condition satisfactory to Owner. If Contractor fails to clean up as provided herein, and after reasonable notice from Owner, Owner may do so and the cost thereof shall be charged to Contractor.

5.18 ACCESS TO WORK

Owner and A/E access to Work site: Contractor shall provide Owner and A/E access to the Work in progress wherever located.

5.19 OTHER CONTRACTS

Owner may award other contracts; Contractor to cooperate: Owner may undertake or award other contracts for additional work at or near the Project site. Contractor shall reasonably cooperate with the other contractors and with Owner's employees and shall carefully adapt scheduling and perform the Work in accordance with these Contract Documents to reasonably accommodate the other work.

5.20 SUBCONTRACTORS AND SUPPLIERS

A. Subcontractor Responsibility: The Contractor shall include the language of this paragraph in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the Owner, the Contractor shall promptly provide documentation to the Owner demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this paragraph apply to all subcontractors regardless of tier. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;

2. Have a current Washington Unified Business Identifier (UBI) number;

3. If applicable, have:

   a. Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;

   b. A Washington Employment Security Department number, as required in Title 50 RCW;

   c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;

   d. An electrical contractor license, if required by Chapter 19.28 RCW;

   e. An elevator contractor license, if required by Chapter 70.87 RCW.

4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

5. On a project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the Owner's first advertisement of the project.

6. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the L&I or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

B. Provide names of Subcontractors and use qualified firms: Contractor shall utilize Subcontractors and suppliers which are experienced and qualified, and meet the requirements of the Contract Documents, if any. Contractor shall not utilize any Subcontractor or supplier to whom the Owner has a reasonable objection, and shall obtain Owner's written consent before making any substitutions or additions. Substitutions of subcontractors listed on Forms A and B are only allowable according to RCW 39.30.060.

C. Subcontracts in writing and pass through provision: All Subcontracts must be in writing. By appropriate written agreement, Contractor shall require each Subcontractor, so far as applicable to the Work to be performed by the Subcontractor, to be bound to Contractor by terms of the Contract Documents, and to assume toward Contractor all the obligations and responsibilities which Contractor assumes toward Owner in accordance with the Contract Documents. Each Subcontract shall preserve and protect the rights of Owner in accordance with the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. However, nothing in this paragraph shall be construed to alter the contractual relations between Contractor and its Subcontractors with respect to insurance or bonds.

D. Coordination of Subcontractors; Contractor responsible for Work: Contractor shall schedule, supervise, and coordinate the operations of all Subcontractors. No Subcontracting of any of the Work shall relieve Contractor from its responsibility for the performance of the Work in accordance with the Contract Documents or any other obligations of the Contract Documents.

E. Automatic assignment of subcontracts: Each subcontract agreement for a portion of the Work is hereby assigned by Contractor to Owner provided that:

1. Effective only after termination and Owner approval: The assignment is effective only after termination by Owner for cause pursuant to Section 9.01 and only for those Subcontracts which Owner accepts by notifying the Subcontractor in writing; and

2. Owner assumes Contractor's responsibilities: After the assignment is effective, Owner will assume all future duties and obligations toward the Subcontractor which Contractor assumed in the Subcontract.

3. Impact of bond: The assignment is subject to the prior rights of the surety, if any, obligated under any bond provided in accordance with the Contract Documents.

5.21 WARRANTY OF CONSTRUCTION

A. Contractor warranty of Work: In addition to any special warranties provided elsewhere in the Contract Documents, Contractor warrants that all Work conforms to the requirements of the Contract Documents and is free of any defect in equipment, material, or design furnished, or workmanship performed by Contractor.

B. Contractor responsibilities: With respect to all warranties, express or implied, for Work performed or materials furnished according to the Contract Documents, Contractor shall:

1. Obtain warranties: Obtain all warranties that would be given in normal commercial practice;

2. Warranties for benefit of Owner: Require all warranties to be executed, in writing, for the benefit of Owner;

3. Enforcement of warranties: Enforce all warranties for the benefit of Owner, if directed by Owner; and

4. Contractor responsibility for subcontractor warranties: Be responsible to enforce any subcontractor's, manufacturer's, or supplier's warranties should they extend beyond the period specified in the Contract Documents.

C. Warranties beyond Final Acceptance: The obligations under this section shall survive Final Acceptance.

5.22 INDEMNIFICATION

A. Contractor to indemnify Owner: Contractor shall defend, indemnify, and hold Owner and A/E harmless from and against all claims, demands, losses, damages, or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:

1. Sole negligence of Contractor: The sole negligence of Contractor or any of its Subcontractors;

2. Concurrent negligence: The concurrent negligence of Contractor, or any Subcontractor, but only to the extent of the negligence of Contractor or such Subcontractor; and

3. Patent infringement: The use of any design, process, or equipment which constitutes an infringement of any United States patent presently issued, or violates any other proprietary interest, including copyright, trademark, and trade secret.

B. Employee action and RCW Title 51: In any action against Owner and any other entity indemnified in accordance with this section, by any employee of Contractor, its Subcontractors, Sub-subcontractors, agents, or anyone directly or indirectly employed by any of them, the indemnification obligation of this section shall not be limited by a limit on the amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor under RCW Title 51, the Industrial Insurance Act, or any other employee benefit acts. In addition, Contractor waives immunity as to Owner and A/E only, in accordance with RCW Title 51.

PART 6 – PAYMENTS AND COMPLETION

6.01 CONTRACT SUM

Owner shall pay Contract Sum: Owner shall pay Contractor the Contract Sum plus state sales tax for performance of the Work, in accordance with the Contract Documents.

6.02 SCHEDULE OF VALUES

Contractor to submit Schedule of Values: Before submitting its first Application for Payment, Contractor shall submit to Owner for approval a breakdown allocating the total Contract Sum to each principal category of work, in such detail as requested by Owner ("Schedule of Values"). The approved Schedule of Values shall include appropriate amounts for demobilization, record drawings, O&M manuals, and any other requirements for Project closeout, and shall be used by Owner as the basis for progress payments. Payment for Work shall be made only for and in accordance with those items included in the Schedule of Values.

6.03 APPLICATION FOR PAYMENT

A. Monthly Application for Payment with substantiation: At monthly intervals, unless determined otherwise by Owner, Contractor shall submit to Owner an itemized Application for Payment for Work completed in accordance with the Contract Documents and the approved Schedule of Values. Each application shall be supported by such substantiating data as Owner may require.

B. Contractor certifies Subcontractors paid: By submitting an Application for Payment, Contractor is certifying that all Subcontractors have been paid, less earned retainage in accordance with RCW 60.28.011, as their interests appeared in the last preceding certificate of payment. By submitting an Application for Payment, Contractor is recertifying that the representations set forth in Section 1.03, are true and correct, to the best of Contractor's knowledge, as of the date of the Application for Payment.

C. Reconciliation of Work with Progress Schedule: At the time it submits an Application for Payment, Contractor shall analyze and reconcile, to the satisfaction of Owner, the actual progress of the Work with the Progress Schedule.

D. Payment for material delivered to site or stored off-site: If authorized by Owner, the Application for Payment may include request for payment for material delivered to the Project site and suitably stored, or for completed preparatory work. Payment may similarly be requested for material stored off the Project site, provided Contractor complies with or furnishes satisfactory evidence of the following:

1. Suitable facility or location: The material will be placed in a facility or location that is structurally sound, dry, lighted and suitable for the materials to be stored;

2. Facility or location within 10 miles of Project: The facility or location is located within a 10-mile radius of the Project. Other locations may be utilized, if approved in writing, by Owner;

3. Facility or location exclusive to Project's materials: Only materials for the Project are stored within the facility or location (or a secure portion of a facility or location set aside for the Project);

4. Insurance provided on materials in facility or location: Contractor furnishes Owner a certificate of insurance extending Contractor's insurance coverage for damage, fire, and theft to cover the full value of all materials stored, or in transit;

5. Facility or location locked and secure: The facility or location (or secure portion thereof) is continuously under lock and key, and only Contractor's authorized personnel shall have access;

6. Owner right of access to facility or location: Owner shall at all times have the right of access in company of Contractor;

7. Contractor assumes total responsibility for stored materials: Contractor and its surety assume total responsibility for the stored materials; and

8. Contractor provides documentation and Notice when materials moved to site: Contractor furnishes to Owner certified lists of materials stored, bills of lading, invoices, and other information as may be required, and shall also furnish Notice to Owner when materials are moved from storage to the Project site.

6.04 PROGRESS PAYMENTS

A. Owner to pay within 30 Days: Owner shall make progress payments, in such amounts as Owner determines are properly due, within 30 Days after receipt of a properly executed Application for Payment. Owner shall notify Contractor in accordance with chapter 39.76 RCW if the Application for Payment does not comply with the requirements of the Contract Documents.

B. Withholding retainage; Options for retainage: Owner shall retain 5% of the amount of each progress payment until 45 Days after Final Acceptance and receipt of all documents required by law or the Contract Documents, including, at Owner's request, consent of surety to release of the retainage. In accordance with chapter 60.28 RCW, Contractor may request that monies reserved be retained in a fund by Owner, deposited by Owner in a bank or savings and loan, or placed in escrow with a bank or trust company to be converted into bonds and securities to be held in escrow with interest to be paid to Contractor. Owner may permit Contractor to provide an appropriate bond in lieu of the retained funds.

C. Title passes to Owner upon payment: Title to all Work and materials covered by a progress payment shall pass to Owner at the time of such payment free and clear of all liens, claims, security interests, and encumbrances. Passage of title shall not, however, relieve Contractor from any of its duties and responsibilities for the Work or materials, or waive any rights of Owner to insist on full compliance by Contractor with the Contract Documents.

D. Interest on unpaid balances: Payments due and unpaid in accordance with the Contract Documents shall bear interest as specified in chapter 39.76 RCW.

6.05 PAYMENTS WITHHELD

A. Owner's right to withhold payment: Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to such extent as may be necessary to protect Owner from loss or damage for reasons including but not limited to:

1. Non-compliant Work: Work not in accordance with the Contract Documents;

2. Remaining Work to cost more than unpaid balance: Reasonable evidence that the Work required by the Contract Documents cannot be completed for the unpaid balance of the Contract Sum;

3. Owner correction or completion Work: Work by Owner to correct defective Work or complete the Work in accordance with Section 5.16;

4. Contractor's failure to perform: Contractor's failure to perform in accordance with the Contract Documents; or

5. Contractor's negligent acts or omissions: Cost or liability that may occur to Owner as the result of Contractor's fault or negligent acts or omissions.

B. Owner to notify Contractor of withholding for unsatisfactory performance: In any case where part or all of a payment is going to be withheld for unsatisfactory performance, Owner shall notify Contractor in accordance with chapter 39.76 RCW.

6.06 RETAINAGE AND BOND CLAIM RIGHTS

Chapters 39.08 RCW and 60.28 RCW incorporated by reference: Chapters 39.08 RCW and 60.28 RCW, concerning the rights and responsibilities of Contractor and Owner with regard to the performance and payment bonds and retainage, are made a part of the Contract Documents by reference as though fully set forth herein.

6.07 SUBSTANTIAL COMPLETION

Substantial Completion defined: Substantial Completion is the stage in the progress of the Work (or portion thereof designated and approved by Owner) when the construction is sufficiently complete, in accordance with the Contract Documents, so Owner has full and unrestricted use and benefit of the facilities (or portion thereof designated and approved by Owner) for the use for which it is intended. All Work other than incidental corrective or punch list work shall be completed. Substantial Completion shall not have been achieved if all systems and parts are not functional, if utilities are not connected and operating normally, if all required occupancy permits have not been issued, or if the Work is not accessible by normal vehicular and pedestrian traffic routes. The date Substantial Completion is achieved shall be established in writing by Owner. Contractor may request an early date of Substantial Completion which must be approved by Change Order. Owner's occupancy of the Work or designated portion thereof does not necessarily indicate that Substantial Completion has been achieved.

6.08 PRIOR OCCUPANCY

A. Prior Occupancy defined; Restrictions: Owner may, upon written notice thereof to Contractor, take possession of or use any completed or partially completed portion of the Work ("Prior Occupancy") at any time prior to Substantial Completion. Unless otherwise agreed in writing, Prior Occupancy shall not: be deemed an acceptance of any portion of the Work; accelerate the time for any payment to Contractor; prejudice any rights of Owner provided by any insurance, bond, guaranty, or the Contract Documents; relieve Contractor of the risk of loss or any of the obligations established by the Contract Documents; establish a date for termination or partial termination of the assessment of liquidated damages; or constitute a waiver of claims.

B. Damage; Duty to repair and warranties: Notwithstanding anything in the preceding paragraph, Owner shall be responsible for loss of or damage to the Work resulting from Prior Occupancy. Contractor's one year duty to repair any system warranties shall begin on building systems activated and used by Owner as agreed in writing by Owner and Contractor.

6.09 FINAL COMPLETION, ACCEPTANCE, AND PAYMENT

A. Final Completion defined: Final Completion shall be achieved when the Work is fully and finally complete in accordance with the Contract Documents. The date Final Completion is achieved shall be established by Owner in writing, but in no case shall constitute Final Acceptance which is a subsequent, separate, and distinct action.

B. Final Acceptance defined: Final Acceptance shall be achieved when the Contractor has completed the requirements of the Contract Documents. The date Final Acceptance is achieved shall be established by Owner in writing. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents, submit to Owner a written notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment, shall release Contractor or its sureties from any obligations of these Contract Documents or the payment and performance bonds, or constitute a waiver of any claims by Owner arising from Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Final payment waives Claim rights: Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to Owner of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of Owner relating to or arising out of the Work, except for those Claims made in accordance with the procedures, including the time limits, set forth in Part 8.

PART 7 – CHANGES

7.01 CHANGE IN THE WORK

A. Changes in Work, Contract Sum, and Contract Time by Change Order: Owner may, at any time and without notice to Contractor's surety, order additions, deletions, revisions, or other changes in the Work. These changes in the Work shall be incorporated into the Contract Documents through the execution of Change Orders. If any change in the Work ordered by Owner causes an increase or decrease in the Contract Sum or the Contract Time, an equitable adjustment shall be made as provided in Section 7.02 or 7.03, respectively, and such adjustment(s) shall be incorporated into a Change Order.

B. Owner may request COP from Contractor: If Owner desires to order a change in the Work, it may request a written Change Order Proposal (COP) from Contractor. Contractor shall submit a Change Order Proposal within 14 Days of the request from Owner, or within such other period as mutually agreed. Contractor's Change Order Proposal shall be full compensation for implementing the proposed change in the Work, including any adjustment in the Contract Sum or Contract Time, and including compensation for all delays in connection with such change in the Work and for any expense or inconvenience, disruption of schedule, or loss of efficiency or productivity occasioned by the change in the Work.

C. COP negotiations: Upon receipt of the Change Order Proposal, or a request for equitable adjustment in the Contract Sum or Contract Time, or both, as provided in Sections 7.02 and 7.03, Owner may accept or reject the proposal, request further documentation, or negotiate acceptable terms with Contractor. Pending agreement on the terms of the Change Order, Owner may direct Contractor to proceed immediately with the Change Order Work. Contractor shall not proceed with any change in the Work until it has obtained Owner's approval. All Work done pursuant to any Owner-directed change in the Work shall be executed in accordance with the Contract Documents.

D. Change Order as full payment and final settlement: If Owner and Contractor reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, such agreement shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of all claims for time and for direct, indirect, and consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity, related to any Work either covered or affected by the Change Order, or related to the events giving rise to the request for equitable adjustment.

E. Failure to agree upon terms of Change Order; Final offer and Claims: If Owner and Contractor are unable to reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, Contractor may at any time in writing, request a final offer from

Owner. Owner shall provide Contractor with its written response within 30 Days of Contractor's request. Owner may also provide Contractor with a final offer at any time. If Contractor rejects Owner's final offer, or the parties are otherwise unable to reach agreement, Contractor's only remedy shall be to file a Claim as provided in Part 8.

F. Field Authorizations: The Owner may direct the Contractor to proceed with a change in the work through a written Field Authorization (also referred to as a Field Order) when the time required to price and execute a Change Order would impact the Project.

The Field Authorization shall describe and include the following:

1. The scope of work

2. An agreed upon maximum not-to-exceed amount

3. Any estimated change to the Contract Time

4. The method of final cost determination in accordance with the requirements of Part 7 of the General Conditions

5. The supporting cost data to be submitted in accordance with the requirements of Part 7 of the General Conditions

Upon satisfactory submittal by the Contractor and approval by the Owner of supporting cost data, a Change Order will be executed. The Owner will not make payment to the Contractor for Field Authorization work until that work has been incorporated into an executed Change Order.

7.02 CHANGE IN THE CONTRACT SUM

A. General Application

1. Contract Sum changes only by Change Order: The Contract Sum shall only be changed by a Change Order. Contractor shall include any request for a change in the Contract Sum in its Change Order Proposal.

2. Owner fault or negligence as basis for change in Contract Sum: If the cost of Contractor's performance is changed due to the fault or negligence of Owner, or anyone for whose acts Owner is responsible, Contractor shall be entitled to make a request for an equitable adjustment in the Contract Sum in accordance with the following procedure. No change in the Contract Sum shall be allowed to the extent: Contractor's changed cost of performance is due to the fault or negligence of Contractor, or anyone for whose acts Contractor is responsible; the change is concurrently caused by Contractor and Owner; or the change is caused by an act of Force Majeure as defined in Section 3.05.

   (a) Notice and record keeping for equitable adjustment: A request for an equitable adjustment in the Contract Sum shall be based on written notice delivered to Owner within 7 Days of the occurrence of the event giving rise to the request. For purposes of this part, "occurrence" means when Contractor knew, or in its diligent prosecution of the Work should have known, of the event giving rise to the request. If Contractor believes it is entitled to an adjustment in the Contract Sum, Contractor shall immediately notify Owner and begin to keep and maintain complete, accurate, and specific daily records. Contractor shall give Owner access to any such records and, if requested shall promptly furnish copies of such records to Owner.

   (b) Content of notice for equitable adjustment; Failure to comply: Contractor shall not be entitled to any adjustment in the Contract Sum for any occurrence of events or costs that

occurred more than 7 Days before Contractor's written notice to Owner. The written notice shall set forth, at a minimum, a description of: the event giving rise to the request for an equitable adjustment in the Contract Sum; the nature of the impacts to Contractor and its Subcontractors of any tier, if any; and to the extent possible the amount of the adjustment in Contract Sum requested. Failure to properly give such written notice shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.

(c) Contractor to provide supplemental information: Within 30 Days of the occurrence of the event giving rise to the request, unless Owner agrees in writing to allow an additional period of time to ascertain more accurate data, Contractor shall supplement the written notice provided in accordance with subparagraph a. above with additional supporting data. Such additional data shall include, at a minimum: the amount of compensation requested, itemized in accordance with the procedure set forth herein; specific facts, circumstances, and analysis that confirms not only that Contractor suffered the damages claimed, but that the damages claimed were actually a result of the act, event, or condition complained of and that the Contract Documents provide entitlement to an equitable adjustment to Contractor for such act, event, or condition; and documentation sufficiently detailed to permit an informed analysis of the request by Owner. When the request for compensation relates to a delay, or other change in Contract Time, Contractor shall demonstrate the impact on the critical path, in accordance with Section 7.03C. Failure to provide such additional information and documentation within the time allowed or within the format required shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.

(d) Contractor to proceed with Work as directed: Pending final resolution of any request made in accordance with this paragraph, unless otherwise agreed in writing, Contractor shall proceed diligently with performance of the Work.

(e) Contractor to combine requests for same event together: Any requests by Contractor for an equitable adjustment in the Contract Sum and in the Contract Time that arise out of the same event(s) shall be submitted together.

3. Methods for calculating Change Order amount: The value of any Work covered by a Change Order, or of any request for an equitable adjustment in the Contract Sum, shall be determined by one of the following methods:

(a) Fixed Price: On the basis of a fixed price as determined in paragraph 7.02B.

(b) Unit Prices: By application of unit prices to the quantities of the items involved as determined in paragraph 7.02C.

(c) Time and Materials: On the basis of time and material as determined in paragraph 7.02D.

4. Fixed price method is default; Owner may direct otherwise: When Owner has requested Contractor to submit a Change Order Proposal, Owner may direct Contractor as to which method in subparagraph 3 above to use when submitting its proposal. Otherwise, Contractor shall determine the value of the Work, or of a request for an equitable adjustment, on the basis of the fixed price method.

B. Change Order Pricing – Fixed Price

Procedures: When the fixed price method is used to determine the value of any Work covered by a Change Order, or of a request for an equitable adjustment in the Contract Sum, the following procedures shall apply:

1. Breakdown and itemization of details on COP: Contractor's Change Order Proposal, or request for adjustment in the Contract Sum, shall be accompanied by a complete itemization of the costs, including labor, material, subcontractor costs, and overhead and profit. The costs shall be itemized in the manner set forth below, and shall be submitted on breakdown sheets in a form approved by Owner.

2. Use of industry standards in calculating costs: All costs shall be calculated based upon appropriate industry standard methods of calculating labor, material quantities, and equipment costs.

3. Costs contingent on Owner's actions: If any of Contractor's pricing assumptions are contingent upon anticipated actions of Owner, Contractor shall clearly state them in the proposal or request for an equitable adjustment.

4. Markups on additive and deductive Work: The cost of any additive or deductive changes in the Work shall be calculated as set forth below, except that overhead and profit shall not be included on deductive changes in the Work. Where a change in the Work involves additive and deductive work by the same Contractor or Subcontractor, small tools, overhead, profit, bond and insurance markups will apply to the net difference.

5. Breakdown not required if change less than $1,000: If the total cost of the change in the Work or request for equitable adjustment does not exceed $1,000, Contractor shall not be required to submit a breakdown if the description of the change in the Work or request for equitable adjustment is sufficiently definitive for Owner to determine fair value.

6. Breakdown required if change between $1,000 and $2,500: If the total cost of the change in the Work or request for equitable adjustment is between $1,000 and $2,500, Contractor may submit a breakdown in the following level of detail if the description of the change in the Work or if the request for equitable adjustment is sufficiently definitive to permit the Owner to determine fair value:

   a. lump sum labor;
   b. lump sum material;
   c. lump sum equipment usage;
   d. overhead and profit as set forth below; and
   e. insurance and bond costs as set forth below.

7. Components of increased cost: Any request for adjustment of Contract Sum based upon the fixed price method shall include only the following items:

   a. Craft labor costs: These are the labor costs determined by multiplying the estimated or actual additional number of craft hours needed to perform the change in the Work by the hourly labor costs. Craft hours should cover direct labor, as well as indirect labor due to trade inefficiencies. The hourly costs shall be based on the following:

      (1) Basic wages and benefits: Hourly rates and benefits as stated on the L&I approved "statement of intent to pay prevailing wages" or a higher amount if approved by the Owner. Direct supervision shall be a reasonable percentage not to exceed 15% of the cost of direct labor. No supervision markup shall be allowed for a working supervisor's hours.

      (2) Worker's insurance: Direct contributions to the state of Washington for industrial insurance; medical aid; and supplemental pension, by the class and rates established by the L&I.

(3) Federal insurance: Direct contributions required by the Federal Insurance Compensation Act; Federal Unemployment Tax Act; and the State Unemployment Compensation Act.

(4) Travel allowance: Travel allowance and/or subsistence, if applicable, not exceeding those allowances established by regional labor union agreements, which are itemized and identified separately.

(5) Safety: Cost incurred due to the Washington Industrial Safety and Health Act, which shall be a reasonable percentage not to exceed 2% of the sum of the amounts calculated in (1), (2), and (3) above.

b. Material costs: This is an itemization of the quantity and cost of materials needed to perform the change in the Work. Material costs shall be developed first from actual known costs, second from supplier quotations or if these are not available, from standard industry pricing guides. Material costs shall consider all available discounts. Freight costs, express charges, or special delivery charges, shall be itemized.

c. Equipment costs: This is an itemization of the type of equipment and the estimated or actual length of time the construction equipment appropriate for the Work is or will be used on the change in the Work. Costs will be allowed for construction equipment only if used solely for the changed Work, or for additional rental costs actually incurred by the Contractor. Equipment charges shall be computed on the basis of actual invoice costs or if owned, from the current edition of one of the following sources:

(1) The National Electrical Contractors Association for equipment used on electrical work.

(2) The Mechanical Contractors Association of America for equipment used on mechanical work.

(3) The EquipmentWatch Fleet Manager Estimator Package (digital). The maximum rate for standby equipment shall not exceed that shown in the Associated General Contractors Washington State Department of Transportation (AGC WSDOT) Equipment Rental Agreement, current edition on the Contract execution date.

The EquipmentWatch Rental Rate Blue Book shall be used as a basis for establishing rental rates of equipment not listed in the above sources. The maximum rate for standby equipment shall not exceed that shown in the AGC WSDOT Equipment Rental Agreement, current edition on the Contract execution date.

d. Allowance for small tools, expendables & consumable supplies: Small tools consist of tools which cost $250 or less and are normally furnished by the performing contractor. The maximum rate for small tools shall not exceed the following:

(1) 3% for Contractor: For Contractor, 3% of direct labor costs.

(2) 5% for Subcontractors: For Subcontractors, 5% of direct labor costs.

Expendables and consumables supplies directly associated with the change in Work must be itemized.

e. Subcontractor costs: This is defined as payments Contractor makes to Subcontractors for changed Work performed by Subcontractors of any tier. The Subcontractors' cost of Work shall be calculated and itemized in the same manner as prescribed herein for Contractor.

f. Allowance for overhead: This is defined as costs of any kind attributable to direct and indirect delay, acceleration, or impact, added to the total cost to Owner of any change in the Contract Sum. If the Contractor is compensated under Section 7.03D, the amount of such compensation shall be reduced by the amount Contractor is otherwise entitled to under this subsection (f). This allowance shall compensate Contractor for all noncraft labor, temporary construction facilities, field engineering, schedule updating, as-built drawings, home office cost, B&O taxes, office engineering, estimating costs, additional overhead because of extended time, and any other cost incidental to the change in the Work. It shall be strictly limited in all cases to a reasonable amount, mutually acceptable, or if none can be agreed upon to an amount not to exceed the rates below:

(1). Projects less than $3 million: For projects where the Contract Award Amount is under $3 million, the following shall apply:

(a) Contractor markup on Contractor Work: For Contractor, for any Work actually performed by Contractor's own forces, 16% of the first $50,000 of the cost, and 4% of the remaining cost, if any.

(b) Subcontractor markup for Subcontractor Work: For each Subcontractor (including lower tier subcontractors), for any Work actually performed by its own forces, 16% of the first $50,000 of the cost, and 4% of the remaining cost, if any.

(c) Contractor markup for Subcontractor Work: For Contractor, for any work performed by its Subcontractor(s) 6% of the first $50,000 of the amount due each Subcontractor, and 4% of the remaining amount if any.

(d) Subcontractor markup for lower tier Subcontractor Work: For each Subcontractor, for any Work performed by its Subcontractor(s) of any lower tier, 4% of the first $50,000 of the amount due the sub-Subcontractor, and 2% of the remaining amount if any.

(e) Basis of cost applicable for markup: The cost to which overhead is to be applied shall be developed in accordance with Section 7.02B 7a. – e.

(2). Projects more than $3 million: For projects where the Contract Award Amount is equal to or exceeds $3 million, the following shall apply:

(a) Contractor markup on Contractor Work: For Contractor, for any Work actually performed by Contractor's own forces, 12% of the first $50,000 of the cost, and 4% of the remaining cost, if any.

(b) Subcontractor markup for Subcontractor Work: For each Subcontractor (including lower tier subcontractors), for any Work actually performed by its own forces, 12% of the first $50,000 of the cost, and 4% of the remaining cost, if any.

(c) Contractor markup for Subcontractor Work: For Contractor, for any Work performed by its Subcontractor(s), 4% of the first $50,000 of the amount due each Subcontractor, and 2% of the remaining amount if any.

(d) Subcontractor markup for lower tier Subcontractor Work: For each Subcontractor, for any Work performed by its Subcontractor(s) of any lower tier, 4% of the first $50,000 of the amount due the sub-Subcontractor, and 2% of the remaining amount if any.

(e) Basis of cost applicable for markup: The cost to which overhead is to be applied shall be developed in accordance with Section 7.02B 7a. – e.

g. Allowance for profit: Allowance for profit is an amount to be added to the cost of any change in contract sum, but not to the cost of change in Contract Time for which contractor has been compensated pursuant to the conditions set forth in Section 7.03. It shall be limited to a reasonable amount, mutually acceptable, or if none can be agreed upon, to an amount not to exceed the rates below:

(1) Contractor / Subcontractor markup for self-performed Work: For Contractor or Subcontractor of any tier for work performed by their forces, 6% of the cost developed in accordance with Section 7.02B 7a. – e.

(2) Contractor / Subcontractor markup for Work performed at lower tier: For Contractor or Subcontractor of any tier for work performed by a subcontractor of a lower tier, 4% of the subcontract cost developed in accordance with Section 7.02B 7a. – h.

h. Insurance and bond premiums: Cost of change in insurance or bond premium: This is defined as:

(1) Contractor's liability insurance: The cost of any changes in Contractor's liability insurance arising directly from execution of the Change Order; and

(2) Payment and Performance Bond: The cost of the additional premium for Contractor's bond arising directly from the changed Work.

The cost of any change in insurance or bond premium shall be added after overhead and allowance for profit are calculated in accordance with subparagraph f. and g above.

C. Change Order Pricing – Unit Prices

1. Content of Owner authorization: Whenever Owner authorizes Contractor to perform Work on a unit-price basis, Owner's authorization shall clearly state:

a. Scope: Scope of work to be performed;

b. Reimbursement basis: Type of reimbursement including pre-agreed rates for material quantities; and

c. Reimbursement limit: Cost limit of reimbursement.

2. Contractor responsibilities: Contractor shall:

a. Cooperate with Owner and assist in monitoring the Work being performed. As requested by Owner, Contractor shall identify workers assigned to the Change Order Work and areas in which they are working;

b. Leave access as appropriate for quantity measurement; and

c. Not exceed any cost limit(s) without Owner's prior written approval.

3. Cost breakdown consistent with Fixed Price requirements: Contractor shall submit costs in accordance with paragraph 7.02B and satisfy the following requirements:

a. Unit prices must include overhead, profit, bond and insurance premiums: Unit prices shall include reimbursement for all direct and indirect costs of the Work, including overhead, profit, bond, and insurance costs; and

b. Owner verification of quantities: Quantities must be supported by field measurement statements signed by Owner.

D. Change Order Pricing – Time-and-Material Prices

1. Content of Owner authorization: Whenever Owner authorizes Contractor to perform Work on a time-and-material basis, Owner's authorization shall clearly state:

   a. Scope: Scope of Work to be performed;

   b. Reimbursement basis: Type of reimbursement including pre-agreed rates, if any, for material quantities or labor; and

   c. Reimbursement limit: Cost limit of reimbursement.

2. Contractor responsibilities: Contractor shall:

   a. Identify workers assigned: Cooperate with Owner and assist in monitoring the Work being performed. As requested by Owner, identify workers assigned to the Change Order Work and areas in which they are working;

   b. Provide daily timesheets: Identify on daily time sheets all labor performed in accordance with this authorization. Submit copies of daily time sheets within 2 working days for Owner's review.

   c. Allow Owner to measure quantities: Leave access as appropriate for quantity measurement;

   d. Perform Work efficiently: Perform all Work in accordance with this section as efficiently as possible; and

   e. Not exceed Owner's cost limit: Not exceed any cost limit(s) without Owner's prior written approval.

3. Cost breakdown consistent with Fixed Price requirements: Contractor shall submit costs in accordance with paragraph 7.02B and additional verification supported by:

   a. Timesheets: Labor detailed on daily time sheets; and

   b. Invoices: Invoices for material.

7.03 CHANGE IN THE CONTRACT TIME

A. COP requests for Contract Time: The Contract Time shall only be changed by a Change Order. Contractor shall include any request for a change in the Contract Time in its Change Order Proposal.

B. Time extension permitted if not Contractor's fault: If the time of Contractor's performance is changed due to an act of Force Majeure, or due to the fault or negligence of Owner or anyone for whose acts Owner is responsible, Contractor shall be entitled to make a request for an equitable adjustment in the Contract Time in accordance with the following procedure. No adjustment in the Contract Time shall be allowed to the extent Contractor's changed time of

performance is due to the fault or negligence of Contractor, or anyone for whose acts Contractor is responsible.

1. Notice and record keeping for Contract Time request: A request for an equitable adjustment in the Contract Time shall be based on written notice delivered within 7 Days of the occurrence of the event giving rise to the request. If Contractor believes it is entitled to adjustment of Contract Time, Contractor shall immediately notify Owner and begin to keep and maintain complete, accurate, and specific daily records. Contractor shall give Owner access to any such record and if requested, shall promptly furnish copies of such record to Owner.

2. Timing and content of Contractor's Notice: Contractor shall not be entitled to an adjustment in the Contract Time for any events that occurred more than 7 Days before Contractor's written notice to Owner. The written notice shall set forth, at a minimum, a description of: the event giving rise to the request for an equitable adjustment in the Contract Time; the nature of the impacts to Contractor and its Subcontractors of any tier, if any; and to the extent possible the amount of the adjustment in Contract Time requested. Failure to properly give such written notice shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.

3. Contractor to provide supplemental information: Within 30 Days of the occurrence of the event giving rise to the request, unless Owner agrees in writing to allow an additional period of time to ascertain more accurate data, Contractor shall supplement the written notice provided in accordance with subparagraph 7.03B.2 with additional supporting data. Such additional data shall include, at a minimum: the amount of delay claimed, itemized in accordance with the procedure set forth herein; specific facts, circumstances, and analysis that confirms not only that Contractor suffered the delay claimed, but that the delay claimed was actually a result of the act, event, or condition complained of, and that the Contract Documents provide entitlement to an equitable adjustment in Contract Time for such act, event, or condition; and supporting documentation sufficiently detailed to permit an informed analysis of the request by Owner. Failure to provide such additional information and documentation within the time allowed or within the format required shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.

4. Contractor to proceed with Work as directed: Pending final resolution of any request in accordance with this paragraph, unless otherwise agreed in writing, Contractor shall proceed diligently with performance of the Work.

C. Contractor to demonstrate impact on critical path of schedule: Any change in the Contract Time covered by a Change Order, or based on a request for an equitable adjustment in the Contract Time, shall be limited to the change in the critical path of Contractor's schedule attributable to the change of Work or event(s) giving rise to the request for equitable adjustment. Any Change Order Proposal or request for an adjustment in the Contract Time shall demonstrate the impact on the critical path of the schedule. Contractor shall be responsible for showing clearly on the Progress Schedule that the change or event: had a specific impact on the critical path, and except in case of concurrent delay, was the sole cause of such impact; and could not have been avoided by resequencing of the Work or other reasonable alternatives.

D. Cost of change in Contract Time: Contractor may request compensation for the cost of a change in Contract Time in accordance with this paragraph, 7.03D, subject to the following conditions:

1. Must be solely fault of Owner or A/E: The change in Contract Time shall solely be caused by the fault or negligence of Owner or A/E;

2. Procedures: Contractor shall follow the procedure set forth in paragraph 7.03B;

3. Demonstrate impact on critical path: Contractor shall establish the extent of the change in Contract Time in accordance with paragraph 7.03C; and

4. Limitations on daily costs: The daily cost of any change in Contract Time shall be limited to the items below, less the amount of any change in the Contract Sum the Contractor may otherwise be entitled to pursuant to Section 7.02B 7f for any change in the Work that contributed to this change in Contract Time:

   a. Non-productive supervision or labor: cost of nonproductive field supervision or labor extended because of delay;

   b. Weekly meetings and indirect activities: cost of weekly meetings or similar indirect activities extended because of the delay;

   c. Temporary facilities or equipment rental: cost of temporary facilities or equipment rental extended because of the delay;

   d. Insurance premiums: cost of insurance extended because of the delay;

   e. Overhead: general and administrative overhead in an amount to be agreed upon, but not to exceed 3% of the Contract Award Amount divided by the originally specified Contract Time for each Day of the delay.

PART 8 – CLAIMS AND DISPUTE RESOLUTION

8.01 CLAIMS PROCEDURE

A. Claim is Contractor's remedy: If the parties fail to reach agreement on the terms of any Change Order for Owner-directed Work as provided in Section 7.01, or on the resolution of any request for an equitable adjustment in the Contract Sum as provided in Section 7.02 or the Contract Time as provided in Section 7.03, Contractor's only remedy shall be to file a Claim with Owner as provided in this section.

B. Claim filing deadline for Contractor: Contractor shall file its Claim within 120 Days from Owner's final offer made in accordance with paragraph 7.01E, or by the date of Final Acceptance, whichever occurs first.

C. Claim must cover all costs and be documented: The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. At a minimum, the Claim shall contain the following information:

   1. Factual statement of Claim: A detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of Work affected by the Claim;

   2. Dates: The date on which facts arose which gave rise to the Claim;

   3. Owner and A/E employee's knowledgeable about Claim: The name of each employee of Owner or A/E knowledgeable about the Claim;

   4. Support from Contract Documents: The specific provisions of the Contract Documents which support the Claim;

5. Identification of other supporting information: The identification of any documents and the substance of any oral communications that support the Claim;

6. Copies of supporting documentation: Copies of any identified documents, other than the Contract Documents, that support the Claim;

7. Details on Claim for Contract Time: If an adjustment in the Contract Time is sought: the specific days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time;

8. Details on Claim for adjustment of Contract Sum: If an adjustment in the Contract Sum is sought, the exact amount sought and a breakdown of that amount into the categories set forth in, and in the detail as required by Section 7.02; and

9. Statement certifying Claim: A statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes Owner is liable.

D. Owner's response to Claim filed: After Contractor has submitted a fully documented Claim that complies with all applicable provisions of Parts 7 and 8, Owner shall respond, in writing, to Contractor as follows:

1. Response time for Claim less than $50,000: If the Claim amount is less than $50,000, with a decision within 60 Days from the date the Claim is received; or

2. Response time for Claim of $50,000 or more: If the Claim amount is $50,000 or more, with a decision within 60 Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision. Owner will then respond with a written decision in such additional time.

E. Owner's review of Claim and finality of decision: To assist in the review of Contractor's Claim, Owner may visit the Project site, or request additional information, in order to fully evaluate the issues raised by the Claim. Contractor shall proceed with performance of the Work pending final resolution of any Claim. Owner's written decision as set forth above shall be final and conclusive as to all matters set forth in the Claim, unless Contractor follows the procedure set forth in Section 8.02.

F. Waiver of Contractor rights for failure to comply with this Section: Any Claim of the Contractor against the Owner for damages, additional compensation, or additional time, shall be conclusively deemed to have been waived by the Contractor unless made in accordance with the requirements of this Section.

8.02 ARBITRATION

A. Timing of Contractor's demand for arbitration: If Contractor disagrees with Owner's decision rendered in accordance with paragraph 8.01D, Contractor shall provide Owner with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than 30 Days after the date of Owner's decision on such Claim; failure to demand arbitration within said 30 Day period shall result in Owner's decision being final and binding upon Contractor and its Subcontractors.

B. Filing of Notice for arbitration: Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provided to Owner. The parties shall negotiate or

mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:

1. Claims less than $30,000: Disputes involving $30,000 or less shall be conducted in accordance with the Northwest Region Expedited Commercial Arbitration Rules; or

2. Claims greater than $30,000: Disputes over $30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.

C. Arbitration is forum for resolving Claims: All Claims arising out of the Work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the superior court having jurisdiction thereof. No independent legal action relating to or arising from the Work shall be maintained.

D. Owner may combine Claims into same arbitration: Claims between Owner and Contractor, Contractor and its Subcontractors, Contractor and A/E, and Owner and A/E shall, upon demand by Owner, be submitted in the same arbitration or mediation.

E. Settlement outside of arbitration to be documented in Change Order: If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.

8.03 CLAIMS AUDITS

A. Owner may audit Claims: All Claims filed against Owner shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or Subcontractors of any tier, to maintain and retain sufficient records to allow Owner to verify all or a portion of the Claim or to permit Owner access to the books and records of Contractor, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

B. Contractor to make documents available: In support of Owner audit of any Claim, Contractor shall, upon request, promptly make available to Owner the following documents:

1. Daily time sheets and supervisor's daily reports;

2. Collective bargaining agreements;

3. Insurance, welfare, and benefits records;

4. Payroll registers;

5. Earnings records;

6. Payroll tax forms;

7. Material invoices, requisitions, and delivery confirmations;

8. Material cost distribution worksheet;

9. Equipment records (list of company equipment, rates, etc.);

10. Vendors', rental agencies', Subcontractors', and agents' invoices;

11. Contracts between Contractor and each of its Subcontractors, and all lower-tier Subcontractor contracts and supplier contracts;

12. Subcontractors' and agents' payment certificates;

13. Cancelled checks (payroll and vendors);

14. Job cost report, including monthly totals;

15. Job payroll ledger;

16. Planned resource loading schedules and summaries;

17. General ledger;

18. Cash disbursements journal;

19. Financial statements for all years reflecting the operations on the Work. In addition, the Owner may require, if it deems it appropriate, additional financial statements for 3 years preceding execution of the Work;

20. Depreciation records on all company equipment whether these records are maintained by the company involved, its accountant, or others;

21. If a source other than depreciation records is used to develop costs for Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all such other source documents;

22. All nonprivileged documents which relate to each and every Claim together with all documents which support the amount of any adjustment in Contract Sum or Contract Time sought by each Claim;

23. Work sheets or software used to prepare the Claim establishing the cost components for items of the Claim including but not limited to labor, benefits and insurance, materials, equipment, Subcontractors, all documents which establish the time periods, individuals involved, the hours for the individuals, and the rates for the individuals; and

24. Work sheets, software, and all other documents used by Contractor to prepare its bid.

C. Contractor to provide facilities for audit and shall cooperate: The audit may be performed by employees of Owner or a representative of Owner. Contractor, and its Subcontractors, shall provide adequate facilities acceptable to Owner, for the audit during normal business hours. Contractor, and all Subcontractors, shall make a good faith effort to cooperate with Owner's auditors.

PART 9 – TERMINATION OF THE WORK

9.01 TERMINATION BY OWNER FOR CAUSE

A. 7 Day Notice to Terminate for Cause: Owner may, upon 7 Days written notice to Contractor and to its surety, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for cause upon the occurrence of any one or more of the following events:

1. Contractor fails to prosecute Work: Contractor fails to prosecute the Work or any portion thereof with sufficient diligence to ensure Substantial Completion of the Work within the Contract Time;

2. Contractor bankrupt: Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency;

3. Contractor fails to correct Work: Contractor fails in a material way to replace or correct Work not in conformance with the Contract Documents;

4. Contractor fails to supply workers or materials: Contractor repeatedly fails to supply skilled workers or proper materials or equipment;

5. Contractor failure to pay Subcontractors or labor: Contractor repeatedly fails to make prompt payment due to Subcontractors or for labor;

6. Contractor violates laws: Contractor materially disregards or fails to comply with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; or

7. Contractor in material breach of Contract: Contractor is otherwise in material breach of any provision of the Contract Documents.

B. Owner's actions upon termination: Upon termination, Owner may at its option:

1. Take possession of Project site: Take possession of the Project site and take possession of or use all materials, equipment, tools, and construction equipment and machinery thereon owned by Contractor to maintain the orderly progress of, and to finish, the Work;

2. Accept assignment of Subcontracts: Accept assignment of subcontracts pursuant to Section 5.20; and

3. Finish the Work: Finish the Work by whatever other reasonable method it deems expedient.

C. Surety's role: Owner's rights and duties upon termination are subject to the prior rights and duties of the surety, if any, obligated under any bond provided in accordance with the Contract Documents.

D. Contractor's required actions: When Owner terminates the Work in accordance with this section, Contractor shall take the actions set forth in paragraph 9.02B, and shall not be entitled to receive further payment until the Work is accepted.

E. Contractor to pay for unfinished Work: If the unpaid balance of the Contract Sum exceeds the cost of finishing the Work, including compensation for A/E's services and expenses made necessary thereby and any other extra costs or damages incurred by Owner in completing the Work, or as a result of Contractor's actions, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor shall pay the difference to Owner. These obligations for payment shall survive termination.

F. Contractor and Surety still responsible for Work performed: Termination of the Work in accordance with this section shall not relieve Contractor or its surety of any responsibilities for Work performed.

G. Conversion of "Termination for Cause" to "Termination for Convenience": If Owner terminates Contractor for cause and it is later determined that none of the circumstances set forth in paragraph 9.01A exist, then such termination shall be deemed a termination for convenience pursuant to Section 9.02.

9.02 TERMINATION BY OWNER FOR CONVENIENCE

A. Owner Notice of Termination for Convenience: Owner may, upon written notice, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for the convenience of Owner.

B. Contractor response to termination Notice: Unless Owner directs otherwise, after receipt of a written notice of termination for either cause or convenience, Contractor shall promptly:

1. Cease Work: Stop performing Work on the date and as specified in the notice of termination;

2. No further orders or Subcontracts: Place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Work as is not terminated;

3. Cancel orders and Subcontracts: Cancel all orders and subcontracts, upon terms acceptable to Owner, to the extent that they relate to the performance of Work terminated;

4. Assign orders and Subcontracts to Owner: Assign to Owner all of the right, title, and interest of Contractor in all orders and subcontracts;

5. Take action to protect the Work: Take such action as may be necessary or as directed by Owner to preserve and protect the Work, Project site, and any other property related to this Project in the possession of Contractor in which Owner has an interest; and

6. Continue performance not terminated: Continue performance only to the extent not terminated

C. Terms of adjustment in Contract Sum if Contract terminated: If Owner terminates the Work or any portion thereof for convenience, Contractor shall be entitled to make a request for an equitable adjustment for its reasonable direct costs incurred prior to the effective date of the termination, plus reasonable allowance for overhead and profit on Work performed prior to termination, plus the reasonable administrative costs of the termination, but shall not be entitled to any other costs or damages, whatsoever, provided however, the total sum payable upon termination shall not exceed the Contract Sum reduced by prior payments. Contractor shall be required to make its request in accordance with the provisions of Part 7.

D. Owner to determine whether to adjust Contract Time: If Owner terminates the Work or any portion thereof for convenience, the Contract Time shall be adjusted as determined by Owner.

PART 10 – MISCELLANEOUS PROVISIONS

10.01 GOVERNING LAW

Applicable law and venue: The Contract Documents and the rights of the parties herein shall be governed by the laws of the state of Washington. Venue shall be in the county in which Owner's principal place of business is located, unless otherwise specified.

10.02 SUCCESSORS AND ASSIGNS

Bound to successors; Assignment of Contract: Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party shall assign the Work without written consent of the other, except that Contractor may assign the Work for security

purposes, to a bank or lending institution authorized to do business in the state of Washington. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations set forth in the Contract Documents.

10.03 MEANING OF WORDS

Meaning of words used in Specifications: Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall be to the latest standard specification, manual, or code in effect on the date for submission of bids, except as may be otherwise specifically stated. Wherever in these Drawings and Specifications an article, device, or piece of equipment is referred to in the singular manner, such reference shall apply to as many such articles as are shown on the drawings, or required to complete the installation.

10.04 RIGHTS AND REMEDIES

No waiver of rights: No action or failure to act by Owner or A/E shall constitute a waiver of a right or duty afforded them under the Contract Documents, nor shall action or failure to act constitute approval or an acquiescence in a breach therein, except as may be specifically agreed in writing.

10.05 CONTRACTOR REGISTRATION

Contractor must be registered or licensed: Pursuant to RCW 39.06, Contractor shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27.

10.06 TIME COMPUTATIONS

Computing time: When computing any period of time, the day of the event from which the period of time begins shall not be counted. The last day is counted unless it falls on a weekend or legal holiday, in which event the period runs until the end of the next day that is not a weekend or holiday. When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.

10.07 RECORDS RETENTION

Six year records retention period: The wage, payroll, and cost records of Contractor, and its Subcontractors, and all records subject to audit in accordance with Section 8.03, shall be retained for a period of not less than 6 years after the date of Final Acceptance.

10.08 THIRD-PARTY AGREEMENTS

No third party relationships created: The Contract Documents shall not be construed to create a contractual relationship of any kind between: A/E and Contractor; Owner and any Subcontractor; or any persons other than Owner and Contractor.

10.09 ANTITRUST ASSIGNMENT

Contractor assigns overcharge amounts to Owner: Owner and Contractor recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, Contractor hereby assigns to Owner any and all claims for such overcharges as to goods, materials, and equipment purchased in connection with the Work performed in accordance with the Contract Documents, except as to overcharges which result from antitrust violations commencing after the Contract Sum is established and which are not passed on to Owner

under a Change Order. Contractor shall put a similar clause in its Subcontracts, and require a similar clause in its sub-Subcontracts, such that all claims for such overcharges on the Work are passed to Owner by Contractor.

10.10 HEADINGS AND CAPTIONS

Headings for convenience only: All headings and captions used in these General Conditions are only for convenience of reference, and shall not be used in any way in connection with the meaning, effect, interpretation, construction, or enforcement of the General Conditions, and do not define the limit or describe the scope or intent of any provision of these General Conditions.

10.11 DIVERSE BUSINESS PARTICIAPTION

The state of Washington encourages participation in all of its contracts by Diverse Businesses as found in RCW Chapters 39, 43, and WAC 326. The voluntary Diverse Business goal of 26%, which is an aggregate of: 10% Minority Business Enterprises (MBE), 6% Women Business Enterprises (WBE), 5% Veteran-owned Business, and 5% Washington Small Businesses self-identified in the Washington Electronic Business Solution (WEBS). Contractors are encouraged to meet or exceed the project goals in the advertisement by any level of participation, regardless of category.

DES reserves the right to adjust the voluntary participation goals.

Businesses are encouraged to register in WEBS, as well as registering as a state certified M/WBE/Veteran Business.

For reporting, Contractor is required to register and create an account in the DES Public Works Diversity Tracking & Management System powered by B2GNow.

Every month for the duration of your contract, and while your contract is active in the DES Public Works Diversity Tracking & Management System, submit and accurately maintain the following information:

1. Payments received by the prime contractor from the Agency
2. Payments paid to each first tier subcontractor
3. Payments paid to each first tier supplier

You must also ensure the following information is reported in the DES Public Works Diversity Tracking & Management System by your first tier subcontractors and suppliers for the duration of your contract:

1. Confirmation of payments from the prime contractor to the first tier subcontractor
2. Confirmation of payments from the prime contractor to first tier suppliers

10.12 MINIMUM LEVELS OF APPRENTICESHIP PARTICIPATION

In accordance with RCW 39.04.320, the State of Washington requires 15% apprenticeship participation for projects estimated to cost one million dollars or more. Contractors who meet or exceed minimum participation requirement are eligible for monetary incentive. Contractors failing to meet minimum apprenticeship participation requirement are subject to monetary penalty.

A. Apprentice participation, under this contract, may be counted towards the required percentage (%) only if the apprentices are from an apprenticeship program registered and approved by the Washington State Apprenticeship and Training Council (RCW 49.04 and WAC 296-05).

B. Bidders may contact the L&I to obtain more information about apprenticeship programs.

C. No changes to the required percentage (%) of apprentice participation shall be allowed without written approval of the Owner. In any request for the change, the Contractor shall clearly demonstrate a good faith effort to comply with the requirements for apprentice participation.

D. Any substantive violation of the mandatory requirements of this part of the contract may be a material breach of the contract by the Contractor. The Owner may withhold payment pursuant to Part 6.05, stop the work for cause pursuant to Part 3.04, and terminate the contract for cause pursuant to Part 9.01.

10.13 SPECIAL CONDITIONS

The Owner may have Federal Funding or other special requirements for this project. If applicable, the Contractor will be required to comply with the "DIVISION 00 SPECIAL CONDITIONS" section in the specifications that will be based on the specific requirements of the funding source.

SUPPLEMENTAL CONDITIONS
FOR WASHINGTON STATE FACILITIES CONSTRUCTION

(Paragraphs keyed to the State's General Conditions)

5.07 Adds New Paragraphs a. through i. to Paragraph A. 1. - SAFETY PRECAUTIONS as follows:

A. 1. a. Site-Specific COVID-19 Safety Plan Required. As part of the project's Site-Specific safety plan, the Contractor shall prepare and implement a Site-Specific COVID-19 safety plan, which complies with the applicable Construction COVID-19 Job Site Requirements, as established by the State of Washington's phased business activity guidelines (attached hereto and incorporated by reference).

b. The Contractor shall modify the Site-Specific COVID-19 Site Safety Plan to meet the construction requirements, and as needed, update the safety plan to reflect planned work and site conditions during the project.

c. The Site-Specific COVID 19 Safety Plan must be available at the job site during the prosecution of work associated with any construction activities and made readily available upon request for inspection by state and local authorities.

d. The Contractor shall clearly designate a Site-Specific COVID-19 Supervisor in its Site-Specific COVID-19 Safety Plan. The COVID-19 Supervisor name and contact information shall be visibly posted on site at all times.

e. The Contractor shall be responsible to fully implement the Site-Specific COVID-19 Safety Plan, and shall provide regular status updates relative to compliance of the safety plan at each progress meeting.

f. If the Contractor or any of its subcontractors determines that a single task or sequence of steps of a planned construction activity may fail to comply with the Site-Specific COVID-19 Safety Plan or the applicable Construction COVID-19 Job Site Safety Requirements, the Contractor shall immediately notify the DES Project Manager and A/E. The Contractor together with its subcontractors shall perform a Job Safety Analysis and identify the specific tasks or sequence of steps associated with the planned construction activity, potential injuries or hazards, and recommended safe job procedures to comply with the most current COVID-19 health and safety requirements.

g. The Contractor shall incorporate all safe job procedures into the Site Specific COVID-19 Safety Plan, and must identify appropriate personal protective equipment and other protective measures to be used to

meet or exceed the most current COVID-19 health and safety requirements and other applicable health or worker safety guidelines or recommendations.

h. The Contractor shall provide a copy of the Job Site Assessment to DES and the A/E at least 24 hours prior to proceeding with any identified single task or sequence of steps of a planned construction activity.

i. The Contractor together with its subcontractors at every tier shall review and comply with safe job procedures outlined in the Job Site Assessment when performing the identified task or sequence of steps, of a planned construction activity.

ARTICLE 3 MODIFICATIONS TO THE GENERAL CONDITIONS FOR WASHINGTON STATE FACILITIES CONSTRUCTION

The General Conditions for Washington State Facilities Construction and Supplemental Conditions For Washington State Facilities Construction apply to the GC/CM Contract as modified by the GC/CM Manual:

3.1 Part 1, 1.01 Definitions

"Contract Documents" shall include, in addition to the documents mentioned, The GCCM's response to the RFQ/RFP and the GC/CM manual for this project.

Where "contractor" or "contractor's" is used, substitute "GC/CM" or "GC/CM's". Wherever "sub-contractor" is used, substitute "trade contractor".

3.2 Part 1 1.03.5 Execution and Intent add paragraphs below:

The Owner has a separate agreement with the Architect/Engineer (A/E) to design the facility and to provide the limited construction observation services necessary to ensure that the construction conforms to the drawings and specifications but does not absolve the GC/CM of its role as Construction Manager or General Contractor to assure performance.

Both the GC/CM and the A/E shall be given direction by the owner, normally by the Owner's project manager or designated representative. The relationship between the GC/CM and the A/E is intended to be cooperative and proactive, both participating on the same team with the Owner. Meeting minutes during construction will be taken by the GC/CM and distributed to all parties within five calendar days. The A/E will provide attachments addressing design issues when appropriate.

3.3 Bidding on subcontract work by the GC/CM or its subsidiaries is prohibited, except as provided for under RCW 39.10.390

In the event that no bids are received or the bids received are over the budget amount for the subcontract specialty or the subcontractor fails to perform, then, with the prior approval of the owner, the GC/CM may:

- Negotiate with the low responsive responsible bidder in accordance with RCW 39.10.380 or
- Provide written explanation to reject all bids and Rebid the bid package.

In preparing subcontract bid packages, the GC/CM must not require the subcontractor to violate or waive terms of a collective bargaining agreement.

3.4 The GC/CM shall use the General Conditions for Washington State Facilities Construction and Supplemental Conditions in all subcontracts. GC/CM subcontract form and other conditions specific to the project are allowed to the extent that the GC/CM's documents do not conflict with the state documents. The documents shall be provided to the Owner for review and approval at least 60 days prior to bidding.

3.5 Potential buy-out savings, within this article, shall be defined as the difference between the bid package MACC and the bid amount plus Team Change Memos (TCMs). There is no potential buy-out savings if the total amounts awarded plus TCMs exceeds the total of the bid package

estimates which are identified within the negotiated MACC.

- During the period of time between the bidding of the first bid package and until 80% of all work has been awarded, the full amount of the negotiated MACC is available to the GC/CM for awarding bid packages and for writing TCMs.

- The GC/CM shall be allowed to carry a maximum 5% of buyout savings after 80% of the work has been awarded to subcontractors. An evaluation will be performed by the Owner to determine the exact amount allowed. This allowance is in addition to any contingencies or other allowances within the negotiated MACC. The GC/CM shall carry this amount for six months after which the buyout savings goes to zero. The MACC will be adjusted to reflect buyout savings by change order.

- The Specified General Conditions, GC/CM Fee percentage and original scope of work will remain unchanged.

- The Owner may negotiate with the GC/CM to add scope to the MACC within the legislative intent and the scope in the advertisement for the GC/CM's services. The percent fee will be applied to any change of scope. Revision to the percent fee shall be negotiated if the MACC changes by more than 15%. The GC/CM will provide a bond for the revised TCC.

- All project savings accrue to the owner upon completion of the project.

3.6 The MACC should include sufficient allowance and contingencies to accomplish the work. The Risk Contingency amount will be agreed upon at the time the MACC is negotiated, and will not exceed 5%.

3.7 **The GC/CM shall provide timely notification to the owner and A/E in writing of items missing or incomplete in the drawings and specifications.** The GC/CM shall carry sufficient contingency and/or allowances within the negotiated MACC to correct such deficiencies. The GC/CM shall use the Risk Contingency or allowances noted above only upon the prior written authorization of the owner.

3.8 **If the A/E's estimate and the GC/CM's estimate on a bid package are not in agreement**, then the A/E, the GC/CM, and the owner shall make whatever efforts necessary to come to agreement and make any necessary changes prior to advertising the bid package. This should take place within seven calendar days of receipt of the estimate. Efforts shall include but not be limited to program revisions, architectural/ engineering revisions, and construction adjustments, etc.

3.9 **Accounting Records**

- The GC/CM shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this contract. The accounting and control systems shall be satisfactory to the owner.
- During the period from the date when bids are opened on the first bid package until completion of the project, the GC/CM shall provide, on a monthly basis, a complete and comprehensive cost-accounting to the Owner of the status of all actual and budgeted costs within the MACC.
- Accounting shall be provided in accordance with Article 9 of the GC/CM Contract Provisions.

3.10 PAYMENT AND PERFORMANCE BONDS

A payment and performance bond for 100% of the Total Contract Cost (TCC) and Washington State sales tax shall be furnished by the GC/CM. The GC/CM shall include within their bid the cost for providing a payment and performance bond in the full amount of the Total Contract Cost, including Washington State sales tax.

Note: AIA Payment Bond and Performance Bond forms (A312) are required. These forms will <u>not</u> be provided by the Owner.

All Subcontractors who bid work over $300,000 shall post a bid bond and the awarded subcontractor shall provide a performance and payment bond for their contract amount plus Washington State sales tax. All other subcontracts under $300,000 shall provide payment and performance bonds, if required by GC/CM.

3.11 CHANGES IN THE CONTRACT SUM

Refer to Part 7 of the Washington State General Conditions for terms and conditions for changes in the work. The GC/CM shall not be entitled to any markup on subcontractor work, except for payment and performance bond, builders risk insurance, general liability insurance and the GC/CM firm's fee. The GC/CM may be eligible for mark-ups on changes per Part 7 of the General Conditions on work where the GC/CM is self-performing as a subcontractor.

3.12 PREDETERMINATION OF SUBCONTRACTOR ELIGIBILITY

When determination of subcontractor eligibility prior to seeking bids is in the best interest of the project and critical to the successful completion of a subcontract bid package, the Owner and GC/CM may evaluate and determine bidder eligibility. The process shall adhere to the requirements of RCW 39.10.400 including public notification and public hearing of intent to evaluate and determine bidder eligibility with opportunity for written and verbal comments on the justification for conducting bidder eligibility, the evaluation criteria, and weights for each criteria and sub criteria.

A written final determination shall be issued to all interested parties. Any potential bidder determined not to meet eligibility criteria has one opportunity to establish its eligibility by providing additional information and meeting with the Owner and GC/CM within three business days of the final determination. [potential add similar language to responsibility criteria appeals. – instructions to bidders, 0.11.B.]

The criteria used to determine eligibility may include:

- Adequate financial resources or the ability to secure such resources.
- History of successful completion of a contractor of similar type and scope.
- Project management and project supervision personnel with experience on similar projects and the availability of such personnel for the project.
- Current and projected workload and the impact the project will have on the subcontractor's current and projected workload.
- Ability to accurately estimate the subcontractor bid package shop drawing and other coordination procedures.
- Eligibility to receive an award under applicable laws and regulations
- Ability to meet subcontract bid package scheduling requirements.

When subcontractor eligibility was not determined before bidding, the subcontract bid packages must include the specific objective criteria that will be used to evaluate bidder responsibility.

Bidder responsibility must be determined in accordance with criteria listed in the bid documents per RCW 39.04.350.

3.13 GC/CM OPTIONAL SELECTION OF ELECTRICAL & MECHANICAL SUBCONTRACTORS

The GC/CM must competitively bid all subcontract work with public bid openings. The exception to this is the optional selection of electrical and/or mechanical subcontractors (known as ECCM and MCCM) using a similar process to the selection of the GC/CM in accordance with RCW 39.10.385. Department of Enterprise Services must approve the use of this alternate selection of subcontractors; this may only be used when the anticipated value of the subcontract will exceed $3,000,000. The GC/CM firm may bid on subcontract work subject to limitations defined in RCW 39.10. Should the total value of the sum of the competitively bid subcontracts plus owner approved change orders be less than the negotiated MACC, then the difference (defined as the "buyout savings") accrues to the Owner. If the construction is completed for more than the MACC, the additional costs are the responsibility of the GC/CM.

3.14 SELF-PERFORMANCE

The GC/CM, or its subsidiaries, may bid on subcontract work if

- The work within the subcontract bid package is customarily performed by the GC/CM;
- The bid opening is managed by the public body and is in compliance with RCW 39.10.380; and
- Notification of the GC/CM's intention to bid is included in the public solicitation of bids for the bid package.

In no event may the value of subcontract work performed and equipment and materials supplied by the GC/CM exceed thirty (30) percent of the negotiated maximum allowable construction cost.

3.15 INFORMATION FOR CAPITAL PROJECT ADVISORY REVIEW BOARD

The GC/CM and its subcontractors shall be obligated to provide and submit project information to Enterprise Services, Engineering and Architecture Services as required by the board in RCW 39.10.

ARTICLE 4 - FORM OF CONTRACT (SAMPLE)

4.1 PRECONSTRUCTION:

Contract No.	2020-472
Project Description	16 Bed Community Residential Treatment Facilities
Location	Centralia

STATE OF WASHINGTON PUBLIC WORKS
GENERAL CONTRACTOR/CONSTRUCTION MANAGER (GC/CM)
PRE-CONSTRUCTION SERVICES CONTRACT

THIS CONTRACT, made and entered into this day [DAY OF WEEK] the [DATE], shall be the agreed basis performing the work by and between the State of Washington, acting through the Department of Enterprise Services, Division of Facilities, Engineering & Architectural Services, hereinafter referred to as the Owner, and [GC/CM COMPANY] hereinafter referred to as the General Contractor/Construction Manager (GC/CM).

The parties to this contract agree to:

FIRST: CONTENTS OF CONTRACT

The GC/CM accepts the relationship of trust and confidence established by this Contract. The GC/CM further agrees to cooperate with the Architect/Engineer (A/E) and utilize the GC/CM's best skills, efforts, and judgment in furthering the interests of the Owner.

The contract documents shall include:

- This contract
- The "Project Manual for GC/CM"
- Addenda #X dated [DATE]
- Addenda #X dated [DATE]
- The GC/CM's written response to the RFQ dated [DATE] and RFFP dated [DATE].

The A/E providing design on this project is: BCRA Inc., 2106 Pacific Avenue, Suite 300, Tacoma, WA 98402; contact person is Jim Wolch; (253) 627-4367; e-mail: JWolch@bcradesign.com.

SECOND: SCHEDULE OF PERFORMANCE

The work as agreed to in this Contract shall commence upon the receipt of the Owner's Notice to Proceed.

The GC/CM shall provide timely participation and response to the schedule requirements so as to achieve tentative Substantial Completion of the project by July, 2022.

The overall tentative project schedule is as follows:

Schematic Design Phase	May 2020 - Aug 2020
Design Development Phase	Aug 2020 - Nov 2020
Contract Document Phase	Nov 2020 - May 2021
Site work/Building Construction	June/July 2021-July 2022

THIRD: PRECONSTRUCTION SERVICES CONTRACT COST

This Contract is for Preconstruction Services only. Upon completion of the MACC negotiations a new Contract will be issued to authorize the remaining work referred to as Total Contract Cost.

The Pre-Construction Services Contract Cost is defined below:

(A) Pre-construction Services (Lump Sum) = $_____

(B) WSST (sales tax currently at 8.9%) = $_____

Total Pre-Construction Services Contract = $_____

I**N WITNESS WHEREOF**: The Department of Enterprise Services has caused this Contract to be subscribed in its behalf, and the GC/CM has signed this Contract the day and year written below.

CONTRACTOR	OWNER – Department of Enterprise Services Facilities Professional Services, Engineering & Architectural Services
By:_____	By: _____
Title:_____	Title: William J. Frare, P.E. Public Works Administrator
Date:_____	Date: _____

Washington State Contractor's License No: _____

Federal Tax Identification No.:_____

UBI Number: _____

Transmittal Letter of Pre-construction Services (SAMPLE)

[DATE]

[GC/CM FIRM]
GC/CM ADDRESS]

RE: Contract No. 2020-472G(1-1)
16 Bed Residential Treatment Facilities
Thurston County

We have enclosed the following documents:

1. Contract

Please be advised that the General Conditions for Washington State Facility Construction require that the above listed documents be returned to Engineering and Architectural Services (E&AS) within 15 days of receipt or E&AS may terminate the award of this contract. Transmittal of this contract for signature does not obligate E&AS to proceed with award. This contract is not binding upon the State of Washington until it has been duly signed by E&AS's contracting officer.

The initial contract is for Preconstruction Services only. The GC/CM Fee and Specified General Conditions Work (Lump Sum Price) will be added by a separate Contract. As subcontractor packages are awarded, we require that subcontractor information be submitted to this office.

Sincerely,

(Name)
Project Manager

cc:

4.2 CONSTRUCTION

Contract No.	2020-472G(1-1)
Project Description	16 Bed Residential Treatment Facilities
Location	Vancouver WA

STATE OF WASHINGTON PUBLIC WORKS
GENERAL CONTRACTOR/CONSTRUCTION MANAGER (GC/CM) CONTRACT
WITH A TOTAL CONTRACT COST (TCC)

THIS CONTRACT, made and entered into this day _____of _____, 2020, shall be the agreed basis performing the work by and between the State of Washington, Department of Enterprise Services, Division of Facilities, Engineering & Architectural Services, hereinafter referred to as the Owner, and [GC/CM's FIRM NAME AND ADDRESS] hereinafter referred to as the General Contractor/Construction Manager (GC/CM).

The parties to this contract agree to:

FIRST: CONTENTS OF CONTRACT

The GC/CM accepts the relationship of trust and confidence established by this Contract. The GC/CM further agrees to cooperate with the Architect/Engineer (A/E) and utilize the GC/CM's best skills, efforts, and judgment in furthering the interests of the Owner.

The contract documents shall include:

- The contract
- The "Project Manual for GC/CM"
- Addenda #0 to the Project Manual for GC/CM, dated_____
- Addenda #0 to the Project Manual for GC/CM, dated_____
- The GC/CM's written response to the RFQ dated [DATE]
- MACC Negotiation Summary prepared by the GC/CM dated [DATE]
- Project Manual, Vol. 0 & 0, dated [DATE]
- Drawing package [title] dated [DATE]

The A/E providing design on this project is: BCRA, Inc, 2106 Pacific Ave Suite 300, Tacoma WA 98402; contact person is Jim Wolch; (253) 627-4367; e-mail: jwolch@bcradesign.com

SECOND: SUBSTANTIAL AND FINAL COMPLETION

The work as agreed to in this Contract shall commence upon the receipt of the Owner's Notice to Proceed.

The GC/CM shall achieve Project Substantial Completion by July 30, 2022.

This is subject to adjustments made by Change Order. In addition to reaching Substantial Completion, it is the Team's expectation that the GC/CM will complete all items necessary to achieve Final Completion and acceptance.

The GC/CM agrees that, from the compensation otherwise to be paid, the Owner may retain liquidated damages as follows: $2,000 day. These damages apply for each calendar day thereafter that the work remains uncompleted, which sum is agreed upon as the liquidated damages which the Owner will sustain in case of failure of the GC/CM to complete the work prior to the date of substantial completion. This sum is not to be construed as a penalty in any sense.

THIRD: TOTAL CONTRACT COST (TCC)

The Total Contract Cost shall equal the sum as defined below:

(A)	Negotiated MACC	= $ $xxx,xxx,xxx.00
(B)	GC/CM Fee ____% $[xxx,xxx,xxx.00] MACC	= $_____
(C)	Specified General Conditions Work (Lump Sum)	= $_____
Total Contract Cost (TCC)		$_____
WSST (sales tax currently at 9.5%)		= $_____
TCC + WSST		= $_____

I**N WITNESS WHEREOF**: The Department of Enterprise Services has caused this Contract to be subscribed in its behalf, and the GC/CM has signed this Contract the day and year written below.

CONTRACTOR [GC/CM FIRM'S NAME]	OWNER – Department of Enterprise Services, Facilities Professional Services, Engineering & Architectural Services
By: _____	By: _____
Title: _____	Title: William J. Frare, P.E. Public Works Administrator
Date: _____	Date: _____

Washington State Contractor's
License No: _____

Federal Tax Identification No.: _____

UBI Number: _____

Sample

[DATE, 200X]

RETAINAGE INVESTMENT

Contractor _____

Contract No. 2020-472G(1-1)

Description 16 Bed Community Residential Treatment Facilities

Client Agency Department of Social and Health Services

Pursuant to RCW 60.28, you are required to exercise your option, IN WRITING, on whether or not moneys reserved from the amounts due you on the above contract shall be placed in escrow. You are therefore directed to complete and return this form with the signed copy of the above contract to General Administration.

Should you desire to have the retained moneys invested, it will then be necessary that you enter into an escrow agreement with a bank, trust or savings and Loan Company, and the Department of Enterprise Services, P.O. Box 41476, Olympia, Washington 98504.

This form will be transmitted to the Department of Enterprise Services for further action in preparing the escrow agreement.

CONTRACTOR'S OPTION

_____ I do not request retainage on the above contract to be invested**.**

_____ I hereby request retainage on the above contract be invested.

_____/Date_____

_____
Title

Sample – Transmittal letter of Contract

[DATE, 20XX]

_____
_____
_____

RE: Contract No. 2020-472G(1-1)
16 Bed Community Residential Treatment Facilities
Thurston County WA

The Instructions for Bidders require that the signed contract, payment and performance bond, and certificate of insurance be returned to the Department of Enterprise Services within fifteen (15) days after your receipt of these documents.

Find enclosed:

1. The GC/GM Contract for your signature.
2. The Certificate of Insurance and memo for your insurance agent to complete.
4. The Retainage Investment form for your signature.

Please return or have these documents to this office for verification and signature by our Contracting Officer. Copies of the contract will be distributed when executed. **NOTE:** Transmittal of the contract for signature and the request for insurance and bond does not obligate the State to proceed with award. The contract is not binding upon the State of Washington until it has been duly signed by the State's contracting officer.

Sincerely,

(Name)
Project Manager

Enclosures

Sample

[DATE, 200X]

TO: Insurance Agent for
[GC/CM Firm]

RE: Contract No. 2020-472G(1-1)
16 Bed Community Residential Treatment Facilities
Thurston County WA

GC/CM Firm has been awarded a construction contract with the state of Washington for the above-referenced project.

The bid documents for this contract require that the GC/CM provide the state of Washington with a signed contract, bond and insurance within 15 days of receipt. Failure to meet this deadline may cause the state to terminate the award of this contract. It is therefore essential that you provide us with a Certificate of Insurance as soon as possible.

To assist you in supplying us with a certificate of insurance for this project, we are attaching a copy of the insurance coverage required and a copy of the required state insurance certificate form. We also require payment and performance bonds written for the amount of the contract plus state sales tax. The bonds are required to be written on the AIA forms A312. You should have these forms available. We would like a preview copy by email of these documents as soon as they are available. My email address is rachel.walters@des.wa.gov.

Should you have questions or concerns, please contact me at (360) 407-8029.

Thank you for your assistance.

Sincerely,

Tariq Ohab, Contracts Specialist
Engineering and Architectural Services

Attachment

ARTICLE 5 - PRE-CONSTRUCTION SERVICES

5.1 The GC/CM bid amount for pre-construction services shall include all expenses of the GC/CM, whether direct or through sub-consultants, for participation and support of the planning, design and bidding process of the project. For each phase, the fee shall include, but not be limited to:

- Staff and consultant wages and benefits including costs by the GC/CM for taxes, contributions, assessments, and benefits required by law or collective bargaining agreements. For personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations, and pensions, are considered to be provided within wages and salaries paid.
- The GC/CM shall have at least one project professional attend all design meetings. Meetings will be held weekly during the design phase. Attendance at additional meetings may be required as needed.
- Attendance by senior GC/CM staff to participate in partnering sessions and other executive level meetings no more than monthly
- All office support of the GC/CM firm for this project including direct costs, indirect costs, company overhead, and so forth
- Legal Expenses and B&O taxes incurred in the administration of the contract and subcontracts
- All travel expenses
- All reproduction charges, phone charges, facsimile charges, postage, and so forth.
- Advertising for all bid packages. The GC/CM firm shall manage the printing and distribution of bid packages. Initial bid document reproductions costs are paid by the Owner. Electronic document management and distribution is highly encouraged.

5.2 During the design period and throughout the project, the GC/CM shall provide the following services:

- Value engineering
- Scheduling
- Design cost estimating
- Constructability review
- Interdisciplinary plan review coordination
- Project management services
- Alternative construction options for cost savings
- Planning for the sequencing of work
- Life cycle cost analysis (as needed)

The GC/CM is obligated to deliver the project in within the Total Contract Cost (TCC). If the GC/CM fails to control costs within the TCC, that amount over the TCC will be paid by the GC/CM at his/her expense with no additional compensation by the owner. If the construction is completed for less than the TCC, the savings accrue to the owner.

5.3 Partnering

Partnering is one of the more effective methods of building an effective project team comprising of the architect and design team, the Owner, and the GC/CM. The GC/CM may be requested to provide a qualified facilitator either from the GC/CM firm or a consultant,

acceptable to the Owner, to conduct a partnering session with the Owner and the design team.

5.4 SCHEMATIC DESIGN

5.4.1 Predesign review and Schematic Design: The GC/CM will begin work following the preparation of a predesign and a peer report of the predesign and at or near the end of Schematic Design. The GC/CM will read and be familiar with the contents of the predesign, the peer report on the predesign and Schematic Design. The starting point for the Schematic Design will be the peer report on the predesign and the cost estimate prepared during the peer review of the predesign. For the purposes of tracking construction costs, the GC/CM shall establish a management level cost-control report in CSI Uniformat style.

5.4.2 Review the Drawings and Specifications on a regular basis. Provide comments on, and analysis of, construction feasibility and risk, including identification of products, equipment and/or materials with long lead times for procurement; availability of skilled labor and other market conditions. Make recommendations for phased construction, if appropriate. Propose alternative designs, systems or materials that meet or exceed the program, quality and serviceability requirements of the Owner; and comment and make recommendations on site logistics including requirements for additional geotechnical testing, the adequacy of access, site utilities and lay down areas. Provide advice to the design team on material selection to obtain LEED silver certification. Maintain a design phase issues log and provide written comments throughout the design phase.

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5.4.3 Work with the owner & A/E team to begin to formulate bid packages based on the final schematic design, unless the GC/CM proposes early bid packages and receives Owner's approval.

5.4.4 Review the drawings and investigate existing conditions at the project site to ensure that the construction documents reflect the actual on-site conditions. Provide coordination report to A/E noting any conflicting conditions.

5.4.5 At the conclusion of the Schematic Design Phase, prepare a detailed cost estimate and project scope narrative and note differences from the pre-design assumptions as modified by the peer report. Establish a management level cost-control report for tracking of construction costs in CSI Uniformat style. Reconcile the GC/CM estimate with the A/E's estimate and make adjustments to the estimate as required to match the estimated MACC.

5.4.6 Review the Drawings and Specifications for Schematic Design submittal for viable Value Engineering (VE) recommendations. Update the combination value engineering and constructability tracking log on an ongoing basis.

5.4.7 Provide a preliminary project schedule. Work with the architect to include design through construction highlighting major milestones.

5.4.8 The GC/CM shall provide a schematic report that includes the work products above and as included elsewhere in these contract documents, including a scope narrative, the cost estimate with supporting detail and assumptions; value engineering suggestions along with life cycle cost analysis; constructability review; interdisciplinary coordination and risk assessment and project schedule.

5.5 DESIGN DEVELOPMENT

5.5.1 Prepare a detailed Project Schedule from the onset of design development through the completion of the project. The schedule will identify work to be performed by the Project Team. In developing the activities for this schedule, the GC/CM firm will consult with both the Owner and A/E to ensure that the activities, the responsible entities, and the durations of these activities are accurate.

5.5.2 Review the Drawings and Specifications on an on-going basis. Provide comments on, and analysis of construction feasibility and risk, including identification of products, equipment and/or materials with long lead times for procurement; availability of skilled labor and other market conditions. Make recommendations for changes in phased construction, if appropriate. Propose alternative designs, systems or materials that meet or exceed the program, quality and serviceability requirements of the Owner; and comment and make recommendations on site logistics including the adequacy of access, site utilities and lay down areas.

5.5.3 Review the Drawings and Specifications for Design Development submittal for viable Value Engineering (VE) recommendations and provide constructability analysis and make recommendations for improvements. Perform interdisciplinary plan check. Update the VE and constructability tracking logs.

5.5.4 Define the bid package plan and material procurement plan. Work with Owner and A/E team to draft bid package plan.

5.5.5 Prepare a construction cost estimate for the entire work based upon the final Design Development phase. Reconcile the GC/CM estimate with the A/E's estimate. If the estimate exceeds the MACC, the GC/CM firm will work with the Owner and A/E to reduce the cost of the work within the MACC.

5.5.6 Review the Project site to ensure that the Construction Documents will reflect the actual conditions on site. Review site logistics plan with project team.

5.5.7 Provide Design Development Report that includes the work products above and as included elsewhere in the contract documents.

5.6 CONSTRUCTION DOCUMENTS

5.6.1 Prepare procurement documents for all bid packages. Submit a draft to the Owner and Architect at the same time that the A/E submits their construction documents. Submit the standard portion of the subcontract and purchase order contracts to the Owner for review at eighty-five percent (85%) construction documents. This is to be

fully coordinated with this contract and the A/E's Division One Specifications prior to bid.

5.6.2 Revise the Project Schedule as required to reflect changes that have occurred during design. Include within the schedule release of bid packages and bid schedule.

5.6.3 Provide constructability review and interdisciplinary plan review early in the construction document phase and at 50% to assist the A/E in providing appropriate details for cost effective construction methods.

At ninety-five (95) percent of the final Construction Documents, complete constructability review and comprehensive interdisciplinary plan check for coordination, omissions, deficiencies and other errors or discrepancies on the drawings and specifications and in the bid packages. Submit a report, including a brief narrative, to the Owner.

5.6.4 Assist in the preparation and processing of all necessary building permit applications in a timely fashion. (Check Supplemental and General Conditions). Coordinate and complete all necessary environmental and erosion control permits and documents including a storm water pollution prevention plan.

5.6.5 Prepare a construction cost estimate for the entire work based upon the 90% Construction Documents Design. Reconcile the cost control report with the Architect's estimate as required. If the estimate exceeds the estimated MACC, the GC/CM firm will work with the Owner and A/E to reduce the cost of the work within the MACC. This reconciliation shall be the basis for agreement on the negotiated MACC.

5.6.6 Verify that the Construction Documents accurately reflect the existing conditions on site.

5.6.7 Provide a comprehensive quality control plan for the construction of the project per the requirements of Article 7.4.

5.6.8 Provide design and construction document report that includes the work products above and as included elsewhere in the contract documents.

5.7 CONSTRUCTABILITY AND INTERDISCIPLINARY REVIEWS

The GC/CM Firm shall provide a written report at the end of each of the above design phases summarizing the constructability and other interdisciplinary reviews of the design and contract documents performed by the GC/CM

Check each division of work, plan views, sections, details and elevations for location consistency and dimensional accuracy, coordination of building trades, location and integrity of the whole, consideration of job site challenges, the time each component must be constructed or placed, recognition of existing conditions, including prior new work, and unique types of design and work.

Interdisciplinary reviews involve but are not limited to: checking coordination between design disciplines, such as elevations of structural components, dimensional locations of structural and interior finishing components, location and sizes of wall and floor openings, column and column locations, size and depth of utility services, location and space availability for mechanical, electrical and other equipment, compatibility of between power supply and equipment specifications, and dimensions governing them. Use building information modeling as practicable.

The primary purpose and importance of this review is to assure complete, accurate and quantifiable bid packages, substantially reduce team change memos, provide better coordination between subcontractors, have less conflicts, fewer problems, reduced delays and complete the project on schedule, within budget and of the quality expected by the Owner. The GC/CM firm's involvement and participation in this task greatly reduces the GC/CM's risk in building the project within the total contract cost.

5.8 MACC Negotiations:

The GC/CM firm and the Owner shall negotiate in good faith a satisfactory MACC for each phase. The negotiations will begin when the construction documents are 90% complete. If the GC/CM firm and the Owner cannot agree on the negotiated MACC within 30 days from beginning negotiations, then the Owner reserves the right to terminate the negotiations with the GC/CM firm.

5.9 Bidding

The GC/CM shall competitively bid all subcontract with public bid openings. The exception to this is the optional selection of electrical and/or mechanical subcontractors (known as ECCM and MCCM) using a similar process to the selection of the GC/CM in accordance with RCW 39.10.385. Department of Enterprise Services must approve the use of this alternate selection of subcontractors; this may only be used when the anticipated value of the subcontract will exceed $3,000,000. Solicitations for subcontractors will be made pursuant to the Washington State Public Works Laws, and in accordance with Chapter 39.10.380 RCW. The minimum labor rates shall be in accordance with the prevailing wages determined by L&I that are in effect at the time of the sub-contract bid.

5.9.1 Solicitation of the Work

The Owner and GC/CM may determine the subcontractor bidding eligibility when in the best interest of the project and critical to the successful completion of a subcontractor bid package. The GC/CM and the Owner shall determine the eligibility criteria and the weights given to each and provide this information in a publication of notice of intent to determine bidder eligibility. The GC/CM shall conduct a public hearing after giving published notice to solicit written and oral comments on the justification for determining eligibility and the eligibility criteria and the weights given to each before issuing the bid package. After the hearing the GC/CM shall issue a final written determination to all interested parties in accordance with Chapter 39.10.400 RCW. Potential bidders determined not to be eligible shall be afforded an opportunity to establish their eligibility.

For bid packages where bidder eligibility is not determined prior to bidding, the bid package must include specific objective criteria used to evaluate bidder responsibility. Bidder responsibility will be determined based on the listed criteria.

At the Owner's request, the GC/CM may proceed with the bidding of major subcontractor bid packages prior to agreement of the negotiated MACC. The GC/CM may issue intent to award these packages to the responsible bidder submitting the lowest responsive bid. The Owner may also authorize the GC/CM to proceed with the bidding and award of selected bid packages before receipt of complete plans and specifications and before the completion of MACC negotiations, providing adequate funding is available. These contracts shall be incorporated into the negotiated MACC.

Solicitations will be advertised in advance in The Seattle Daily Journal of Commerce and Enterprise Services Web Sites and will be available to the State of Washington Department of Enterprise Services' approved plan holders' list for the region.

All Subcontractor bids will be required to be written, signed, and submitted in a sealed envelope at a specific time and location identified in the advertisement where the bids will be publicly opened and read aloud.

The GC/CM may bid on subcontract work or equipment or materials in the subcontract package providing the following criteria are met.

- The value performed by the GC/CM may not exceed 30% of the negotiated MACC not including negotiated support services performed by the GC/CM
- The work within the subcontract package must be customarily performed or supplied by the GC/CM
- The bid opening is managed by the Department of Enterprise Services`
- Notification of the GC/CM's intention to bid is included in the public solicitation of bids for the bid package
- The GC/CM may not purchase equipment or materials for assignment to any trade contractor bid package for installation or warranty

After bid openings, bidders may request the bid results by telephone from the GC/CM. GC/CM shall furnish to the Owner within 48 hours, copies of bid proposals, bid summary sheet, scope. Copies of the bid results shall be forwarded to E&AS to be placed on the Department of General Administration website. All calls will be referred to the GC/CM.

5.9.2 Bid Protest

If a GC/CM receives a written protest from a subcontractor bidder, the GC/CM shall not execute a contract for that subcontract bid package with anyone other than the protesting bidder without first providing at least two full business days written notice to all bidders and Owner of the GC/CM's intent to execute a contract for the subcontract bid package; provided that the protesting bidder submits notice in writing of its protest no later than two full business days following bid opening.

5.9.3 Subcontractor Bidder Responsiveness & Responsibility

Responsiveness

A bid will be considered responsive if it meets the following requirements:

- It is received at the proper time and place.
- It meets the stated requirements of the bid proposal.
- It is submitted by a licensed/registered contractor within the state of Washington at the time of bid opening and is not banned from bidding by the Department of Labor and Industries.
- It is accompanied by a bid guarantee, if required.

Responsibility Among other factors, a bid is defined to be responsible if:

- The subcontractor shall have a valid contractor's license issued by the Department of L&I, Contractor's Registrations
- The firm submitting the bid can provide to the GC/CM proof of adequate insurance coverage for the work
- The firm submitting the bid can demonstrate to the satisfaction of the GC/CM that it can be bonded for the full amount of its bid for all bids over $300,000. Bids under $300,000 the subcontractor shall provide a payment and performance bond, if required by the GC/CM.
- The GC/CM must receive the Owner's approval to award the sub-contractor bid packages

When subcontractor eligibility was not determined before bidding, the subcontract bid packages shall include the specific objective criteria that will be used to evaluate bidder responsibility.

Within ten (10) days of subcontract award, a subcontractor list shall be submitted on each bid package. The GC/CM must indicate and log the firms that are MWBE, DVA Small Business per the Inclusion Plan.

A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

The GC/CM may negotiate with the lowest responsible responsive bidder in accordance with RCW 39.10.380 and if unsuccessful, must rebid the work. The GC/CM must provide a written explanation to the owner if all bids are rejected.

5.9.4 Award of Contract for the Work

Award of contract work by the GC/CM requires written notification to the Owner of the desire to award to a sub-contractor. Written notice shall include copies of the bid summary sheet, all proposals, award amount, and scope.

Owner will review the recommendation for award.

The GC/CM shall award subcontracts to the responsible bidder with the lowest responsive bid.

Copies of the subcontracts shall be provided to the Owner within 10 working days of award.

Per RCW 39.10.410, the language of the GC/CM subcontractor agreements shall not:

- Delegate or assign the GC/CM's implied duty not to hinder or delay the subcontractor. This does not prohibit the GC/CM from requiring subcontractors not to hinder or delay the work of the GC/CM or other subcontractors and to hold subcontractors responsible for such damages.
- Delegate or assign the GC/CM's authority to resolve subcontractor conflicts
- Restrict the subcontractor's right to damages for changes to the construction schedule or work to the extent that the delay or disruption is caused by the GC/CM or entities acting for it
- Require the subcontractor to bear the cost of trade damage repair except to the extent that subcontractor is responsible for the damage
- Require the subcontractor to execute progress payment applications that waive bond or retainage rights as a condition of receipt of progress payment, except to the extent the subcontractor has received or will receive payment

ARTICLE 6 - ELEMENTS OF THE TOTAL CONTRACT PRICE

6.1 The Total Contract Cost

The Total Contract Cost (TCC) is composed of the GC/CM fee, the Specified General Conditions and the negotiated Maximum Allowable Construction Cost (MACC). Upon reaching agreement on the scope of work and negotiated MACC, the GC/CM shall provide a performance and payment bond in the full amount of the TCC and Washington State sales tax.

If construction is completed for less than the MACC, any savings shall accrue to the owner. If the construction is completed for more than the MACC, the additional cost is the responsibility of the GC/CM.

6.2 GC/CM Fee

The GC/CM fee includes all expenses of the GC/CM, whether direct or through sub-consultants, for participation in and support of the construction of the project. The fee includes, but is not limited to the following.

- Home or regional, general over-head office expenses of the GC/CM firm during the preconstruction and the construction process, as well as all general home office staff time assigned to this project. Staff wages and benefits including costs by the GC/CM for taxes, including all B&O taxes for the cost of the work, contributions, assessments, and benefits required by law or collective bargaining agreements. For personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations, and pensions, are considered to be provided within wages and salaries paid.

- All office support of the GC/CM firm for this project including direct costs, indirect costs, company overhead, and so forth

- Wages and salaries of the GC/CM firm's supervisory or administrative personnel engaged at factories, workshops, or on the road, in expediting the production or transportation of materials or equipment required for the Work

- Legal Expenses incurred in the administration of the contract and subcontracts

- All travel expenses

- All reproduction, phone, and facsimile, charges, postage, and so forth. The owner will provide four (4) sets of Architectural/Engineering drawings at the end of each design phase, all other Architectural/ Engineering drawings needed by the GC/CM firm, up to actual bid documents, to provide contract services shall be at their cost. The Owner pays initial bid document reproductions done at time of bid. In an effort to reduce paper usage, the GC/CM will be encouraged to utilize available electronic technology for bidder access.

- Costs due to the fault or negligence of the GC/CM firm or representatives, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them can be liable, including -- but not limited to -- costs for the correction of damaged, defective, or non-conforming work

- Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and repairing or replacing damaged property not forming part of the Work

- All profit (and loss) of the GC/CM firm for this project

The GC/CM percent fee will not be changed unless the MACC is adjusted by more than 15% due to owner requested and approved changes in the scope of work.

The GC/CM firm is obligated to complete the project within the negotiated TCC. If the GC/CM firm fails to control costs within the TCC, the amount in excess of the TCC will be paid by the GC/CM at its expense with no additional compensation by the Owner.

6.3 Bid Specified General Conditions

The project description and the design and construction schedule are defined in the RFQ. Time of completion will be required as defined in the RFQ. The GC/CM shall provide general conditions work through final completion and acceptance. The GC/CM, within its bid, must provide specified general conditions work to take the project to completion, even if it exceeds the schedule, if such delay is the responsibility of the GC/CM or its subcontractors. If the GC/CM completes the proposed project ahead of schedule, any savings in Specified General Conditions work will accrue to the GC/CM. Specified General Conditions work must also include all supervisory labor necessary to coordinate and perform transition into warranty phase and all warranty work. Include a warranty tracking system that lists warranty items from the time they are identified until they are resolved. A tracking report shall be available to the owner upon request.

Special requirements shall be coordinated with the public, outside regulatory agencies, and other state agencies.

The GC/CM shall provide, for the duration of the project, the full complement of the field staff designated in the written response to the RFFP, and maintain a communication structure that assures thoroughness and continuity in the management of GC/CM services. Tasks shall include, but are not limited to,

- Scheduling and sequencing of the work
- Submittals
- Coordination drawings
- Building information modeling
- Responding to requests for information

All costs incurred in providing this staff shall be part of the general conditions work bid (i.e., salary, benefits, bonuses, housing, travel, per diem, etc.). The Owner must approve any substitution of staff. Substitution shall be with people of comparable experience and

ability.

Unless otherwise agreed in writing by the Owner**,** the GC/CM guarantees that the GC/CM project manager or the designated representative will attend and participate in all preconstruction services meetings as scheduled and conduct all construction meetings on at least a weekly basis for the duration of the project.

The GC/CM shall manage and document apprenticeship requirements including recruitment and reporting, to assure maximum apprentice participation levels are achieved. They shall also actively recruit and support Diverse Business involvement in the Work.

During construction, the GC/CM shall provide site supervision and support for the following:

- Ongoing coordination between crafts
- Construction schedule
- Job-site safety
- Monitor indoor air quality
- Quality control program
- Disputes between subcontractors
- Negotiation of change orders with the owner
- Review, revise and forward submittals and requests for information (RFI's) to the architect and owner's representative for action
- Provide protection of Owner's adjacent space and minimize disruption to occupied portions of the building
- Site security, including watchmen and guards if required

The GC/CM shall provide site safety supervision sufficient to comply with all WISHA, OSHA, and other regulatory safety requirements.

The GC/CM shall provide for sufficient and appropriately skilled staff and support to implement the quality control program described below. In addition, the project manager or superintendent shall be available to perform weekly site inspections with the owner and A/E for the duration of the project.

The GC/CM shall provide professional advice to the design team during preconstruction to ensure that sustainable building principles are incorporated into the design. The GC/CM shall participate and facilitate the collection of pertinent data and record keeping required during construction to meet the LEED requirement.

Field Office and Site Management

Office Space: For the duration of the project (i.e., from at least one week prior to the scheduled start of construction, to two weeks after final completion and acceptance) the GC/CM will be expected to provide offices and work space for its own staff.

Office Equipment and Supplies: The GC/CM shall provide all field office equipment and supplies for its own use, including computers, printers, a facsimile machine, phones, portable radios and other communications equipment, postage, paper, duplication

machine, chairs, desks.

Temporary Sanitation: Designated toilet rooms shall be made available to the GC/CM for the use of its own employees, all subcontractors and their employees, and all visitors to the site. The GC/CM contractor shall be responsible for the janitorial maintenance and upkeep of these facilities throughout the duration of the project.

Temporary Power and Utilities: Power is available at the site. The GC/CM may connect to such utility, but all cost for connections and metering shall be borne by the GC/CM.

Temporary Water: Water is available at the site. The GC/CM may connect to such utility, but all cost for connections and metering shall be borne by the GC/CM. The GC/CM shall provide temporary potable water for all of its own workers, subcontractors and their employees and visitors to the site.

Telephone: The GC/CM shall provide telephones for its own office use as well as cell phones and pagers for field supervisors.

Safety: The GC/CM shall provide ample first aid supplies and fire extinguishers for use of its own employees, all other workers on the site, and any other people needing attention.

Tool, material, and equipment storage: The GC/CM shall provide ample secured storage for its own tools and equipment.

Vehicles and construction tools: The GC/CM shall provide all vehicles, equipment, equipment operators, and construction tools needed by the GC/CM and its employees. The GC/CM shall provide for the full cost of the operation, replacement, and/or repair of the above, as required.

Job site construction waste management program and removal of debris from the site: GC/CM shall provide, administer, and document a construction waste management program in accordance with General Administration's Construction Waste Management Guide.

Dust control: The contractor shall exercise special care with protecting occupants of the building from the airborne effects of construction in an occupied space. This will include timely and advance notice to the Owner as work progresses from one area to another so that occupants can be notified or moved. A minimum of three days notice is required. The GC/CM may employ a variety of methods on the interior of the building to alleviate dust. This may include barriers, air-filtering equipment, and schedules for air-filter changes in the air-handling equipment. The GC/CM shall work with the Owner to reach a workable solution should one or more of the methods employed not work satisfactorily.

Parking: The GC/CM shall be responsible for arranging parking or transportation to the site from an off-site parking facility (if required) for its employees, subcontractors, and

subcontractor employees.

Bonds and Insurance

Performance & Payment Bond: Should the Total Contract Cost be increased by change order the Owner shall compensate the GC/CM for the increase on an actual cost basis. The GC/CM shall include within their bid the cost for providing a payment & performance bond in the full amount of the Total Contract Cost, including Washington State sales tax.

General Liability Insurance: For the duration of the project, the GC/CM shall carry liability coverage in accordance with the Supplemental Conditions.

Builder's All Risk Insurance: The GC/CM shall carry Builder's all-risk insurance, covering perils such as fire, flood, earthquake, and other natural disaster. The coverage shall be accordance with the General Conditions. Should the Total Contract cost be increased during the MACC negotiations or by change order the Owner shall compensate the GC/CM for the increase on an actual cost basis for associated bonds and insurance.

Survey, Building Lines, Testing, Quality Control

Survey: A site survey and topographical map will be provided by the Owner, and confirmed by the A/E. The A/E will establish a site bench mark and provide site corners, the location of on-site improvements, and off-site access and utilities. The GC/CM shall hire a registered surveyor to establish survey markers, site controls, and building lines on the site from the general survey, as part of the general conditions work that is bid.

Testing: The Owner shall pay for separate special inspections and testing as required by the International Building Code. Such testing will be coordinated by the GC/CM.

Contractor Documentation During Construction: The GC/CM shall provide full documentation to the Owner of all work, including, but not limited to: weekly minutes of all team progress meetings during construction, inspection reports, a comprehensive monthly project report with progress photos, and punch-list reports as needed, updates to schedule, budgets, as-built drawings and related items.

Monthly reports shall be twenty pages maximum and include:

- Executive summary
- Progress photographs with aerial site photographs as requested by Owner
- Critical issues and risk analysis
- Schedule analysis
- Cost control report
- Diverse Business Inclusion Plan and apprentice status
- Status of construction
- Status of LEED documentation, as applicable

6.4 MACC

The MACC includes the maximum cost of the work to construct the project including negotiated support services, a percentage for risk contingency, and approved change orders.

6.4.1 Cost of the Work

The cost of the Work are costs paid to subcontractors or to the GC/CM on competitively awarded self-performing work, and shall include, but is not limited to, the following:

- Costs of labor, materials and equipment incorporated in the construction which is not Specified General Conditions work items. Labor rates shall be in accordance with the prevailing wages determined by the Department of Labor and Industries that are in effect at the time of the sub-contract bid.

- Costs, including transportation, of materials and equipment incorporated in the completed construction.

- Costs of materials described in the preceding paragraph in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials shall be handed over to the owner at the completion of the work or, at the owner's option, shall be sold by GC/CM. Amounts realized from such sales shall be credited to the owner as a deduction from the cost of the work.

- Incidental items to include, but not limited to, temporary heat and lighting for construction, weather protection for construction, tool trailers and office space for subcontractors, specialty permits and fees, and erosion control and permits necessary to obtain a fully functional facility.

6.4.2 Negotiated Support Services

An allowance for negotiated support services work will be established within the MACC during MACC negotiations. These are items of work a general contractor would normally manage or perform on a construction project including, but not limited to hoisting, safety enforcement, provisions of toilet facilities, temporary heat, cleanup and trash removal. General Building permits and associated building inspection fees of the authorities having jurisdiction (AHJ) will be a direct reimbursement without markup to the GC/CM if the Owner does not make arrangements to pay directly to the AHJ.

Sub-contractor permits and inspections fees shall be part of the sub-contractors responsibilities.

6.4.3 Risk Contingency

The risk contingency shall be used to pay for project issues that are within the control of the GC/CM such as subcontractor coordination, insufficient coordination of the design drawings, correcting defective, damaged or nonconforming work, or

unanticipated general conditions expenses. It may also be used for issues beyond the GC/CM's control such as lost time, or increases in bid contracts which are necessary to complete the project for a fully functional facility. The GCCM must give the Owner notice when applying to use the risk contingency funds. The Owner's approval shall not be unreasonably withheld. This contingency is not available for owner directed design or scope changes.

6.4.4 Allowances

Allowances are defined as monies reserved within the MACC for exclusive use for a specified component of the work, which, at the time the MACC is established, cannot be defined sufficiently in scope to determine a precise budget amount. Without prior written approval of the PM, allowances cannot be used by the GC/CM for any use other than specified.

Should the cost of the specified work within the allowance be less than the allowance, then the MACC shall be reduced by change order for the difference. Use of allowances requires prior written approval of the PM. At the completion of the affected bid package work, any remaining allowance money reverts to the owner by change order.

6.5 Washington State Sales Tax (WSST) and Business & Occupation Tax (B&O)

- **WSST** is applied to the amount of work in place. WSST is to be paid to the Washington State Department of Revenue by the GC/CM.
- **B&O** is State tax imposed by the Department of Revenue for doing business within the state of Washington. The GC/CM shall include B&O tax within the TCC.

ARTICLE 7 - GC/CM QUALITY CONTROL

7.1 General

The GC/CM is responsible for quality control and shall establish and maintain an effective quality control system in compliance with the Supplemental Conditions. The GC/CM Quality Control (QC) system shall consist of plans, procedures, and organization necessary to provide materials, equipment, workmanship, fabrication, construction and operations, both on-site and off-site that complies with contract requirements and is keyed with the construction schedule. The GC/CM shall review and certify as correct, complete, and in compliance with contract requirements all shop drawings and lists of materials, fixtures and equipment as required by technical specifications. The GC/CM shall employ a BIM tracking system to mitigate systems and structural conflicts in the field.

Definition: A definable feature of Work is a task that is separate and distinct from other tasks and has separate control requirements. It could be identified by different trades or disciplines, or it could be work by the same trade in a different environment, although each section of the specifications may generally be considered as a definable feature of the work, there is frequently more than one definable feature under a particular section.

Quality control is the sole responsibility of the GC/CM.

7.2 Quality Control System

The inspection program required by General Conditions paragraph 5.15, Tests and Inspections, shall include the following minimum requirements:

Preparatory Inspection (pre-installation meetings): This shall be performed prior to beginning any work and shall include:

- A review of applicable specifications
- A review of the contract plans
- A check to assure that all materials and/or equipment have been tested, submitted and approved
- A check to assure that provisions have been made to provide control inspection and testing
- Examination of the work area to assure that all required preliminary work has been completed and is in contract compliance
- A physical examination of required materials, equipment and sample work to assure that they conform to approved shop drawings or submitted data and are properly stored
- Discussion of procedures for constructing the work, including repetitive deficiencies, construction tolerances and workmanship standards specified in the documents

Initial Inspection: This shall be performed as soon as work begins on a definable feature of work and the following shall be accomplished. This inspection phase should be repeated for each new crew on site performing the work, or any time standards are not being met.

- A check of preliminary work to ensure that it is in contract compliance and review of the preparatory meeting minutes
- Verification of full contract compliance and verify that required control inspection and testing is underway
- Establish level of workmanship, verify that it meets minimum acceptable workmanship standards, and compare work with sample panels, etc., as appropriate
- Provide hazardous materials inspection. Coordination with the owner regarding discovery and abatement procedures.
- Resolve all differences and disputes between subcontractors, subcontractors and suppliers, or subcontractors and GC/CM concerning coordination, interferences, or extent of work. The GC/CM may not delegate or assign its responsibility to resolve subcontractor conflicts.

Follow-Up Inspections: These should be performed daily to assure continuing compliance with contract requirements, including control testing, until completion of the particular feature of work. The Owner or Owner's representative may require joint State/Contractor inspections at any time and on a periodic basis to evaluate the effectiveness of the quality control system.

As-Builts: The GC/CM shall maintain full size marked -up drawings, survey notes, sketches, nameplate data, pricing information, description, and serial numbers of all installed equipment as well as other information depicting as-built conditions. This information shall be updated daily and be maintained in a current condition at all times until completion of work and shall be available for review by owner or owner's representative at all times. Upon completion of the work, this information shall be furnished to the Owner or Owner's representative a minimum of two weeks prior to final inspection.

Tests: All operation and acceptance tests, where specified, are to be performed to verify control measures are adequate. These tests are to be documented (see sample test forms) and a copy provided to the Owner.

7.3 Quality Control Organization

Quality Control Organization: The GC/CM shall identify a Quality Control (QC) staff within the organization, describing lines of authority and acknowledgment that the QC staff shall implement the inspection program. The staff shall include a full time, on-site representative who shall report to an off-site GC/CM headquarters executive or someone higher in the GC/CM's organization.

The site representative shall be on the work site at all times during progress of the work with complete authority to take action necessary to ensure compliance with the contract documents. This includes authority to stop work, if necessary. Additional staff, if needed, for the QC organization is to be at a satisfactory level as required to perform the activities outlined in this section.

7.4 QC Plan:

The GC/CM firm shall submit a QC Implementation Plan to the E&AS Project Manager during the construction documents phase of preconstruction. The plan shall include the following information:

- The inspection organization
- Name, qualifications (in resume format), authority, and responsibility of inspection personnel
- Procedures for scheduling, reviewing, certifying and managing submittals, including those of subcontractors, off-site fabricators, suppliers and purchasing agents
- Procedures for planning and scheduling utility shutdowns, road closures, and any other work item that may cause interruption to the owner's ongoing or adjacent activities.
- Methods to be used for documenting the inspection program (see attached typical forms)
- Procedures for tracking construction deficiencies from identification through acceptable corrective action, establishing verification that deficiencies have been corrected

7.5 Coordination Meeting/Acceptance of Plan:

Before start of construction, the GC/CM shall meet with the Owner and architect representatives to discuss the QC Plan. During the meeting, a mutual understanding of the system details shall be developed. Acceptance of the QC Plan is conditional and will be predicated on satisfactory performance during construction. The Owner shall be notified of any proposed changes to the plan, and those changes are subject to review/acceptance by the Owner.

7.6 Reporting:

The QC representative shall maintain a daily record of all inspections and tests performed for each shift of Subcontractor operations in an appropriate format. These records shall provide factual evidence that continuous quality control inspections and tests have been performed, including any defects, causes for rejection, proposed remedial action and corrective actions taken. Copies shall be furnished to the Owner or Owner's representative daily (see sample daily report form at the end of this section). Reporting procedures, including proposed reporting formats (see sample forms)

If recurring deficiencies indicate that the QC System is not adequate, corrective action shall be taken as directed by Owner. Progress payments may be withheld until such corrective action has been completed per the General Conditions.

7.7 Notice of Non-Compliance:

The Owner will notify the GC/CM of any detected noncompliance with the foregoing requirements. The GC/CM shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the GC/CM at the work-site, shall be deemed sufficient for the purpose of notification. If the GC/CM fails or refuses to comply promptly, the Owner may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the GC/CM.

ARTICLE 8 COORDINATION & MEETINGS

8.1 Purpose

The success of the entire process is enhanced by effective teamwork (Owner, A/E, and GC/CM) at the beginning of the project. Time and energy can be focused on project goals by establishing and maintaining the key parameters of budget, schedule, and program early in the process.

Staffing: The GC/CM shall clearly identify the project staffing they intend to utilize throughout the project. The GC/CM shall identify all key project staff, their roles and responsibilities and the level of effort to be committed (full time vs. part time) and at what phases of the project.

- During the design process, the GC/CM firm will provide, at a minimum, one dedicated professional project manager and/or higher level professional staff to attend all design meetings.
- During the construction phase, the GC/CM shall provide full supervision to coordinate the job in the field, and provide for sufficient and appropriately skilled staff to implement a quality control program.

These staffing commitments shall be honored unless the individual leaves the GC/CM's employ. The Owner must approve any substitution of staff in writing. Substitution shall be with people of comparable experience and ability.

8.2 Preconstruction

The GC/CM shall coordinate closely with the A/E team to establish design and construction schedules, budget reconciliations, constructability reviews as well as value engineering. The overall responsibility for the design rests with the A/E team.

Progress design meetings will occur on a regular weekly schedule throughout the design phase at a location agreeable to the GC/CM, owner and Architect. The Architect shall distribute an agenda prior to the meeting, take and distribute minutes after the meetings. The purpose of these meetings is to keep the lines of communication open and to facilitate effective, informed and timely decisions as the design develops.

The Project Design Team shall consist of the following:

- The Owner project manager and other owner personnel as deemed necessary by the Owner
- E&AS Project Manager
- A/E Project Manager and other A/E team members as needed
- GC/CM Project Manager and other GC/CM team members as needed.

The Design Team meeting agenda may include:

Approval of previous meeting's meeting notes prepared by A/E:

- Critical issues briefing
- Budget
- Schedule:
  - Project schedule
  - Critical path
  - Monthly outlook
- Design review:
  - Program
  - Schematics
  - Bid packaging
  - Design Development
  - Construction Documents
  - Analysis of new systems, methods, technologies, etc.
  - Highlights on new items or changes from previous meeting
  - Owner furnished, Owner installed equipment
  - Permits
- Outstanding actions:
  - To-do list
  - Concerns and solutions

8.3 Construction Phase

The GC/CM is responsible for the coordination of all subcontractor activities during construction including scheduling and sequencing of the work, submittals, coordination drawings, building information modeling, and all other work identified in the drawings and specifications. The GC/CM shall coordinate, so as not to cause delay, Owner activities including, but not limited to, owner furnished-contractor installed items, owner testing services, and Owner's commissioning agent.

A project team consisting of the following people will meet for weekly construction progress meetings at the job site. The GC/CM shall conduct the meetings and distribute meeting notes to participants.

- GC/CM Project Manager
- GC/CM Superintendent
- Trade Contractors as needed
- A/E Project Manager
- E&AS Project Manager
- Tenant Designee

At a minimum the Construction Progress Meeting agenda shall include:

- Review of previous week minutes prepared by GC/CM.
- Critical issues briefing
- Safety
- Budget:
  - MACC
  - Review monthly reports produced by the GC/CM

- Schedule:
  - Past week's progress and next week's plans
  - Long-range schedule
  - Critical path
- Submittals
- RFIs
- Change Order Proposals, Field Authorizations, Team Change Memos, and Change Orders
- Outstanding actions:
  - To-do list
  - Concerns and solutions

The GC/CM shall conduct other meetings with various subcontractors at regular intervals including but not limited to:

- Safety meetings
- Pre-construction meetings
- Pre-installation meetings
- Coordination meetings
- Subcontractor progress meetings

At the beginning of and thereafter quarterly during construction, the GC/CM shall arrange an executive level project risk analysis meeting to examine at the project potential risk and, as a team, develop methods to mitigate issues before they reach crisis level. Participants in these meetings shall be:

- GC/CM Executive Staff including the director of operations, project executive, project manager and site superintendent
- Architect executive staff including the principal in charge, project architect and project manager
- E&AS Assistant Program Manager and E&AS Project Manager
- Executive representatives of the Department of Enterprise Services

8.4 Roles and Responsibilities:

Following is an overview of typical tasks performed by project team members. The overall success of the project depends on all members of the team pulling together in the best interest of the project.

8.4.1 Owner Team

DES Project Manager

- Project Program
- Scope
- Schedule
- Budget Management
- Project Policy Adherence
- CPARB Reporting
- A/E Point of Contact
- GC/CM Primary Point of Contact
- Develop MACC
- Permit Agencies Plan Review & Approval Oversight
- Payment Review and Internal Payment Transmittal
- Design Review
- Special Inspection and Testing
- Construction Review (technical)
- Changes to Contract Documents
- Change Orders
- Contracts and Agreements
- Diverse Business Inclusion Review
- Apprenticeship Program Review
- Technical Oversight
- Site Representatives (construction access, coordination)
- Budget and MACC Oversight

Agency Designee

- Tenants' Point of Contact
- Tenant Coordination
- Program Adherence
- Concur with MACC
- Design Review for Building Improvements
- Stakeholder Coordination
- Concur with Contract Document
- Changes

E&AS Assistant Program Manager

- Project Management Oversight

8.4.2 A/E Team

- Design Documents
- Design Quality Assurance
- Schedule through design
- Budget
- Permits
- Construction Administration
- Construction Quality Assurance
- Modifications to contract documents
- Progress payment review

8.4.3 GC/CM Team

- Construction Quality Assurance
- Quality Control
- Design Review at all Design Phases
- Budget/Cost Control
- Schedule
- Final Construction Document Review
- Value Engineering
- Constructability Review
- Interdisciplinary Coordination Checks
- Bidding
- Trade Contractor Coordination
- Invoicing/Payments To Trade Contractors
- Safety
- Diverse Business outreach and coordination
- Apprenticeship Requirements

ARTICLE 9 - BUDGET

9.1 Preconstruction

The GC/CM shall review design drawings as previously described and produce an estimate of probable cost at each design phase. The estimate at 90% complete construction document will be the basis of establishing a negotiated MACC that is fair, reasonable, and within the available funds.

The GC/CM shall invoice monthly for pre-construction services and for construction in an amount proportionate to the total work completed. All invoices shall be on the state A-19 invoice form which can be found at:
http://www.des.wa.gov/about/FormsPubs/Pages/Forms.aspx#Construction

9.2 Construction

9.2.1 GC/CM Cost Accounting

To ensure efficiency and accountability, a regular reporting and back-up system has been created. Through monthly submittals of budget control sheets by the GC/CM, the State Contracting Officer has the opportunity to provide checks and balances of the work

The GC/CM is required to provide a cost accounting of the MACC on a monthly basis, in a format acceptable to Engineering and Architectural Services. As a minimum each major element of work shall be tracked (i.e.: seismic repairs; site work, etc.).

Reviewing the GC/CM's monthly cost report and outstanding TCMs will enable the PM to assess actual and potential savings within the MACC.

The GC/CM will provide with the monthly invoice, a monthly report to the Project Manager for review of expenditures, tracking of subcontractors, and contract changes. The report shall, at a minimum, track the following using a spreadsheet format:

- Budget - This column shall reflect the amounts agreed to between the PM and the GC/CM. It shall reflect the amount shown on the contract for the MACC.
- Bid Package - This column shall show the amounts encumbered less change orders or team change memos
- Team Change Memos - This column shall show team change memo amounts
- Change Orders - This column shall reflect the amounts of addition or deletion from the contract amount
- Variance - This column shall show the budget less the sub-contract, change orders, and team change memos
- Expended to Date - This column shall show the amounts paid the GC/CM

- Paid To Date - This column shall show that amount recorded on the last monthly report shown as "Paid To Date"

- Earned To Date - This column shall show the amount "Earned To Date"

- Percent of Budget – This column shall show that amount of the negotiated budget expended

- Anticipated Additional Needed To Completion - This column shall show that amount the GC/CM feels may be needed to complete the project. The amount should typically account for anticipated team change memos.

The GC/CM shall list, vertically on the sheet, a breakdown of the information by bid package and by identifiable pieces of the project. The breakdown shall include:

- MACC
- Specified General Conditions charges
- Buy-out savings
- GC/CM Fee

9.2.2 Budget Control

A master budget sheet for each bid package shall identify the status of categories for each line item entry as follows:

- Original MACC
- Allowances
- Current budget
- Obligations
- Expenditures (paid to date)
- Remaining balances

The MACC is finalized at Notice to Proceed (NTP) after negotiating the MACC. Once established, the MACC does not change unless an Owner requested change order (CO) is approved.

The GC/CM shall update the current budget on an on-going basis and deliver a formal update monthly to the E&AS Project Manager. Obligations represent fiscal commitments known to the PM. The current budget reflects modifications to the MACC on an item-for-item basis. Change order summaries shall tie to budget control sheets for each project

9.2.3 Payment Summary

Monthly invoices shall be broken into the following major categories.

- Payment of the GC/CM Fee: The GC/CM's fee shall be paid in an amount proportionate to the total work completed

- Payment of the GC/CM's Specified General Conditions Work: These payments shall be made during the construction phase based upon an approved schedule of values and based on the GC/CM general conditions bid

- Payment of the Cost of the Work: Payments are made based on actual work in progress. In order to assess the actual work completed, the PM will require copies of all contracts between the sub-contractor. Each bid package shall have a schedule of values as described in the General Conditions for Construction, Section 6.02. The information regarding subcontractor payment shall be in a location accessible to the state, on request, for periodic audit. The GC/CM shall invoice on actual work progress.

Bid package costs shall reflect actual bid schedule of values plus any PM approved change orders or team change memos, based on actual work in place and accepted, or on materials stored on site or in a PM approved facility.

- Negotiated Support Services Work: The PM shall verify that all such billings are appropriate, and do not reflect work that falls under the category of Specified General Conditions work

- Allowances: The GC/CM may carry allowances for items approved by the PM at the time the MACC is negotiated. The PM shall verify that payments within these categories shall not exceed the agreed upon allowance limit without a PM approved change order. These allowances will be identified in the project budget.

All payment requests must have the signed and dated recommendation of the Architect. The PM determines the appropriateness of the billing and forwards invoice to the Owner for payment.

ARTICLE 10 - CONTRACT CHANGES

Modifications to the contract occur when a signed fully executed change order from the Owner to the GC/CM changes to the Total Construction Cost (TCC). Only in an emergency situation can the E&AS Project Manager give verbal authorization for a change. Written documentation must be confirmed in writing within 48 hours.

A change order proposal (COP), or a field authorization (FA) changes the project scope and can change the contract sum and the contract time. When all terms have been agreed to and signed by the GC/CM, architect and Owner; the COP or FA will be converted into a change order. A Team Change Memo (TCM) authorizes change work within the MACC. This section describes how FAs, COPs, COs, and TCMs are issued, monitored, and incorporated into the GC/CM's contract. The Owner must accept or reject any request for equitable adjustment, change order or claim within 30 days. If the Owner does not respond in writing, the request is deemed denied.

The original scope of work is guaranteed by the GC/CM not to exceed the MACC. The MACC will cover all changes necessary to produce a complete, fully functional facility within the original scope of work. The GC/CM is responsible for building the facility and supporting infrastructure within the MACC at the scope defined at the time the MACC is established. The GC/CM will accomplish this objective within the MACC by using savings from bid packages and GC/CM contingencies to cover these types of changes. Work necessary to conform to published code and state/federal/local laws will be covered by the MACC. The MACC and/or the schedule may be changed due to latent site conditions or to a change in the scope of work by the owner.

10.1 Changes to the MACC and/or Schedule

Changes to the MACC shall be paid out of the Owner contingency. The Owner contingency shall be used to pay for changes such as latent conditions, and changes in the Owner's design.

Changes involving a change in the cost of the work, the MACC, the schedule, or the scope of work, must be authorized in writing on the CO by the state's contracting officer prior to the change work starting. The GC/CM shall receive a fully executed copy of the CO authorization to proceed prior to beginning work.

No COP or FA shall be issued as a CO without stating an exact cost for the work supported by appropriate backup documentation. An FA may be initiated with a not-to-exceed limit when an exact cost cannot initially be determined. In this case, the FA should include a statement of how the cost will be determined, i.e., cost of materials, plus exact hourly rates, plus profit/overhead if any. The team contract specialist shall incorporate FAs and COPs that have completed cost breakdowns and appropriate backup into COs as they are received in the project manager’s office. Upon execution of a CO, the project budget sheet will be modified to reflect the change to the MACC.

Failure of the GC/CM to adhere to this requirement exempts the state from any obligation for such work and may make the GC/CM liable for claims resulting from unauthorized work. The GC/CM, architect, Owner and E&AS project manager shall sign each original

COP and FA. The state's contract specialist shall convert a completed COP or FA into an executed CO. The project manager shall supply copies of the executed CO to the GC/CM, A/E, and Owner. The contracting officer shall have final approval on any exception to this procedure.

10.1.1 Master Change Log

The GC/CM shall maintain a master change log which shall list all FAs, COPs, TCMs and their executed COs. The master change log is a comprehensive listing of all changes and modifications considered and executed for the project. The log incorporates a running summation of all executed COs, FAs or COPs not yet converted to COs. The project team can, at any time, ascertain the value of existing executed changes, changes implemented but not yet formally executed, FAs, and those COPs awaiting consideration.

Once a FA or COP is issued in the field, the work item is given the next FA or COP number in the master log.

Upon receipt of an FA, COP or TCM, the GC/CM shall enter the appropriate information on the master change log. All COPs, FAs and TCMs shall remain on the log for the duration of the project even if they are ultimately rejected. The project team shall review all FAs and COPs pending and executed within the past week at the team weekly progress meeting.

Should the work item be rejected, the FA or COP is marked "void" with a brief explanation and remains on the master log. A complete and chronological history is maintained of all contemplated changes or modifications.

10.1.2 Change Order Proposal (COP)

The COP is a request to change either the contract sum MACC or time or both. The Owner, project manager, architect, or GC/CM may request a COP. The architect will write the COP after it receives a sequential COP number from the master change log from the GC/CM. When a COP number is issued, the item is entered into the log, and remains there throughout the life of the project providing a continuous history of all changes that have been considered.

COPs are sent to the A/E for design and/or specifications if necessary. A copy is kept in a central file at the job site. The GC/CM will deliver a complete package, with applicable cost information to the A/E with copies to the owner and project manager. The project team will review and the team will either accept the change as proposed, reject the change, or will direct the A/E or GC/CM to make additional changes. The latter process may occur on an iterative basis until the COP is accepted or rejected. Once approved and signed, a change order will be issued within 30 days. If a change order is not issued for an approved, signed COP within 30 days, interest in the amount of one percent per month shall accrue on the dollar amount of the additional work completed.

COPs of $35,000 or more require approval from the DES Assistant Program Manager of Engineering & Architectural Services (E&AS).

COPs are executed with the original going to the DES Engineering & Architectural

Services contract file and signed copies going to the GC/CM, A/E, project manager, and the Owner.

10.1.3 Field Authorization (FA)

An FA is an authorization to commence the work immediately for an estimated maximum not to exceed amount. FAs are issued if there is an immediate threat to life or safety, or if delaying the work will affect the overall project schedule. Otherwise, the change will be initiated as a COP. No FA shall be authorized without an estimated not to exceed cost for the change.

FAs $50,000 and over must be approved by DES Assistant Program Manager. FAs for this amount may be issued for the same reasons as above. Verbal approval may be given by the PM or designee. Written confirmation of the verbal authorization must be attached to the FA and transmitted to the authorizing official within three (3) days of the FAs execution. In the absence of the contracting officer or designee, the DES public works administrator can provide verbal authorization of the FA.

FAs are originated by the project manager, the A/E, or the Owner. Every FA is assigned a sequential FA number that is obtained from the GC/CM or designee. Once an FA number is issued, it is entered into the master change log and remains there throughout the life of the project providing a continuous history of all changes that have been considered.

The original FA shall be retained by the GC/CM until the receipt and approval of cost data backup. After the project team reviews and approves the costs, it is forwarded to the contracts specialist by the project manager to be incorporated into a CO within 30 days. Copies are distributed to the GC/CM, project manager, A/E, and Owner.

Changes involving a change to the MACC will be accomplished using the above process. Payment applications shall include only fully executed COs. Consequently, the GC/CM is charged with responsibility of ensuring that all FA and COP work items are converted to COs.

10.2 Changes within the MACC - Team Change Memo

Changes within the MACC shall be paid out of the risk contingency or from any remaining buyout savings. The risk contingency shall be used to pay for items that are not included in plans and specifications but are required to complete the project to achieve a fully functional facility.

Changes within the MACC are authorized by a Team Change Memo (TCM).

The approval of the PM is necessary before the GC/CM can authorize any change within the MACC.

A TCM may be initiated by a FA or COP in the same manner as in the CO process. The process described above for FAs and COPs shall be followed. A TCM will be issued rather than a CO whenever the change does not involve a latent condition or a change in the scope of work by the Owner or Owner's representative. TCMs may also be initiated without an FA or COP for changes within the MACC. The project manager has signature authority for TCMs up to $35,000. TCMs at $35,000 and above require prior approval by the assistant program manager.

An accounting of changes within the MACC is reported by the GC/CM on a monthly basis in the Cost Accounting Report. Copies of TCMs authorizing changes within the MACC shall be forwarded by the GC/CM to the project manager, A/E, and Owner immediately. The TCM log shall be available for review at weekly construction progress meetings.

ARTICLE 11 - SCHEDULE MANAGEMENT

11.1 Long-Range Project Management Schedule

The GC/CM shall be responsible to develop and manage schedules that reflect the requirements of the project. The schedule shall reflect the Owners need for maintaining operation.

A Critical Path Method (CPM) schedule shall be prepared by the GC/CM to coordinate the work in accordance with Part 3, section 3.02 B. of the General Conditions. This schedule shall be updated as needed but not less than once a month.

11.2 Short Term Look-Ahead Schedules

A four week look-ahead schedule shall be submitted at each weekly meeting during construction. The schedule shall show the prior week planned vs. actual work performed and forecasted activities for the next three weeks. Activities such as scheduled outages or any activity that may disrupt facility operations shall be noted. Critical path tasks shall be identified.

Washington State Department of
Enterprise Services

DIVISION OF ENGINEERING AND ARCHITECTURAL SERVICES

SUBSTANTIAL COMPLETION CHECKLIST

Project Title:	**Project Number:**
Agency:	**Contractor:**
Facility:	**Client Agency Rep:**
Architect/Engineer:	**E&AS Project Manager:**

✓	ACTION:	VERIFIED BY	VERIFIED DATE
	1. Close-Out requirements identified at Construction Close Out Meeting		
	2. All FAs, COPs, and Change Orders submitted		
	3. All systems functioning as designed		
	4. Building Commissioning substantially complete (installation verification, system start up, functional testing, etc.)		
	5. All utilities and meters connected, tested and operational		
	6. Contractor's LEED submittals and reports completed and uploaded to USGB		
	7. Contractor submits notice of completion with remaining incidental corrective work (punch list)		
	8. A/E* schedules an inspection with the Owner, E&AS PM, and Contractor to inspect work and remaining punch list items. The A/E adds to contractor's punch list, creates a single supplemental punch list, and provides to the contractor within 2 business days.		
	9. Contractor establishes punch list completion schedule		
	10. If Prior Occupancy is established, per General Conditions Part 6.08, the areas of prior occupancy are: _____ Prior Occupancy Date(s): _____		
	11. A/E* confirms receipt of approved: a. Occupancy Permit ☐ j. Elevator Permit ☐ b. Fire Marshal ☐ k. Boiler Permit ☐ c. Electrical Inspection ☐ l. Dept of Health Permit ☐ d. O&M Manuals ☐ m. Dept of Ecology Permit ☐ e. Draft "As-Built" Drawings ☐ n. Staff Training ☐ f. Shop Drawings ☐ o. Keys and Key Schedule ☐ g. Test Reports ☐ p. Warranty Responsibility Contacts ☐ h. Spare Parts and Materials ☐ q. _____ ☐ i. Certificates of Warranty ☐ r. _____ ☐		
	12. Notice from the A/E that the work is substantially complete		
	13. The E&AS PM and Owner determine the Substantial Completion date		
	14. Certificate of Substantial Completion issued and Warranty Period begins		

Notes: _____

* If no there is no A/E for the project, the E&AS PM will complete

Updated July 2019

Washington State Department of
Enterprise Services

DIVISION OF ENGINEERING & ARCHITECTURAL SERVICES

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT TITLE:

STATE PROJECT NUMBER:

CONTRACTOR:

A/E CONSULTANT:

OWNER/AGENCY:

DATE OF ISSUANCE:

DEFINITION OF SUBSTANTIAL COMPLETION

Part 6, paragraph 6.07, of the General Conditions of the Contract. "Substantial Completion is the stage in the progress of the Work (or portion thereof designated and approved by Owner) when the construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can fully occupy the Work (or the designated portion thereof) for the use for which it is intended."

DESIGNATED PORTIONS OF THE PROJECT SHALL INCLUDE:

Work performed under this contract has been reviewed and to the best of our knowledge found to be substantially complete.

The Date of Substantial Completion for the work described above is hereby established as: _____

The Contractor will complete or correct the work on the list of items attached hereto within _____ calendar days.

RECOMMENDED BY:

A/E CONSULTANT — BY — Signature — DATE

RECOMMENDED BY:

OWNER/AGENCY — BY — Signature — DATE

APPROVED BY:

E&AS PROJECT MANAGER — BY — Signature — DATE

ACKNOWLEDGED BY:

CONTRACTOR — BY — Signature — DATE

Items to be corrected:

Washington State Department of Enterprise Services

FACILITY PROFESSIONAL SERVICES

FINAL ACCEPTANCE CHECKLIST

Project Number:	Project Title:
Contractor:	Project Manager:

✓		ACTION:		Reference Info.[1]	Verified By	Verified Date
	1.	**Contractor:** Submit written notice that all incidental corrective work (punch list) completed		GC 6.09; per Spec.		
	2.	**Contractor:** Submit final list of subcontractors, all tiers, which worked on the project and confirm that all affidavits have been submitted.		GC 5.04C		
	3.	**Contractor: All work done per contract**				
		Print Name:	Signature:	Date:		
	4.	**A/E[2]:** In consultation with E&AS PM and Owner, conduct a final on-site inspection of punch list to confirm completion.		GC 6.09; per Spec.		
	5.	**A/E[2]:** Confirms review and approval of final "As-Built" Record Documents from contractor		GC 4.02		
	6.	**PM:** Identify any and all claims and/or disputes		GC 6.09		
	7.	**PM:** Verify all FAs and COPs resolved, approved and all Change Orders processed		GC 6.09		
	8.	**Commissioning Authority Verification:** All post-commissioning fine-tuning complete and issues resolved		GC 6.09; per Spec.		
	9.	**Commissioning Authority:** Submit Commissioning Final Report (except seasonal testing)		GC 6.09; per Spec.		
	10.	**A/E[2] Recommendation of Acceptance** (All work acceptable per Contract)				
		Print Name:	Signature:	Date:		
	11.	**Client Agency Acceptance**				
		Print Name:	Signature:	Date:		
	12.	**E&AS PM Determination of Date of Final Completion**				
		Print Name:	Signature:	Final Completion Date:		
	13.	**PM:** Uses the L&I portal and approved affidavits. Apprenticeship participation is _____%. Processes incentive payments for meeting the 15% goal. If goal wasn't achieved, evaluates good faith effort (if applicable) or calculates the fine.		Sup Conds 10.12; per Spec.		
	14.	**PM:** Verify any and all claims and/or disputes resolved		GC 6.09		
	15.	**PM:** Verify final contractor invoicing (100% & retainage as applicable) complete		GC 6.09; per Spec.		
	16.	**PM:** Verify all affidavits, including lower tier subcontractors, submitted to L&I		GC 5.04 RCW 39.12.040		
	17.	**PM:** Verify that final audit is complete and notify the Contracts Specialist to close the project in the DES Diversity Compliance program (B2Gnow)				
	18.	**PM**: Verify that all documents are retained, recycled, or submitted to Archives as per DES policy				
		E&AS APM Approves Closing the Contract				
	19.	Print Name:	Signature:	Date:		
	20.	**CS:** Closes the contract and advertises the Final Acceptance date. 45-day lien period begins.				
	21.	**CS:** Notifies the A/E, Client Agency, and Contractor that the contract has been accepted.				
	22.	**PM:** Identify requested contract action **(A/E)**		**Close Agreements**		
				Close Project		
		Footnote:				

1 References are for information. Contractor shall refer to the Contract Documents to fulfill all contract requirements.

2 If there is not an A/E for the project, the FPS PM will complete

Updated January 1, 2020

ARTICLE 13 - DEFINITIONS

Allowance

Funds reserved within the Maximum Allowable Construction Cost (MACC) exclusively for the use of a specified component of the work, which, at the time the MACC is negotiated, cannot be defined sufficiently in scope to determine a precise budget amount. Allowances cannot be used by the GC/CM for any use other than specified and use must be authorized in writing by the E&AS PM.

Specified General Conditions

Temporary work, staff, and/or fees performed by or paid by the GC/CM to accomplish the project scope of work as detailed in the Request for Proposal.

Buyout

Cost of subcontractor bids and all Team Change Memos (TCM) for a particular bid package.

Buyout Savings (potential)

Buyout savings is the difference between the GMACC and the buyout, less the risk contingency as identified within the GMACC.

Change Order (CO)

A Change Order incorporates changes in the contract sum and/or contract time as mutually agreed to by approved Change Order Proposals (COP) or Field Authorizations (FA) to the GC/CM's Total Contract Cost. The authorizing signature allows the GC/CM to invoice for the referenced change upon completion of the changed work.

Change Order Proposal (COP)

A document used to propose a change in scope and/or schedule between the GC/CM and the Owner that adjusts the Total Contract Cost or contract time. Authorized COP conditions are limited to:

- change in scope by the Owner
- changes required by local and state building code officials *during construction*
- unforeseen site conditions
- some types of omissions on the plans and specifications
- design errors not related to constructability and/or coordination

Once the project team agrees to the cost and time, the COP is converted to a Change Order (CO).

Commissioning

The process of achieving, verifying, and documenting the performance of building mechanical and electrical systems through a complete and thorough investigation, to verify proper installation and operation of all components and systems in order to meet the design intent and Owner's functional and operational needs. The process advances systems from static condition to full dynamic working order, according to the specified requirements. Commissioning requires the participation of the General Contractor, all subcontractors associated with the scope of work to be commissioned, Commissioning Agent, Owner and A/E in a team effort to certify that all equipment, components and systems have been

completely and properly installed and put into service.

Commissioning Agent (CxA)

An independent agent under contract to the owner who facilitates the commissioning process on behalf of the owner. The GC/CM is responsible to assist in coordinating the work of the CxA with the various trade contractors.

Constructability Review

The systematic analysis of the project design and/or its elements by an experienced team of construction experts for the purpose of optimizing the ease with which the design can be constructed. It includes, but is not limited to, the analysis of drawings and specifications for clarity, consistency, coordination between disciplines, and between drawings and specifications, and completeness; schedule feasibility; work-site accessibility; conflicts among disciplines; suitability of work divisions; choice of construction methods, materials and equipment; and procurement procedures as further described. Constructability review begins during schematic design and continues through the end of construction documents.

Cost of the Work

Sub-contractor cost which includes change orders.

Engineering and Architectural Services (E&AS)

Field Authorization (FA)

A State document used to authorize a change in the work allowing the work to proceed immediately to prevent delay in the project. A FA will be converted to a CO or TCM upon approval of cost documentation.

Department of Enterprise Services (DES)

The State of Washington contracting agency for construction of public works in the State of Washington.

General Contractor/Construction Manager (GC/CM)

Means a firm with which a public body has selected and negotiated a maximum allowable construction cost to provide services during the design phase and to act a as construction manager and general contractor during the construction phase.

Maximum Allowable Construction Cost (MACC)

The maximum allowable cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders which is fair, reasonable, and within available funds.

Design MACC - The MACC specified in the A/E agreement for the design of the project. The Design MACC does NOT including any percentage for risk contingency.

Estimated MACC - Prior to design work beginning, the State establishes a projected maximum cost of the work, including a percentage for risk contingency, to accomplish the project scope as set by the State. The Estimated MACC is used for the solicitation of the GC/CM.

Negotiated MACC or GMACC - The Owner and GC/CM will negotiate and agree on a

final MACC after the design is approximately 90% complete and is the basis for the Total Contract Cost (TCC) for the GC/CM. The Negotiated MACC, or GMACC, includes the full direct costs of the work including a percentage for risk contingency.

Milestone

A principal event specified in the Contract Documents relating to an intermediate completion date or time.

Negotiated Support Services

Items a general contractor would normally manage or perform on a construction project including, but not limited to,

- surveying,
- hoisting,
- safety enforcement,
- provision for toilet facilities,
- temporary heat,
- cleanup, and
- trash removal.

Items provided by the GC/CM as reimbursable cost within the MACC on a direct cost basis without markup; these items are not a biddable part of the work.

Owner: The Owner is the agency, institution of higher education, board or commission with funding authority.

Percent Fee

The percentage amount to be earned by the GC/CM as overhead and profit.

Pre-construction Services

Throughout the design period the GC/CM will provide services to include, but not limited to, the following:

- Attend and participate in design meetings;
- Value Engineering;
- Scheduling;
- Design Cost Estimating;
- Constructability Review and Analysis;
- Interdisciplinary Coordination,
- Project Management Services;
- Alternative Construction Options for Cost Savings; and
- Planning for Sequencing of the work.

Pre-construction Services Fee

The Lump Sum fee amount bid by the GC/CM bidder to provide the Pre-construction Services for the Project.

Project Manager (PM)

The individual representing the Department of Enterprise Services (DES) as the A/E's and

GC/CM's primary point of contact for communications with the Owner.

Project Team

Assigned project representatives of the Owner, the A/E, and the GC/CM.

Risk Contingency

A maximum amount of 5% for a renovation project that is included in the Estimated MACC and the Negotiated MACC but not the Design MACC. It is intended to cover cost of changes within the MACC. Owner approval is required prior to expenditure of Risk Contingency. The remaining end of project, Risk Contingency is considered part of the buyout savings and returns to the Owner by change order.

Team Change Memo (TCM)

A document used to obtain Owner approval of changes within the MACC. Authorized TCM conditions include, but are not limited to:

- coordination issues
- constructability issues
- scope of work gap not covered in subcontract bid packages
- design errors and omissions when related to constructability and/or coordination issues

Funds for TCM's are derived from the Risk Contingency.

Total Contract Cost (TCC)

The TCC is the fixed cost to perform all work required to complete the project. The TCC is composed of the percent fee, detailed specified general conditions, and the negotiated MACC.

Value Engineering

This is a systematic, multi-disciplinary analysis of a design(s), and/or its elements, by an experienced team of experts for the purpose of maximizing value to the Owner by finding viable alternative solutions that reduce cost, while maintaining or improving quality.

Washington State Sales Tax (WSST)

State and local sales tax for the county which the work is being performed in. The bid amount shall <u>not</u> include WSST. All other taxes imposed by law shall be included in the bid amount. The Owner will include WSST in the progress payments. The GC/CM shall pay the Department of Revenue and shall furnish proof of payment to the Owner upon request.

Washington State Business and Occupation Tax (B&O)

State tax imposed by the Department of Revenue for doing business within the state of Washington. The GC/CM shall include B&O tax within the TCC.

Proposers: Entities submitting SOQs in response to this RFQ. Any provision in the RFQ or RFP that references Proposers also applies to Finalists.

Finalists: Entities that have been shortlisted and participate in the RFFP process.

Business Day: any day on which the Owner/DES is open for regularly conducted business.