# State of Oregon
# Invitation to Bid

## Jessie M. Honeyman Memorial State Park
## Raw Water System Improvements
## Engineering Project No. 33950
## ITB #14546
## OregonBuys #S-63400-00018144

## Oregon Parks and Recreation Department

**Closing Date:** November 2nd, 2026
**Closing Time:** 2 PM PST

**Single Point of Contact ("SPC"):** Joshua Herron, Senior Procurement Specialist
**Email:** Joshua.a.herron@oprd.oregon.gov
**Phone: 503-953-0536**

This Invitation to Bid ("ITB") is advertised as a "Bid Solicitation" in the OregonBuys web-based eProcurement system. Bids must be submitted through the OregonBuys system. See ITB Section C.1 – OREGONBUYS / ITB DOCUMENT AVAILABILITY for information regarding supplier registration and terminology used in the OregonBuys platform.

This document must be viewed electronically to access files, forms, provisions and any other documents provided via hyperlinks within this ITB. Prospective Bidders that do not have compatible software or are otherwise unable to open any of the attached forms, Addenda, or other documents listed in the OregonBuys system may contact the Purchaser/Single Point of Contact ("SPC") (see Section A.2) for alternative formats and any reasonable accommodations that might be needed.

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Attachment B is found as 1 separate document on OregonBuys.

ATTACHMENT C PLANS AND DRAWINGS: Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026 prepared by Westech Engineering Inc.

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## SECTION A – PROJECT AND SOLICITATION SUMMARY

### A.1 PROJECT DESCRIPTION

The purpose of this ITB is to establish a contract for the Jessie M. Honeyman Memorial State Park Raw Water System Improvements (the "Project") for the benefit of the Oregon Parks and Recreation Department ("OPRD" or "Agency") (the "Contract"). The work to be performed under the Contract shall consist of furnishing tools, equipment, materials, supplies, permits and manufactured articles; furnishing transportation and services, including fuel, power, water, and essential communications; and the performance of all labor, work, or other operations required for the fulfillment of the Contract in strict accordance with the Contract Documents (the "Work").

The Work, includes, but is not limited to:

Contractor shall furnish all permits, labor, equipment, tools, supervision, materials and incidentals required to complete the Work in accordance with the Plans, Specifications and terms of the Contract.

- Piping and electrical improvements at the existing raw water pump station
- A new raw water pipeline from the pump station to the treatment plant
- Refer to Plans and Specifications for other items

### A.2 SINGLE POINT OF CONTACT ("SPC")

Any questions or issues that may arise regarding the ITB and its attachments, bidding process, change, clarification, award process, protests, and any other issues must be directed to the SPC identified below:

Joshua Herron
Joshua.a.herron@oprd.oregon.gov
355 Capital St. NE
Salem, Oregon 97301
503-953-0536

### A.3 SOLICITATION SCHEDULE

All dates listed are subject to change. All times listed in this ITB and the OregonBuys are Pacific Standard Time ("PST").

| ACTIVITY | SCHEDULE/DEADLINE |
|---|---|
| Voluntary Pre-Bid Conference | See ITB Section A.10 below |
| Deadline for, requests for change, requests for clarification, requests for approval of equivalents, and questions | October 26th 2026 at 2 PM |
| Deadline for Bid Submittal ("Closing") | November 2nd, 2026 at 2 PM |

| | |
|---|---|
| Deadline for Award Protests | 5 calendar days after issuance of the Award Notice. See ITB Section D.5 |

## A.4 PROJECT SITE

84505 Oregon Coast Hwy S, Florence, OR 97439, Jessie M. Honeyman Memorial State Park

## A.5 SITE ACCESS

Site access will be provided.

## A.6 PROJECT COST ESTIMATE AND FUNDING

The following range is a Project estimate for bonding purposes: **$850,000 - $950,000**

This Project is anticipated to be funded with State funds, as detailed below. Award is dependent upon Agency's receipt of sufficient Project funding.

**State Funds:** OPRD Capital Construction funds

## A.7 KEY PROJECT DATES

| | |
|---|---|
| PROJECT START DATE: | Upon issuance of Notice to Proceed |
| CONSTRUCTION START DATE: | 1/1/2027 |
| SUBSTANTIAL COMPLETION: | 2/22/2027 |
| FINAL COMPLETION (Water Line): | 3/1/2027 |
| CONTRACT END DATE: | One year from Substantial Completion |

## A.8 LIQUIDATED DAMAGES

Liquidated damages of **$500.00** per calendar day will apply to the Contract resulting from this ITB for each day elapsed in excess of the Substantial Completion date and **$500.00** per calendar day for each day elapsed in excess of the Final Completion date (see also Attachment D-1). If liquidated damages should become payable concurrently under any combination of liquidated damage rates, the rate that will be assessed will be the highest applicable rate.

**A.9 PREVAILING WAGE RATES.** Oregon Parks and Recreation is exempt from the Public Contracting Code (ORS 279A, 279B, and 279C) for purposes of this solicitation, including the prevailing wage requirements of ORS 279C.800 through ORS 279C.870.

## A.10 VOLUNTARY PRE-BID CONFERENCE

A voluntary pre-bid conference will be held on October 14, 2026 at 10 AM (PST), located at Jessie M Honeyman Memorial State Park.

Any statements made at this conference will not change the Plans, Specifications, other Contract Documents or other provisions/requirements of this ITB unless an Addendum has been issued and advertised on the OregonBuys System.

BIDDERS ARE NOT REQUIRED TO ATTEND THIS VOLUNTARY PRE-BID CONFERENCE, BUT WITH THE COMPLEXITY OF THIS PROJECT IT IS STRONGLY RECOMMENDED THAT BIDDERS OR THEIR REPRESENTATIVE ATTEND.

## A.11 PUBLIC OPENING

The public Opening will occur immediately following the Closing, unless otherwise specified. Only the name of each Bidder and the Bid amounts will be read at the public Opening. Award decisions will not be made at the public Opening.

Agency will hold the public Opening through electronic means. Interested parties may attend the public Opening for this solicitation electronically as follows: (It is attendee's choice to use video or audio only.)

A Microsoft Teams meeting will be held at 2:00 PM for the public Opening following the Closing. Be sure to have Microsoft Teams access available on your computer or mobile phone and follow the following link:

Join: https://teams.microsoft.com/meet/2923565175554397?p=pxp9DxNup6LtqHkP18
Meeting ID: 292 356 517 555 439 7
Passcode: 6Fz7L2Bu

Dial in by phone
+1 503-446-4951,,34260590# United States, Portland
Find a local number

# SECTION B – DEFINITIONS

Together with the Definitions found in Section A.1 of the General Conditions, the following definitions apply to this ITB and the resulting Contract:

"Addendum" means an addition or deletion to, a material change in, or a clarification of, the ITB. Each Addendum shall be labeled as such and shall be made available to all interested Bidders. The plural form of "Addendum" is "Addenda".

"Agency" means the Oregon Parks and Recreation Department ("OPRD").

"Bid" means the Bidder's written Bid submitted in response to the ITB, including all necessary attachments and information required to be submitted prior to award (see Section C.7.3 – Bid Package Requirements). Bid also means "Offer".

"Bidder" means an individual, organization, or representative of an organization that submits a Bid in response to an ITB. Bidder also means "Offeror".

"Closing" means the date and time set in the ITB for Bid submission, after which Bids may not be submitted, modified, or withdrawn by Bidder.

"Construction Contract" means a Contract governing an OPRD project for construction, reconstruction or major renovation on real property.

"DAS" means the Oregon Department of Administrative Services.

"Invitation to Bid" or "ITB" means this solicitation document, including all documents, whether attached or incorporated by reference, and any Addenda thereto, issued to invite Bids from prospective Contractors.

"OregonBuys" means the online electronic Oregon Automated Procurement System administered by DAS. The OregonBuys system website is located at: https://oregonbuys.gov/bso/

"Owner" means the State of Oregon acting by and through the Oregon Parks and Recreation Department.

"Plans and Drawings" referenced in this ITB means Attachment C – Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026 of this ITB.

"Signature" means to write one's name to confirm assent, responsibility, or obligation, either by hand using ink or by electronic means that constitute an "electronic signature" under Oregon Revised Statute ("ORS") Chapter 84.

"Specifications" and "Technical Specifications" referenced in this ITB means Attachment B – Technical Specifications for Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026.

"State" means the State of Oregon.

"Writing" means letters, characters, and symbols inscribed on paper by hand, print, type, or other method of impression, intended to represent or convey particular ideas or meanings. "Writing" when required or permitted by law, or required or permitted in a Solicitation Document, also means letters, characters, and symbols made in electronic form and intended to represent or convey particular ideas or meanings.

## SECTION C – INSTRUCTIONS TO BIDDERS

### C.1 OREGONBUYS / ITB DOCUMENT AVAILABILITY

**C.1.1 REGISTRATION REQUIREMENT.** Bidders must be registered in OregonBuys to do business with the State. Registration is free. OregonBuys uses the terms Vendor and Supplier interchangeably to refer to any form of business entity registered in OregonBuys.

To create a supplier account, click the blue "Register" button in the top right corner of the OregonBuys website: https://oregonbuys.gov/bso. For registration assistance see Supplier Resources: https://www.oregon.gov/das/ORBuys/Pages/supplierresources.aspx.

Bidders are responsible for ensuring that their supplier registration and information is current and correct in OregonBuys, including choosing any commodity or service codes associated with its business. Agency shall not be responsible for defective registration or incorrect supplier information. Bidders shall contact support.oregonbuys@das.oregon.gov with any questions or supplier registration

support.

**C.1.2 OBTAINING ITB DOCUMENTS.** This ITB, any ITB attachments, and any Addenda and related notices (collectively the "Amendments") may be downloaded from OregonBuys at: https://oregonbuys.gov/bso. This ITB and any attachments will not be mailed to prospective Bidders.

In some cases, exhibits and attachments cannot be viewed or downloaded through OregonBuys. In these cases, the solicitation will include instructions on how to obtain these documents.

Bidders should contact the SPC for this ITB if they are unable to access solicitation documents via OregonBuys.

**C.1.3 ITB ATTACHMENTS AND ADDENDA.** In addition to the provisions set forth and linked within, this ITB incorporates by this reference the information published or linked on the OregonBuys "Bid Solicitation" page for this ITB, including but not limited to:

- Details entered in the "Header Information" section;
- All ITB Attachments, Addenda and notices ("Amendments" in OregonBuys), question and answer documents, and any other files linked in the "File Attachments" and "Form Attachments" sections; and
- Information, if any, entered in the "Questions" and "Item Information" sections.

Bidders are solely responsible for checking OregonBuys regularly until the Bid Opening Date specified in OregonBuys to ensure that they have not missed any Addenda or other notices issued as "Amendments" in OregonBuys for this ITB.

**C.1.4 EXPLANATION OF CERTAIN TERMS USED IN OREGONBUYS**

- **Amendment:** Any form of notice posted on OregonBuys associated with the solicitation, such as intent to award or solicitation cancellation, including an "Addendum" or "Addenda", as defined in OAR 137-046-0110(1) (an addition to, deletion from, a material change in, or general interest explanation of a Solicitation Document). Amendments that serve as Addenda will be labeled as such.

- **Bid Opening Date:** The OregonBuys term for "Closing" as defined in OAR 137-046-0110(6) (the date and time specified in a Solicitation Document as the deadline for submitting Offers).

- **Bid Solicitation:** Refers to this Invitation to Bid ("ITB").

- **Purchaser:** Refers to the SPC identified on the Cover Page of this ITB.

- **Quote:** Bid Package (see Section C.7).

## C.2 SOLICITATION LAWS, RULES AND GENERAL CONDITIONS

This ITB and the resulting Contract are governed by Oregon Law. Specific laws and rules that govern this solicitation and contracting process are found in ORS 390.121 and OAR Chapter 736, Divisions 146 and 147. The Public Contracting Code (ORS 279A, B, and C) does not apply to this ITB and the resulting Contract pursuant to ORS 279A.025(3)(k) and ORS 279A.050(2) and (6)(d). However, this ITB and resulting Contract may necessarily incorporate certain requirements contained in the Public Contracting Code. Those references will, where applicable, apply only as clauses to this ITB and

resulting Contract and are not to be construed as incorporating those or any other laws contained in those statutes.

**C.2.1 OREGON DEPARTMENT OF PARKS AND RECREATION RULES (OAR Chapter 736, Divisions 146 and 147).** Can be obtained online at: https://secure.sos.state.or.us/oard/displayChapterRules.action

**C.2.3 GENERAL CONDITIONS.** In addition to the foregoing, this ITB and the resulting Contract are governed by the GENERAL CONDITIONS FOR OPRD CONSTRUCTION CONTRACTS ("General Conditions") dated March 15, 2026 which is incorporated herein and provided as Attachment D-4.

**C.2.4 COMMITMENT TO DIVERSITY, EQUITY AND INCLUSION.** The State of Oregon is committed to taking active steps toward increasing and promoting diversity, equity, and inclusion values across procurement processes for minority-owned, women-owned, emerging small, and veteran-owned businesses by reducing barriers to compete for and be awarded State contracts. All interested businesses are encouraged to submit Bids for this contracting opportunity. See also Executive Order No. 22-15.

## C.3 BRAND NAME AND EQUIVALENTS

**C.3.1 BRAND NAMES.** This ITB (including Plans and Specifications) does not expressly or implicitly require any product by brand name or mark, nor does it require the product of any particular manufacturer or seller, unless otherwise specified within this ITB, it's Exhibits, Attachments or other related documents.

**C.3.2 EQUIVALENTS.** This ITB (including Plans and Specifications) may identify products by brand name or equivalent (such as "approved equal", "or equal", "approved equivalent", or "equivalent", or similar language). In such case, Bidder may use either the (i) brand name product or (ii) an equivalent product.

An equivalent product is one approved in writing by Agency in its sole discretion upon finding that the proposed product satisfies Project needs for quality, utility, durability, function, and purpose.

## C.4 REQUESTS FOR APPROVAL OF EQUIVALENTS, CLARIFICATION, OR CHANGE

**C.4.1 REQUEST FOR APPROVAL OF EQUIVALENTS.** Bidders may request approval of equivalents. Requests shall provide all the information necessary for Agency to determine product acceptability (see Section C.3.2). Requests shall reference any applicable Specification sections. Agency will issue an Addendum identifying any approved equivalent products.

**C.4.2 REQUEST FOR CLARIFICATION.** Bidders may request clarification of any ITB requirements per the method provided in Section C.4.5 below.

**C.4.3 REQUEST FOR CHANGES TO CONTRACTUAL TERMS OR SPECIFICATIONS OR PLANS.** Bidders may request changes to contractual terms, Plans, or Specifications. The request shall include a statement of the requested changes and the reason for the requested changes.

**C.4.4 RESERVED**.

**C.4.5 METHOD OF SUBMITTING REQUESTS.** Requests for approval of equivalents and clarification or changes of the ITB provisions shall be made in Writing via email to the SPC and marked as follows:

| | |
|---|---|
| Email Subject Line: | Bid Request for: Approval of Equivalents / Clarification / Change of ITB Provisions |
| Body of Email: | ITB Number and Bid Opening Date |

Requests must be received by the SPC by **the deadline provided in the Solicitation Schedule (see Section A.3).** Unless this specific deadline is extended by subsequent Addenda, no requests or protests pertaining to provisions contained in the originally issued ITB will be considered after the date specified herein.

**C.4.6 RESPONSES.** Agency will respond to properly submitted requests. Agency may post question and answer documents on OregonBuys for this solicitation to respond to inquiries when Agency determines, in its sole discretion, the answers do not effect changes to this ITB. Agency may also informally respond to Bidder questions, provided the answers do not effect changes to the ITB. When appropriate, including approval of equivalents, Agency will amend the ITB via Addendum.

Unless Agency amends the ITB by Addendum, a response from Agency does not change Plans, Specifications, contractual terms, or procurement requirements.

## C.5 REQUEST FOR CLARIFICATION, REQUEST FOR CHANGE OF ADDENDA

Requests for clarification and requests for change of Addenda shall be submitted per the method provided in Section C.4.5 and must be received by the time and date specified in the Addendum or they will not be considered. Agency will not consider requests of matters not addressed by the Addendum.

## C.6 TRADE SECRETS

Any information Bidder submits in response to the ITB that Bidder considers a trade secret under ORS 192.345 or confidential proprietary information under ORS 192.355, and that Bidder wishes to protect from public disclosure, must be clearly labeled with the following: “This information constitutes a trade secret, or otherwise exempt from disclosure under the Oregon Public Records Law, ORS 192.311 through 192.513, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.” Bidders are cautioned that price information submitted in response to an ITB is generally not considered a trade secret under the Oregon Public Records Law. Further, information submitted by Bidders that is already in the public domain is not protected. The State shall not be liable for disclosure or release of information when authorized or required by law or court order to do so. The State shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.461 to 646.475.

## C.7 BID PACKAGE SUBMISSION

**C.7.1 BINDING OFFER.** Bidder’s Bid is a firm Bid, irrevocable, valid, and binding on the Bidder for not less than 120 calendar days from the Bid Opening Date.

Agency may request that Bidder extend the time period during which Agency may consider and accept the Bid. If Bidder agrees to such an extension, the Bid shall continue as an irrevocable, and valid, Bid binding on the Bidder for the agreed-upon extension.

**C.7.2 SUBMISSION REQUIREMENTS.** The Bid Package must be submitted via OregonBuys. Agency will reject submittals by any other means. Each electronic file or attachment must be clearly identified with the OregonBuys Bid Number. Bidder shall select the "Confidential" checkbox in OregonBuys when uploading any files required in response to this ITB. Bidders shall make reasonable efforts to minimize the file size of attachments to 5 megabytes.

For information on how to submit an electronic response to an opportunity, please visit: https://www.oregon.gov/das/ORBuys/Documents/OregonBuys%20Vendor%20Formal%20Solicitation%20Response.pdf

**C.7.3 BID PACKAGE REQUIREMENTS**

(1) **Bidder Information and Certifications Form.** Bidder must complete and submit Attachment A, Form A-1 in accordance with the form instructions.

(2) **Pricing Form.** Bidder must complete and submit Attachment A, Form A-2 in accordance with the form instructions.

(3) **Bid Security.** Bidders must provide bid security in an amount equal to 10% of the total amount of the Bid ("Bid Security") prior to Closing. Agency will accept the following forms of Bid Security:
   (a) Bid bond from a surety company authorized to do business in the State of Oregon. If Bid Security is furnished by means of a Bid bond, the Bid Security Form, provided as Attachment A, Form A-3, is the required form to be used for this ITB and it must be uploaded via an electronic file on OregonBuys. At any time during the solicitation, upon request or demand by Agency, Bidder must immediately furnish the original of any Bid Security submitted via electronic means to the SPC.
   (b) A fully executed certified or cashier's check or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008. If using one of these methods, Bidder shall contact SPC to arrange for delivery prior to Closing.

**C.7.4 SIGNATURES.** All Bid forms requiring Signature must be signed by an authorized representative of the Bidder. Bidder agrees that any Signatures on documents submitted in response to this ITB via OregonBuys or email are Electronic Signatures under ORS Chapter 84, bind the Bidder, and are intended to be and can be relied upon by Agency.

**C.7.5 TIMELINESS.** Agency will use the time stamp on the submittal through OregonBuys to determine timeliness. Agency shall not be responsible for and will not accept late or misdelivered Bids, protests, or other submittals.

**C.7.6 FAILURE OF ELECTRONIC SYSTEMS.** Agency is not and shall not be held responsible for failure of any system that interferes with the ability of Bidders to submit Electronic Submittals, to protest or to otherwise participate in the ITB process. In the event of a failure of any electronic system that interferes with the ability to submit electronic Bids, to submit a protest or to otherwise participate in the procurement, Agency may cancel the procurement or may extend the date and time of receipt of electronic Bids by providing an extension of time to the bid opening date.

**C.7.7 HARD COPIES AND ORIGNALS.** Agency reserves the right at any time to require the Bidder to submit hard copy originals of any documents included in an electronic Bid Package. Further, Agency reserves the right to require that the apparent successful Bidder promptly submit its complete

original signed Bid to Agency.

## C.8 BID MODIFICATION PRIOR TO THE BID OPENING DATE

Modifications made after Bid submission must be uploaded in OregonBuys after deleting prior submittal items using the “Withdraw Quote” button. Modifications made after Bid submission shall be prepared on Bidder’s letterhead, be signed by an authorized representative, and state that the modifications amend and supersede the prior Bid. Failure to comply with the provisions of this Section will result in Bid rejection.

Nothing in this Section shall be construed as allowing the Bidder to alter or otherwise change the form of the Bid, the form of the Contract, the conditions of the Bid, or the Specifications or Plans attached to the Bid documents.

Bidders shall not modify Bids after the Bid Opening Date.

## C.9 BID WITHDRAWAL PRIOR TO THE BID OPENING DATE

If a Bidder wishes to withdraw a submitted Bid, the Bidder must do so using the “Withdraw Quote” button in OregonBuys prior to Closing/Bid Opening Date and time specified in OregonBuys for this ITB.

# SECTION D – AWARD

Bids must be submitted in accordance with all instructions in this ITB prior to the Bid Opening Date specified in this ITB (see Section A.3, Solicitation Schedule). Bids received after the Bid Opening Date will not be considered for award.

## D.1 PRELIMINARY BID RESULTS

Following public Opening (see Section A.11), Agency may post preliminary Bid results on the OregonBuys System. Such postings may not be correct and are not final. The posting of the preliminary Bid results is not a representation by Agency that any Bid submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

## D.2 METHOD OF AWARD

Provided Agency does not cancel the solicitation or reject all Bids, Award will be made to the responsible Bidder submitting the lowest responsive Bid based on compliance with conditions of this Invitation to Bid.

Bids will be calculated as follows.

(1) **LUMP SUM.** If the ITB requires a lump sum Bid, without additive or deductive alternates, or if Agency elects not to award additive or deductive alternates, Bids will be compared based on lump sum prices or lump sum base Bid prices, as applicable. If the ITB calls for a lump sum base Bid, plus additive or deductive alternates, the total Bid price will be calculated by adding to or deducting from the base Bid those alternates selected by Agency, for the purpose of comparing Bids.

(2) **UNIT PRICE.** If the Bid includes unit pricing for estimated quantities, the total Bid price will be calculated by multiplying the estimated quantities by the unit prices submitted by the Bidder and adjusting for any additive or deductive alternates selected by Agency, for the purpose of comparing Bids. Agency will specify within the ITB the estimated quantity of the procurement to be used for determination of the low Bidder. In the event of mathematical discrepancies between unit price and any extended price calculations submitted by the Bidder, the unit price shall prevail over extended prices.

Agency may award by Bid item, groups of bid items or the entire Bid provided such award is in the public interest.

**D.2.1 RESPONSIVENESS.** For its Bid to be considered responsive, the Bidder must substantially comply in all material respects with the solicitation documents and requirements articulated therein. Bids may be considered nonresponsive and rejected if the Bid:

- includes non-approved equivalents where approval is required;
- takes exception to the Specifications or Plans or contractual terms of the ITB;
- is contingent upon Agency's acceptance of Specifications, Plans, or Contract terms that conflict with or are in addition to those advertised in this ITB; or
- is unreadable.

In making a responsiveness determination, Agency may waive minor informalities and Agency may seek clarification of any response that, in its sole discretion, it deems necessary or advisable. However, Bidders may not supplement their Bids to provide for missing information.

**D.2.2 RESPONSIBILITY.** Prior to award of the Contract, Agency will evaluate whether the apparent successful Bidder is responsible. A responsible bidder must demonstrate to Agency that it: Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities; Holds current licenses that businesses or service professionals operating in this state must hold in order to undertake or perform the work specified in the contract; Is covered by liability insurance and other insurance in amounts required in the solicitation documents; Qualifies as a carrier-insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128; Completed previous contracts of a similar nature with a satisfactory record of performance; Has a satisfactory record of integrity; Is legally qualified to contract with the Agency; and, Supplied all necessary information in connection with the inquiry concerning responsibility. If a bidder fails to promptly supply information concerning responsibility that the Agency requests, the contracting agency shall determine the bidder's responsibility based on available information or may find that the bidder is not responsible.

Agency shall notify the apparent successful Bidder, in Writing, of any other documentation required for it to complete its responsibility inquiry, which may include, but is not limited to: recent profit-and-loss history, current balance statements, assets-to-liabilities ratio (including number and amount of secured versus unsecured creditor claims), availability of short and long-term financing, bonding capacity, credit information, material, equipment, facility and personnel information, performance record of Contract performance, and similar information. Submission of a signed Bid shall constitute approval for Agency to obtain any information Agency deems necessary to conduct the evaluation.

Failure to promptly provide this information shall result in Bid rejection. Agency may postpone the Award of the Contract to complete its investigation and evaluation.

## D.3 REJECTION OF BIDS

**D.3.1 REJECTION OF ALL BIDS.** Agency may reject all Bids for good cause upon its finding that it is in the public interest to do so. Agency will issue written findings if all offers are rejected.

**D.3.2 LIQUIDATED AND DELINQUENT DEBT.** Agency may reject a particular Bid if a Bidder has liquidated and delinquent debt owed to the State or any department or agency of the State.

**D.3.3 REJECTION OF PARTICULAR BIDS.** Agency may reject a particular Bid that:

- is contingent on the Contracting Agency's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;
- Takes exception to terms and conditions (including Specifications);
- Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;
- Offers Work that fails to meet the Specifications of the Solicitation Document;
- Is late;
- Is not in substantial compliance with the Solicitation Documents.

## D.4 FINAL AWARD AND PROTEST.

Following Bid Closing, Agency may proceed with Award of the contract. In such circumstance, Agency will provide a written notice to all Bidders who submitted a Bid, identifying the Contractor to whom Agency intends to Award a Contract (Award Notice).

Any Bidder who submitted a Bid in response to this ITB may protest the Award by submitting a protest to the Agency within five Days following the date of the Award Notice. Agency will not consider a Bidder's protest submitted after the timelines specified for submission in this ITB.

The Award protest must be in writing, received by the Agency by the time set forth in the ITB, and provide relevant information that:

(A) demonstrates all lower Bids are ineligible to receive the Award because they are not responsive; or

(B) demonstrates Agency committed a material violation of a provision in the Solicitation Document or of an applicable statute or administrative rule that resulted in prejudice to the Bidder that caused Agency to not issue an Award to that Bidder.

Agency's Procurement Manager or designee will review each timely-submitted Award protest and will issue a written response to the Bidder within five business days following the Agency's receipt of the protest.

The Agency's written response may include the Procurement Manager's or designee's decision affirming or denying the Award protest, a notice to the Bidder that Agency needs additional time to evaluate the protest, or a request for additional information from the Agency that the Agency may need to evaluate the protest. The Agency will issue a follow-up response to the Bidder within a reasonable time following the Agency's notice to the Bidder that the Agency needs additional time to evaluate the Award protest or following Agency's receipt of the additional information Agency has requested from the Bidder.

Judicial review of the Agency's protest decision will be available if provided by statute.

## D.5 INFORMATION TO BE SUBMITTED BY THE AWARDED BIDDER

The Awarded Bidder shall provide the following required documents to Agency:

- **Proof of Insurance.** Awarded Bidder shall furnish proof of insurance meeting the requirements provided in Attachment D-5.
- **Performance and Payment Bonds.** Using the forms provided in Attachment D-2 and Attachment D-3 and pursuant to the General Conditions, the Awarded Bidder shall furnish a Performance Bond and a Payment Bond each in the total amount (100%) of the awarded Contract, executed in favor of the State.
- **W-9 Form.** When requested by Agency or when the backup withholding status or any other information of Bidder has changed since the last submitted W-9 form, if any, Awarded Bidder shall provide their Taxpayer Identification Number and backup withholding status on a completed W-9 form. The W-9 form is available at: http://www.irs.gov/pub/irs-pdf/fw9.pdf.

Failure to present the required documents within 7 days of the Award Notice (see Section D.4) may result in revocation of award Should Awarded Bidder, working in good faith, be unable to meet the required timeframes set forth in this Section, Bidder shall, in Writing via email to SPC, explain the circumstances and request an extension for the number of days needed to achieve compliance, which Agency, in its sole discretion, may allow.

## D.6 EXECUTION OF CONSTRUCTION CONTRACT

Agency will provide Awarded Bidder with the finalized Contract documents, which Awarded Bidder shall execute within the timeframe specified by the SPC.

## D.7 REVIEW OF SOLICITATION FILES

Completed solicitation files are available for public review at Agency by appointment during regular business hours (Monday through Friday) or as otherwise arranged.

# ATTACHMENT A

# BID PACKAGE FORMS

- FORM A-1: BIDDER INFORMATION AND CERTIFICATIONS FORM
- FORM A-2: PRICING FORM
- FORM A-3: BID SECURITY FORM

# ATTACHMENT A

## FORM A-1 — BIDDER INFORMATION AND CERTIFICATIONS FORM

**ITB S-63400-00018144**
**Jessie M. Honeyman Memorial State Park Raw Water System Improvements**

**Note to Bidders:** If additional space or lines are needed attach an additional page to the end of the form.

Business Name: [_____]

Is Bidder authorized to transact business by the Oregon Secretary of State? **Yes** ☐ **/ No** ☐

- If yes, provide business registry number or otherwise describe authorization: [_____]

Business Owner(s) Name: [_____]

Business Address: [_____]

Telephone Number: [_____]

Email Address: [_____]

Federal Employer Identification Number ("FEIN") Number: [_____]

Bidders must be licensed with the State of Oregon Construction Contractors Board ("CCB") *prior* to bidding on Construction Contracts. FAILURE TO COMPLY WITH THIS REQUIREMENT WILL RESULT IN BID REJECTION. Contractor certifies that each of its subcontractors participating in the Project will be similarly registered with the CCB before each subcontractor commences Work under the Contract.

CCB REGISTRATION NO.: [_____]

EXPIRATION DATE OF CCB NO.: [_____]

Contract Authorized Representative Name: [_____]

If Bidder is a joint venture or partnership, the individual named above must be authorized to sign on its behalf and execute agreements. Additionally, upon request, Bidder shall provide a copy of the joint venture agreement or partnership agreement evidencing authority to Bid and to enter into the resulting Contract that may be awarded, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a joint venture or partnership.

### SUBCONTRACTORS CERTIFIED UNDER ORS 200.055

Agency promotes and applies a policy of diversity, equity, and inclusion in public contracting by engaging in efforts to increase public contracting opportunities for businesses and enterprises that the Certification Office for Business Inclusion and Diversity has certified under ORS 200.055.

Provide the company name(s) of any subcontractor certified under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, an emerging small business, or a veteran-owned business, that Bidder intends to utilize in the performance of this Contract.

Name: [_____]

Name: [_____]

Name: [_____]

Name: [_____]

Name: [_____]

**RESPONSIBILITY INQUIRY**

Bidder may add additional lines to this section and form as needed to provide the required information.

1. Does Bidder have available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to demonstrate the capability of Bidder to meet all contractual responsibilities?

   **Yes ☐ / No ☐**

2. Within the last 5 years, how many contracts of a similar nature has Bidder completed that, to the extent that the costs associated with and time available to perform the contract remained within Bidder's control, Bidder stayed within the time and budget allotted, and there were no contract claims by any party? **Number of contracts:** [insert #]

   How many contracts did not meet those standards? **Number of contracts:** [insert #]

   If any contracts did not meet those standards, please provide an explanation:
   [_____]

   Has Bidder been debarred or otherwise disqualified from bidding on contracts by any state, local, or federal agency under any state or federal law? **Yes ☐ / No ☐**

   If yes, please provide an explanation:
   [_____]

3. Within the last 3 years, has Bidder had:
   a. any contracts terminated for default by any government agency, or
   b. any lawsuits filed against it by creditors or involving contract disputes?

   **Yes ☐ / No ☐**

   If yes, please provide an explanation: (With regard to judgments, include jurisdiction and date of final judgment or dismissal.)
   [_____]

4. Within the last 3 years has Bidder been criminally or civilly charged, indicted, or convicted in connection with:
    a. obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract,
    b. violation of federal or state antitrust statutes relating to the submission of Bids or Proposals, or
    c. embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property?

    **Yes ☐ / No ☐**

    If yes, indicate the jurisdiction, date of indictment, charge or judgment, and names and summary of charges below:
    [_____]

    Does Bidder have any outstanding or pending judgments against it? **Yes ☐ / No ☐**

    If yes, please provide an explanation:
    [_____]

5. Is Bidder experiencing financial distress or having difficulty securing financing?

    **Yes ☐ / No ☐**

    If yes, please provide an explanation:
    [_____]

6. Does Bidder have sufficient cash flow to fund day-to-day operations throughout the proposed contract period?

    **Yes ☐ / No ☐**

    If no, please provide an explanation:
    [_____]

    Within the last 3 years, has Bidder filed a bankruptcy action, filed for reorganization, made a general assignment of assets for the benefit of creditors, or had an action for insolvency instituted against it?

    **Yes ☐ / No ☐**

    If yes, provide the filing dates, jurisdictions, type of action, ultimate resolution, and dates of judgment or dismissal, if applicable:
    [_____]

    Does Bidder have all required licenses, insurance and/or registrations, if any, and is Bidder legally authorized to do business in the State of Oregon? **Yes ☐ / No ☐**

    If no, please provide an explanation:
    [_____]

7. **Pay Equity Certificate.** This certificate is required if Bidder employs 50 or more full-time workers and the resulting Contract price is estimated to exceed $500,000. Does a current authorized representative of Bidder possess an unexpired Pay Equity Certificate issued by the Department of Administrative Services?

   **Yes ☐ / No ☐ / Not Applicable ☐**

   [If the certificate was provided with the Bid or Proposal submitted for a solicitation related to the prospective contract, then it is not necessary to resubmit it. Just indicate "see Bid" or "see Proposal" in the response field. **Otherwise, if applicable, submit a copy of the certificate with this form.**]

   Does Bidder have documented diversity, equity and inclusion values and practices as required pursuant to Executive Order 22-15? **Yes ☐ / No ☐**

8. Within the last 3 years has the Offeror, or any officer, partner, agent or employee of Offeror been found to have violated any state or federal prevailing wage statute or regulation (including the federal Davis-Bacon and related Acts and ORS 279C.800 – ORS 279C.870) in any Final Order of the Oregon Bureau of Labor and Industries or the United States Department of Labor, or by any court of competent jurisdiction?

   **Yes ☐ / No ☐**

   If yes, provide copies of the final order(s) or judgment in which this occurred and explain **in detail**:

   (a) The circumstances behind any violation, including the amount(s) not paid
   (b) Whether the amount(s) have now been paid
   (c) The reasons for the violation
   (d) All efforts undertaken to ensure that future violations will not occur

   Response:
   [_____]

## RECORD OF SATISFACTORY PERFORMANCE

Bidder must demonstrate that it has completed previous contracts of a similar nature with a satisfactory record of performance. Bidder shall provide the information below for 3 different projects completed within the last 3 years that demonstrate Bidder's experience with projects of similar size, scope, and complexity to the Project that is the subject of this ITB. Bidder must provide contact information for the individual who can describe the quality of workmanship and service that the Bidder provided on current and past projects of similar size and complexity.

Agency reserves the right to choose and investigate any contact or reference (whether or not furnished by the Bidder), and to investigate past performance with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of service on schedule, and its lawful payment of suppliers, subcontractors, and employees.

Bidder may add additional lines to this form as needed to provide the required information.

***Project #1***

Description of Project: [_____]

Project Location: [_____]

Project Date: [_____]

Contract Amount: [_____]

Project Owner: [_____]

Project Contact: [name], [phone], [email]

Did the project owner ever find that you were materially deficient in contract performance?

**Yes ☐ / No ☐**

If yes, (i) was the deficient performance expressly excused under the terms of the contract, or (ii) did you take appropriate corrective action? Please provide an explanation:

[_____]

Did you stay within the contract time and budget to the extent the costs associated with and time available to perform a previous contract were within your control? **Yes ☐ / No ☐**

***Project #2***

Description of Project: [_____]

Project Location: [_____]

Project Date: [_____]

Contract Amount: [_____]

Project Owner: [_____]

Project Contact: [name], [phone], [email]

Did the project owner ever find that you were materially deficient in contract performance?

**Yes ☐ / No ☐**

If yes, (i) was the deficient performance expressly excused under the terms of the contract, or (ii) did you take appropriate corrective action? Please provide an explanation:

[_____]

Did you stay within the contract time and budget to the extent the costs associated with and time available to perform a previous contract were within your control? **Yes ☐ / No ☐**

***Project #3***

Description of Project: [_____]

Project Location: [_____]

Project Date: [_____]

Contract Amount: [_____]

Project Owner: [_____]

Project Contact: [name], [phone], [email]

Did the project owner ever find that you were materially deficient in contract performance?

**Yes ☐ / No ☐**

If yes, (i) was the deficient performance expressly excused under the terms of the contract, or (ii) did you take appropriate corrective action? Please provide an explanation:

[_____]

Did you stay within the contract time and budget to the extent the costs associated with and time available to perform a previous contract were within your control? **Yes ☐ / No ☐**

**CERTIFICATIONS OF BIDDER'S DULY AUTHORIZED REPRESENTATIVE**

THIS BID MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE BIDDER

The undersigned acknowledges, attests, and certifies individually and on behalf of the Bidder that:

(1) The undersigned is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Addenda, if any, issued;

(2) Bidder, acting through its authorized representatives, has read and understands all Bid instructions, Specifications, Plans, terms and conditions contained in this Bid document (including all listed attachments and Addenda, if any, issued);

(3) The Bid submitted is in response to the specific language contained in the ITB, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the ITB, or (b) any previously issued ITB, if any;

(4) The State shall not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder's failure to comprehend all requirements of the ITB;

(5) The State shall not be liable for any expenses incurred by Bidder in preparing and submitting its Bid or in participating in the Bid evaluation/selection process;

(6) **RESERVED**

(7) The Bid was prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty;

(8) Bidder is bound by and will comply with all requirements, Specifications, Plans, terms and conditions contained in this Bid (including all listed attachments and Addenda, if any, issued);

(9) Bidder will furnish the designated item(s) or service(s) in accordance with the Specifications, Plans and requirements, and will comply in all respects with the terms of the resulting Contract upon award;

(10) Bidder represents and warrants that Bidder has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;

(11) Bidder has no undisclosed liquidated or delinquent debt owed to the State or any department or agency of the State;

(12) If awarded a Contract, Bidder agrees that at the time of Contract execution it shall demonstrate that an employee drug testing program is in place pursuant to the General Conditions (Attachment D-4);

(13) Bidder is, to the best of my knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon tax laws" means (i) all tax laws of this state, including but not limited to ORS 305.380(4), ORS 305.620 and ORS chapters 316, 317, and 318; and (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's

property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; and (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions;

(14) Bidder has not discriminated and will not discriminate against any disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or veteran-owned business (as those terms are defined in ORS 200.005), in obtaining any required subcontracts;

(15) Bidder has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault and discrimination against employees who are members of a "protected class"; and

(16) All affirmations and certifications contained within the Bid, including those in this Bidder Information and Certification Form and the Pricing Form, are true and correct.

**ACKNOWLEDGMENT OF ADDENDA**
**(must be completed by Bidder as a matter of responsiveness)**

Bidder acknowledges and agrees: (select one option)

☐ Addenda **No. [insert #]** to **No. [insert #]** have been issued for this ITB.

☐ Addenda have not been issued for this ITB.

If addenda have been issued, Bidder has received and duly considered all addenda. Bidder acknowledges and agrees to the terms of all such Addenda as those terms revise the terms, conditions, Plans and Specifications of this ITB.

**SIGNATURE OF BIDDER'S DULY AUTHORIZED REPRESENTATIVE**

[ ] _____
(Legal Business Name)

[ ] _____ [ ] _____
(Authorized Representative Name) (Title)

_____ [ ] _____
(Authorized Representative Signature) (Date)

# ATTACHMENT A

## FORM A-2 — PRICING FORM

## ITB S-63400-00018144

## Jessie M. Honeyman Memorial State Park Raw Water System Improvements

**PRICING SUBMITTAL INSTRUCTIONS:**

Bidder shall enter pricing and other required information for all Bid Items listed in this Pricing Form. If this Pricing Form is replaced by Addendum, Bidders shall use the Addendum form to provide pricing and other required information. If the Pricing Form is only modified by Addendum, Bidders shall follow the instructions in the Addendum for making modifications to the Pricing Form. Failure to supply the required information in the Pricing Form, as modified by subsequent Addenda, may result in Bid rejection as nonresponsive.

All Work described in the Contract Documents but not specifically itemized in the Pricing below is considered incidental to the Work, and Bidder agrees to furnish all necessary plant, labor, equipment, accessories, materials, permits, and perform all incidental Work at no additional cost to the Agency. Contractor shall furnish all temporary facilities such as power, lights, heat, telephone, potable water, portable toilets, and job office as needed to perform the Work at no additional charge to the Agency.

| No. | Bid Item | Quantity | Unit | Unit Price | Total Price |
|---|---|---|---|---|---|
| A1 | Permits and Mobilization | 1 | LS | | |
| A2 | Erosion Control | 1 | LS | | |
| A3 | ODOT Bonds and Insurance | 1 | LS | | |
| A4 | Traffic Control | 1 | LS | | |
| A5 | Tree and Stump Removal | 4 | EACH | | |
| A6 | Joint Utility Trench from Pump Station to Highway 101 (Sta 10+00 to Sta 22+37.15): | 1 | LS | | |
| A7 | Waterline Along East Side of Highway 101 (Sta 22+37.15 to 30+52.40 | 1 | LS | | |
| A8 | Highway 101 Auger Bore & Carrier Pipe, Bore, and Receiving Pits | 1 | LS | | |
| A9 | Auger Bore & Carrier Pipe | 1 | LS | | |
| A10 | Waterline from Highway 101 to Water Treatment Plant (Sta 30+84.40 to 32+31 | 1 | LS | | |
| A11 | Trench Foundation Stabilization | 100 | CY | | |
| A11 | Raw water pump station piping and equipment modifications: | 1 | LS | | |
| A12 | Water Treatment Plant Piping Modifications | 1 | LS | | |
| A13 | Excavation and Gravel Pad for Electrical Transformer | 1 | LS | | |
| A14 | Raw Water Pump Station Access Improvements | 1 | LS | | |
| A15 | Electrical and Controls | 1 | LS | | |
| | | | | **TOTAL BID (Lines from A1 through A15)** | **$** |

**NOTE:** Bid price is total contract price including contractor's profit and overhead. Items not explicitly listed in the bid schedule above are considered incidental.

The undersigned understands that the State reserves the right to increase or decrease the above quantities at the same unit prices as shown or to remove items as necessary to meet budgetary

constraints. The undersigned has carefully examined the Contract Documents and the site of the work, and agrees to furnish all necessary plant, labor, equipment, accessories, materials, permits, and perform all operations shown and specified in accordance with the Contract Documents for the price(s) set herein.

**Bid submitted by:**

[ ]
(Legal Business Name)

[ ]
(Authorized Representative Name)

[ ]
(Title)

(Authorized Representative Signature)

[ ]
(Date)

# ATTACHMENT A

## FORM A-3 — BID SECURITY FORM

## OREGON PARKS AND RECREATION DEPARTMENT

## BID BOND

We,_____ , as "Principal,"
(Name of Principal)

and [_____], a Corporation,
(Name of Surety)

authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns to pay unto the State of Oregon ("Obligee") the sum of ($_____) dollars.

WHEREAS, the condition of the obligation of this bond is that Principal has submitted its proposal or bid to an agency of the Obligee in response to Obligee's procurement document (No._____ ) for the project identified as: [_____] which proposal or bid is made a part of this bond by reference, and Principal is required to furnish bid security in an amount equal to 10% of the total amount of the bid pursuant to the procurement document.

NOW, THEREFORE, if the proposal or bid submitted by Principal is accepted, and if a contract pursuant to the proposal or bid is awarded to Principal, and if Principal enters into and executes such contract within the time specified in the procurement document and executes and delivers to Obligee its good and sufficient performance and payment bonds required by Obligee, as well as any required proof of insurance, within the time fixed by Obligee, then this obligation shall be void; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this [_____] day of [_____], 20.

**PRINCIPAL:** _____

BY:

_____
Signature

[_____]_____
Official Capacity

Attest: [_____]_____
Corporation Secretary

**SURETY:** _____

BY ATTORNEY-IN-FACT:

[_____]_____
Name

_____
Signature

_____
Address

_____
Email

_____[_____] [_____]
City State Zip

[_____] [_____]
Phone Fax or Email

# ATTACHMENT B

## TECHNICAL SPECIFICATIONS

Specifications listed below are hereby incorporated into this ITB:

TECHNICAL SPECIFICATIONS for Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026

The Specifications apply to this ITB and any resulting Contract. Should any of the Specifications conflict with the General Conditions, the General Conditions shall prevail. Items not indicated in the Specifications that can be legitimately and reasonable inferred to complete the work must be furnished by the Contractor as though it were detailed herein.

For purposes of the ITB, Attachment B is found as 1 separate document on OregonBuys.

# ATTACHMENT C

## PLANS AND DRAWINGS

Plans and drawings listed below are hereby incorporated into this ITB:

PLANS AND DRAWINGS for Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026 prepared by Westech Engineering Inc.

Items not indicated in the plans and drawings that can be legitimately and reasonable inferred to complete the Work must be furnished by the Contractor as though it were detailed herein.

For purposes of the ITB, Attachment C is found as 1 separate document on OregonBuys.

# ATTACHMENT D

## SAMPLE CONSTRUCTION CONTRACT, FORMS AND EXHIBITS

- ATTACHMENT D-1: SAMPLE CONSTRUCTION CONTRACT FORM
- ATTACHMENT D-2: PERFORMANCE BOND FORM
- ATTACHMENT D-3: PAYMENT BOND FORM
- ATTACHMENT D-4: GENERAL CONDITIONSAND CONTRACT CLOSEOUT COMPLIANCE CHECKLIST
- ATTACHMENT D-5: INSURANCE REQUIREMENTS

# ATTACHMENT D-1

## SAMPLE CONSTRUCTION CONTRACT FORM

***FOR BIDDERS:*** *COPIES OF THIS CONSTRUCTION CONTRACT FORM---MODIFIED FROM BEING THIS EXHIBIT 5 SAMPLE TO THE ITB TO A STAND-ALONE RESULTING CONTRACT BETWEEN THE PARTIES---WILL BE SENT TO THE INTENDED AWARDEE (CONTRACTOR) BY AGENCY AT THE TIME OF THE STATE'S NOTICE OF INTENT-TO-AWARD. THE BLANKS IN THIS SAMPLE WILL BE FILLED IN BY AGENCY. THE INTENDED AWARDEE WILL THEN COMPLETE AND SIGN THE CONTRACT. AFTER ALL REQUIREMENTS ARE MET, THE STATE WILL THEN SIGN THE CONSTRUCTION CONTRACT FORM AND SEND AN ORIGINAL, SIGNED FULLY EXECUTED CONSTRUCTION CONTRACT TO THE CONTRACTOR ALONG WITH THE NOTICE TO PROCEED.*

**STATE OF OREGON CONSTRUCTION CONTRACT**
**for**
**Jessie M. Honeyman Memorial State Park Raw Water System Improvements**
**14546**

This Construction Contract for the Jessie M. Honeyman Memorial State Park Raw Water System Improvements (the "Contract"), made by and between the State of Oregon, acting by and through the Oregon Parks and Recreation Department, hereinafter called the Owner, and [Contractor's Name] hereinafter called the Contractor (collectively the "Parties"), is effective on the date this Contract has been signed by all the Parties and all required State of Oregon governmental approvals have been obtained. Unless otherwise defined in the Invitation to Bid or in this Contract, the capitalized terms used herein are defined in Section A.1 of the General Conditions for OPRD Construction Contracts.

**1. Contract Price**
The Contractor, in consideration of the sum of **$[000.00]** (the "Contract Price"), to be paid to the Contractor by Owner in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Invitation to Bid, this Construction Contract and other Contract Documents, all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents.

The Contract Price includes all items listed in Exhibit 1.

**2. Representatives**
Unless otherwise specified in the Contract Documents, the Owner designates Project Manager**,** as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to performance, payment, and authorization, and to carry out the responsibilities of the Owner. Contractor has named [Insert Name] its Authorized Representative to act on its behalf.

Owner's Authorized Representative Contact Information:
email: email / phone: phone #

Contractor's Authorized Representative Contact Information:
email: [email] / phone: [phone]

**3. Contract Dates**
PROJECT START DATE: Upon issuance of Notice to Proceed

SUBSTANTIAL COMPLETION: 10/15/2027
FINAL COMPLETION: 12/31/2027
CONTRACT END DATE: One year from Substantial Completion

**4. Liquidated Damages**
Liquidated damages of $500.00 per calendar day will apply to the Contract resulting from this ITB for each day elapsed in excess of the Substantial Completion date and $500.00 per calendar day for each day elapsed in excess of the Final Completion date, as provided in Section 3 of this Contract. If liquidated damages should become payable concurrently under any combination of liquidated damage rates, the rate that will be assessed will be the highest applicable rate.

**5. Exhibits**
The following Exhibits are attached and incorporated into this Contract by this reference. Contractor must utilize and comply with these documents and requirements in its performance of this Contract. The versions of the Exhibits set forth herein replace any versions included in or as Attachments to the ITB.

| | |
|---|---|
| **EXHIBIT 1** | COMPLETED PRICING FORM [insert completed ITB Attachment A, Form A-2] |
| **EXHIBIT 2** | EXECUTED PERFORMANCE BOND [insert completed ITB Attachment D-2] |
| **EXHIBIT 3** | EXECUTED PAYMENT BOND [insert completed ITB Attachment D-3] |
| **EXHIBIT 4** | GENERAL CONDITIONS FOR OPRD CONSTRUCTION CONTRACTS |
| **EXHIBIT 5** | INSURANCE REQUIREMENTS [insert ITB Attachment D-5] |
| **EXHIBIT 6** | TECHNICAL SPECIFICATIONS: Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026 |
| **EXHIBIT 7** | PLANS AND DRAWINGS: [Jessie M. Honeyman Memorial State Park Raw Water System Improvements dated May 1, 2026 prepared by Westech Engineering Inc. |
| **EXHIBIT 8** | **Inadvertent Discovery Plan** |
| **EXHIBIT 9** | **Tree Protection Plan** |

**6. Certifications**

a. Prevention of Sexual Harassment, Sexual Assault, and Discrimination. Contractor certifies that it has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a "protected class" as described in ORS 279A.112. As a material term and condition of this Contract, Contractor must maintain, throughout the duration of this Contract, a policy and practice as described in ORS 279A.112, including, but not limited to, giving employees written notice of the Contractor's policy and practice.

b. Prohibition of Non-Discrimination in Subcontracting Laws. Contractor certifies that it has not discriminated and will not discriminate against any disadvantaged business enterprise,

minority-owned business, women-owned business, emerging small business, or business that a veteran owns, in obtaining any required subcontracts. Failure to do so shall be grounds for disqualification.

c. Debt. Contractor certifies that Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.

d. Subcontracts. Contractor certifies that all subcontractors performing Work subject to the licensing requirement in ORS Chapter 701 will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board (as applicable) before the subcontractors commence Work under the Contract.

**7. Integration**

THE CONTRACT, WHICH INCLUDES THIS CONTRACT AND THE REMAINING CONTRACT DOCUMENTS, CONSTITUTES THE ENTIRE CONTRACT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THE CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO OTHER UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THE CONTRACT. CONTRACTOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT AND THE REST OF THE CONTRACT DOCUMENTS, UNDERSTANDS THEM, AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS CONTRACT AND THE REMAINING CONTRACT DOCUMENTS.

Agreed to and Signed by:

**CONTRACTOR:**

[ ] _____
(Legal Business Name)

[ ] _____
(Address)

[ ] _____ [ ] _____
(Contractor's CCB#) (Expiration Date)

[ ] _____ [ ] _____
(Authorized Representative Name) (Title)

_____ [ ] _____
(Authorized Representative Signature) (Date)

**STATE OF OREGON**

State of Oregon by and through its OREGON PARKS AND RECREATION DEPARTMENT

[ ] _____ [ ] _____
(Authorized Representative Name) (Title)

_____ [_____]
(Authorized Representative Signature) (Date)

**OREGON DEPARTMENT OF JUSTICE – ORS 291.047 APPROVAL**
Approved for legal sufficiency by the Oregon Department of Justice as set forth in writing per email dated: [choose date]

# ATTACHMENT D-2

## STATE OF OREGON PERFORMANCE BOND FORM

## STATE OF OREGON
## PERFORMANCE BOND

Bond No.
Solicitation
Project Name [_____]

| | | |
|---|---|---|
| _____(Surety #1) | Bond Amount No. 1: | $_____ |
| [_____]____(Surety #2)* | Bond Amount No. 2:* | $_____ |
| ** If using multiple sureties* | Total Penal Sum of Bond: | $_____ |

We, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the State of Oregon the sum of (Total Penal Sum of Bond) $_ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

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

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

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

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the State of Oregon, the Oregon Parks and Recreation Department, and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said contract according to law, then this obligation is to be void; otherwise, it shall remain in full force and effect.

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

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

Dated this [_____] day of [_____], 20[_].

**SURETY:** [_____]_____ **BY ATTORNEY-IN-FACT:**

**PRINCIPAL:** [_____]_____ [_____]_____
Name

BY:

[_____]_____
Signature

[_____]_____
Official Capacity

Attest: [_____]_____
Corporation Secretary

[_____]_____
Signature

[_____]_____
Address

_____
Email

[_____]_____[_____]___[_____]
City State Zip

[_____]_____[_____]___[_____]
Phone Fax or Email

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

# ATTACHMENT D-3

## STATE OF OREGON PAYMENT BOND FORM

## STATE OF OREGON
## PAYMENT BOND

Bond No.
Solicitation
Project Name

| | | |
|---|---|---|
| _____(Surety #1) | Bond Amount No. 1: | $_____ |
| [ ]____(Surety #2)* | Bond Amount No. 2:* | $_____ |
| ** If using multiple sureties* | Total Penal Sum of Bond: | $_____ |

We, , as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the State of Oregon the sum of (Total Penal Sum of Bond) $_ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

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

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

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

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the State of Oregon, the Oregon Parks and Recreation Department and members thereof, its officers, employees and agents, against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against the State on account of any labor or materials furnished; and shall do all things required of the Principal by the laws of this State, then this obligation shall be void; otherwise, it shall remain in full force and effect.

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

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

Dated this [_____] day of [_____], 20[_].

**SURETY:** [_____]_____

**PRINCIPAL:** [_____]_____

BY:

[_____]_____
Signature

[_____]_____
Official Capacity

Attest: [_____]_____
Corporation Secretary

**BY ATTORNEY-IN-FACT:**

[_____]
Name

[_____]
Signature

[_____]
Address

_____
Email

[_____]_____[_____]___[_____]
City State Zip

[_____]_____[_____]___[_____]
Phone Fax or Email

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

# ATTACHMENT D-4

## GENERAL CONDITIONS FOR OPRD CONSTRUCTION CONTRACTS
## MARCH 15, 2026

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**STATE OF OREGON**
**GENERAL CONDITIONS FOR OPRD CONSTRUCTION CONTRACTS**
# (“General Conditions”)

## SECTION A
## *GENERAL PROVISIONS*

Any reference to ORS Chapter 279C, “Public Contracting, Public Improvements and Related Contracts”, does not apply to the Oregon Parks and Recreation Department (the Owner). Phrases in the General Conditions respecting referenced sections of Chapter 279C, such as “pursuant to”, “in accordance with” and “in compliance with” shall simply mean “in the manner as provided in” or “as provided in” the referenced section of Chapter 279C.

### A.1 DEFINITION OF TERMS

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

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

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

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

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

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

**CONTRACT END DATE,** means the conclusion of the warranty Work period, one year from the date of issuance of Substantial Completion.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PROJECT SITE,** means the real property on which the Work is to be performed, including designated staging areas

**PRPOSAL REQUEST,** as initiated by Owner, means a written request by Owner to Contractor to quote a change to the Contract Price or Contract Period, or both, caused by a proposed change to the Contract Documents. As initiated by Contractor, Proposal Request means a written request by Contractor to the Owner's Authorized Representative proposing a change to Contract Documents accompanied by a quotation for change to the Contract Price, Contract Period, or both.

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

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

**REQUEST FOR INFORMATION,** means a written request submitted by Contractor to the Owner's Authorized Representative on a standard form requesting interpretation of Contract Documents. An RFI may only be used as a vehicle for confirming or verifying an issue through an interpretation of the Contract Documents when the Contractor is unable to determine from the Contract Documents the material, process, system, or Work to be installed; responses that result in change to Contract Documents and adjustments to the Contract Price or Contract Period must be documented in a Change Order.

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

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

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

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

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

**SUPPLEMENTAL GENERAL CONDITIONS**, means those conditions that remove from, add to, or modify these General Conditions. Supplemental General Conditions may be included in the Solicitation Document or may be a separate attachment to the Contract.

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

## A.2 SCOPE OF WORK

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

## A.3 INTERPRETATION OF CONTRACT DOCUMENTS

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

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

2. The Supplemental General Conditions;

3. The State of Oregon Public Improvement Agreement Form;

4. The General Conditions;

5. The Plans and Specifications;

6. The Solicitation Document and any addenda thereto;

7. The accepted Offer.

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

A.3.3 If the Contractor finds discrepancies in, or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner or Owner's Authorized Representative. Matters concerning performance under, and interpretation of requirements of, the Contract Documents will be decided by the Owner's Authorized Representative, who may delegate that duty in some instances to the Architect/Engineer. Responses to Contractor's requests for interpretation of Contract Documents will be made in writing by Owner's Authorized Representative (or the Architect/Engineer) within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner's Authorized Representative (or Architect/Engineer) will be consistent with the intent of and reasonably inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner's Authorized Representative (or Architect/Engineer).

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

A.3.5 The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.

A.3.6. Should any Plans or Specifications provided by the Owner, that Contractor is required to utilize for any aspect of the Work fail to particularly describe the materials, kinds of goods, or details of construction, the Contractor shall inquire of the Owner as to what is required. Absent Owner-supplied Specifications to the contrary, the materials, construction methods, and processes that would normally be used by the Contractor to produce first-quality finished Work are considered part of the Contract requirements.

A.3.7 **Electronic Signatures.** Contractor and Owner agree that signatures showing on PDF documents, including but not limited to PDF copies of the Contract, bonds, Change Orders and amendments, submitted or received via email, when submittal or receipt in that manner is required or allowed by Owner are “Electronic Signatures” under ORS Chapter 84 and bind the signing party and are intended to be and can be relied upon by the parties. Owner reserves the right at any time to require Contractor to deliver the hard copy originals of any documents.

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

A.4.1 It is understood that the Contractor, before submitting an Offer, has made a careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Work required; and has made a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the Work. No oral agreement or conversation with any officer, agent, or personnel of the Owner, or with the Architect/Engineer either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.

A.4.2 Should the Plans or Specifications fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Work, Contractor shall have the duty to make inquiry of the Owner and Architect/Engineer as to what is required prior to performance of the Work. Absent Specifications to the contrary, the materials or processes that would normally be used to produce first quality finished Work shall be considered a part of the Contract requirements.

A.4.3 Any design errors or omissions noted by the Contractor shall be reported promptly to the Owner’s Authorized Representative, including without limitation, any nonconformity with applicable laws, statutes, ordinances, building codes, rules and regulations.

A.4.4 If the Contractor believes that additional cost or Contract Time is involved because of clarifications or instructions issued by the Owner's Authorized Representative (or Architect/Engineer) in response to the Contractor’s notices or requests for information, the Contractor must submit a written request to the Owner’s Authorized Representative, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than 30 Days after receipt by Contractor of the clarifications or instructions issued. If the Owner’s Authorized Representative denies Contractor’s request for additional compensation, additional Contract Time, or other relief that Contractor believes results from the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

## A.5 INDEPENDENT CONTRACTOR STATUS

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

## A.6 RETIREMENT SYSTEM STATUS AND TAXES

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

## A.7 GOVERNMENT EMPLOYMENT STATUS

A.7.1 If this payment is to be charged against federal funds, Contractor represents and warrants that it is not currently employed by the Federal Government. This does not preclude the Contractor from holding another contract with the Federal Government.

A.7.2 Contractor represents and warrants that Contractor is not an employee of the State of Oregon for purposes of performing Work under this Contract.

# SECTION B
# *ADMINISTRATION OF THE CONTRACT*

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

B.1.1 The Owner's Authorized Representative will provide administration of the Contract as described in the Contract Documents (1) during construction (2) until final payment is due and (3) during the one-year period for correction of Work. The Owner's Authorized Representative will act on behalf of the Owner to the extent provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner's Authorized Representative may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.

B.1.2 The Owner's Authorized Representative will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Owner's Authorized Representative will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner's Authorized Representative will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.

B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Owner's Authorized Representative or designee about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner's Authorized Representative.

B.1.4 Based upon the Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner's Authorized Representative, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

## B.2 CONTRACTOR'S MEANS AND METHODS; MITIGATION OF IMPACTS

B.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.

B.2.2 The Contractor is responsible to protect and maintain the Work during the course of construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which may affect cost, schedule, or quality.

B.2.3 The Contractor is responsible for the actions of all of its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.

## B.3 MATERIALS AND WORKMANSHIP

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

B.3.2 The Contractor is responsible to perform the Work as required by the Contract Documents. Defective Work shall be corrected at the Contractor's expense.

B.3.3 Work done and materials furnished shall be subject to inspection and/or observation and testing by the Owner's Authorized Representative to determine if they conform to the Contract Documents. Inspection of the Work by the Owner's Authorized Representative does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.

B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner's Authorized Representative to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.

B.3.5 The Contractor shall furnish Samples of materials for testing by the Owner's Authorized Representative and include the cost of the Samples in the Contract Price.

## B.4 PERMITS

Contractor shall obtain and pay for all necessary permits and licenses, except for those specifically excluded in the Contract Documents, for the construction of the Work, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental Work, etc., as required for the project.

Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities. The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent or other proprietary rights and save harmless and blameless from loss, on account thereof, the State of Oregon, and its departments, divisions, members and employees.

Permits and licenses include all submittals and fees required by any jurisdiction as a condition of their approval to construct the project for its intended purpose as described in the Solicitation Document and Contract.

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

B.5.1 Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

The Contractor must comply with the prohibitions set forth in ORS 652.220, and shall not discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a "protected class." For purposes of this provision, a "protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, veteran status, disability or age. Contractor's failure to comply with these requirements is a breach of Contract that entitles the Owner to terminate the Contract for cause.

Compliance with ORS 652.229 is a material element of the Contract, and Contractor's failure to comply is a breach of the contract that entitle the contracting agency to terminate for cause.

All rights and remedies available to Owner under applicable federal, state, and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract.

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

(a) Contractor shall not discriminate against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a veteran-owned business or an emerging small business, in the awarding of subcontracts.

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

(c) Respecting certification as a disadvantaged business enterprise, minority-owned business, woman-owned business, business that a veteran-owned business or an emerging small business under ORS 200.055, as and when applicable, Contactor shall maintain the certification, and require in its subcontracts that Subcontractors maintain the certification required by ORS 279A.107. Owner may require Contractor to terminate a subcontract with a Subcontractor that fails to maintain its certification under ORS 200.055 throughout the term of the subcontract and any extensions.

(d) It is a material term of the Contract that the Contractor certifies by entering into the Contract that Contractor has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault and discrimination against employees who are members of a protected class and that the Contractor shall maintain the policy and practice in force during the entire term of the Contract.

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

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

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

B.5.6 Contractor shall comply with all Oregon Tax Laws, consistent with the Contractor's Certificate of Compliance with Tax Laws and the Contractor's warranty that the Contractor has complied with the Oregon Tax Laws. Any violation of the Contractor's Certificate of Compliance or warranty will constitute a material breach of the Contract.

B.5.7 Failure to comply with any or all of the requirements of Sections B.5.1 through B.5.6 shall be a material breach of Contract entitling the Owner to pursue and recover any and all of its available remedies at law or in equity that arise from the breach, including, but not limited to, recovery of damages, the termination of the Contract, and the exercise of the right of setoff, garnishment if applicable and the withholding of amounts otherwise due and owing to the Contractor without penalty. Damages or costs resulting from such non-compliance shall be the responsibility of the Contractor.

**B.6 SUPERINTENDENCE**

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

**B.7 INSPECTION**

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

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

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

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

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

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

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

**B.8 SEVERABILITY**

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

**B.9 ACCESS TO RECORDS**

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

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

**B.10 WAIVER**

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

**B.11 SUBCONTRACTS AND ASSIGNMENT**

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

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

B.11.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under this Contract, in whole or in part, without the prior written approval of the Owner. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

**B.12 SUCCESSORS IN INTEREST**

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

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

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

**B.14 OTHER CONTRACTS**

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

**B.15 GOVERNING LAW**

The ITB and the resulting Contract shall be governed by, construed, and enforced in accordance with the laws of State of Oregon without regard to principles of conflicts of law.

**B.16 LITIGATION**

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

**B.17 ALLOWANCES**

B.17.1 The Contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct.

B.17.2 Unless otherwise provided in the Contract Documents:

(a) when finally reconciled, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

(b) Contractor's costs for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;

(c) whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (i) the difference between actual costs and the allowances under Section B.17.2(a) and (ii) changes in Contractor's costs under Section B.17.2(b).

(d) Unless Owner requests otherwise, Contractor shall provide to Owner a proposed fixed price for any allowance work prior to its performance.

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

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

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

(b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

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

B.18.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take

responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

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

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

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

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

B.18.7 In the event that Owner elects not to have the obligations and duties described under this Section B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner's Authorized Representative.

**B.19 <u>SUBSTITUTIONS</u>**

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

**B.20 <u>USE OF PLANS AND SPECIFICATIONS</u>**

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

**B.21 <u>FUNDS AVAILABLE AND AUTHORIZED</u>**

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

**B.22 <u>NO THIRD-PARTY BENEFICIARIES</u>**

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

## SECTION C
## *WAGES AND LABOR*

**C.1 <u>PROMPT PAYMENT AND CONTRACT CONDITIONS</u>**

C.1.1 As a condition to Owner's performance hereunder, the Contractor shall:

C.1.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.

C.1.1.2 Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.

C.1.1.3 Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Owner, or assign any sums due by Owner, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Owner.

C.1.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

C.1.1.5 Demonstrate that an employee drug testing program is in place as follows:

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

(1) A written employee drug testing policy;

(2) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis; and

(3) Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

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

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

(1) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or

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

C.1.2 As a condition to Owner's performance hereunder, Contractor agrees:

C.1.2.1 If Contractor fails, neglects or refuses to pay promptly a person's claim for labor or services that the person provides to the Contractor or a Subcontractor in connection with the project as such claim becomes due, the proper officer that represents the Owner may pay the amount of the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract. Paying a claim in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to an unpaid claim.

C.1.2.2 If the Contractor or a Subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public contract for a public improvement within 30 Days after receiving payment from Owner or a contractor, the contractor or Subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-Day period within which payment is due pursuant to ORS 279C.580(3) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is 9% per annum. The amount of interest may not be waived.

C.1.2.3 If the Contractor or a Subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract must contain a similar clause.

C.1.3 Contractor shall include in each subcontract for property or services the Contractor enters into with a Subcontractor, including a material supplier, for the purpose of performing a construction contract:

(a) A payment clause that obligates the Contractor to pay the Subcontractor for satisfactory performance under the subcontract within 10 Days out of amounts the Owner pays to the Contractor under the Contract;

(b) A clause that requires the Contractor to provide the Subcontractor with a standard form that the Subcontractor may use as an application for payment or as another method by which the Subcontractor may claim a payment due from the Contractor;

(c) A clause that requires the Contractor, except as otherwise provided in this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. The Contractor may change the form or the regular administrative procedures the Contractor uses for processing payments if the Contractor:

(1) Notifies the Subcontractor in writing at least 45 days before the date on which the Contractor makes the change; and

(2) Includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.

(d) An interest penalty clause that obligates the Contractor, if the Contractor does not pay the Subcontractor within 30 Days after receiving payment from Owner, to pay the Subcontractor an interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract under paragraph (a) of this Section. Contractor or Subcontractor is not obligated to pay an interest penalty if the only reason that the Contractor or Subcontractor did not make payment when payment was due is that the Contractor or Subcontractor did not receive payment from Owner or Contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and that ends on the date on which the amount due is paid; and is to be computed at the rate specified in ORS 279C.515(2).

(e) A clause which requires each of Contractor's Subcontractors to include, in each of their contracts with lower-tier Subcontractors or suppliers, provisions to the effect that the Subcontractor shall pay its lower-tier Subcontractors and suppliers in accordance with the provisions of paragraphs (a) through (d) above and requiring each of their Subcontractors and suppliers to include such clauses in their subcontracts and supply contracts.

C.1.4 All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

**C.2 <u>PAYMENT FOR MEDICAL CARE</u>**

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

**C.3 HOURS OF LABOR**

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

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

(a) For all overtime in excess of 8 hours a day or 40 hours in any one week when the work week is five consecutive Days, Monday through Friday; or

(b) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive Days, Monday through Friday; and

(c) For all Work performed on Saturday and on any legal holiday specified in ORS 279C.540.

This Section C.3 will not apply to Contractor's Work under this Contract if Contractor is currently a party to a collective bargaining agreement with any labor organization.

This Section C.3 shall not excuse Contractor from completion of the Work within the time required under this Contract.

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

**D.1 CHANGES IN WORK**

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

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

(a) Modification of specifications and design.

(b) Increases or decreases in quantities.

(c) Increases or decreases to the amount of Work.

(d) Addition or elimination of any Work item.

(e) Change in the duration of the project.

(f) Acceleration or delay in performance of Work.

(g) Deductive changes.

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

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

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

(a) Unit pricing may be utilized at the Owner's option when unit prices or solicitation alternates were provided that established the cost for additional Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the additional Work.

(b) If the Owner elects not to utilize unit pricing, or in the event that unit pricing is not available or appropriate, fixed pricing may be used for Change Order Work. In fixed pricing the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. The mark-ups set forth in Section D.1.3(c) shall be utilized by the parties as a guide in establishing fixed pricing, and will not be exceeded by Owner without adequate justification. Cost and price data relating to Change Orders shall be supplied by Contractor to Owner upon request, but Owner shall be under no obligation to make such requests.

(c) In the event that unit pricing and fixed pricing are not utilized, then Change Order Work shall be performed on a cost reimbursement basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material

furnished on the Work performed. In addition, the following markups shall be added to the Contractor's or Subcontractor's Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the Contractor's or Subcontractor's own forces:

| | |
|---|---|
| On Labor | 15% |
| On Equipment | 10% |
| On Materials | 10% |

When Change Order Work under this Section D.1.3(c) is invoiced by an authorized Subcontractor at any level, each ascending tier Subcontractor or Contractor will be allowed a 5% supplemental mark-up on each piece of subcontract Work covered by such Change Order.

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

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

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

The 30-Day time limit applies to claims of Subcontractors, suppliers, or manufacturers that may be affected by the Change Order and that request additional compensation or an extension of Contract Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the 30-Day time limit, and including their requests with Contractor's requests. If the request involves Work to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the compensation and additional Contract Time requested. The Contractor will analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor's analysis and evaluation of those requests with Contractor's requests for additional compensation or Contract Time that Contractor submits to the Owner's Authorized Representative. Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor's requests submitted to Owner's Authorized Representative within the time period and by the means described in this Section shall constitute a waiver of these Subcontractor claims. The Owner's Authorized Representative and the Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract. The consideration of such requests and claims under this Section does not give any person, not a party to the Contract the right to bring a claim against the State of Oregon, whether in this claims process, in litigation, or in any dispute resolution process.

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

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

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

## D.2 DELAYS

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

D.2.1.1 Avoidable Delays include any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that:

(a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.

(b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of other parts of the Work nor the completion of the whole Work within the Contract Time.

(c) Do not impact activities on the accepted critical path schedule.

(d) Are associated with the reasonable interference of other contractors employed by the Owner that do not necessarily prevent the completion of the whole Work within the Contract Time.

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

(a) Caused by any actions of the Owner, Owner's Authorized Representative, or any other employee or agent of the Owner, or by separate contractor employed by the Owner.

(b) Caused by any site conditions which differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be inherent to the construction activities defined in the Contract Documents. The Contractor shall notify the Owner's Authorized Representative immediately of differing site conditions before the area has been disturbed. The Owner's Authorized Representative will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular Contract. If Contractor and the Owner's Authorized Representative agree that a differing site condition exists, any additional compensation or additional Contract Time will be determined based on the process set forth in Section D.1.5 for Change Order Work. If the Owner's Authorized Representative disagrees that a differing site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

(c) Caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.

(d) Caused by adverse weather conditions. Any adverse weather conditions must be substantiated by documentary evidence that weather conditions were abnormal for the specific time period claimed, could not have been anticipated by the Contractor, and adversely impacted the project in a manner that could not be avoided by rescheduling the Work or by implementing measures to protect against the weather so that the Work could proceed. A rain, windstorm, high water, or other natural phenomenon for the specific locality of the Work, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Work, shall not be construed as abnormal. The parties agree that rainfall greater than the following levels cannot be reasonably anticipated:

(i) Daily rainfall equal to, or greater than, 0.50 inch during a month when the monthly rainfall exceeds the normal monthly average by 25% or more.

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

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

D.2.2 Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays, unless the Avoidable Delay is caused by acts or omissions of the contracting agency or persons acting therefor. However, this provision does not render void or otherwise waive any contract provision that: (a) Requires notice of any Avoidable Delay; (b) Provides for arbitration or other procedures for settlement of contract disputes; (c) Provides for reasonable liquidated damages.

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

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

(b) Contractor may be entitled to additional Contract Time for Unavoidable Delays described in Sections D.2.1.2(c) and (d).

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

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

## D.3 CLAIMS REVIEW PROCESS

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

D.3.2 The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Contract Time extension requested for the Claim. If the Claim involves Work to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Owner's Authorized Representative. The Owner's Authorized Representative and the Owner will not consider direct claims

from Subcontractors, suppliers, manufacturers, or others not a party to this Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Owner.

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

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

D.3.5 The decision of the Owner shall be final and binding unless the Contractor delivers to the Owner its requests for mediation, which shall be a non-binding process, within 15 Days of the date of the Owner's decision. The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within 60 Days of the commencement of the mediation through the mediation process set forth herein.

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

D.3.6 The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Owner's administrative rules governing the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

D.3.7 Owner may at any time and at its discretion issue a construction change directive adding to, modifying or reducing the scope of Work. Contractor and Owner shall negotiate the need for any additional compensation or additional Contract Time related to the change, subject to the procedures for submitting requests or Claims for additional compensation or additional Contract Time established in this Section D. Unless otherwise directed by Owner's Authorized Representative, Contractor shall proceed with the Work while any request or Claim is pending, including but not limited to, a request or Claim for additional compensation or additional Contract Time resulting from Work under a Change Order or construction change directive. Regardless of the review period or the final decision of the Owner's Authorized Representative, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease Work without a written stop work order from the Owner or Owner's Authorized Representative.

### D.4 FALSE CLAIMS (OREGON FALSE CLAIMS ACT)

D.4.1 Contractor understands and acknowledges it is subject to the Oregon False Claims Act (ORS 180.750 to 180.785) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the Contract or the Project for which the services are being performed, including but not limited to Contractor's statement of proposal and any invoices, reports, or other deliverables.

D.4.2 Contractor shall immediately disclose (in Writing) to Agency whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Contractor has credible evidence that a principal, employee, agent, or Subcontractor of Contractor has committed:

(i) A violation of the Oregon False Claims Act; or

(ii) A violation of State or Federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.

D.4.3 Contractor must include Sections D.4.1 and D.4.2 of this Section in each subcontract Contractor may award in connection with the performance of the Contract. In doing so, Contractor may not modify the terms of those sections, except to identify the Subcontractors or subgrantee that will be subject to those provisions.

## SECTION E
## *PAYMENTS*

### E.1 SCHEDULE OF VALUES

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

### E.2 APPLICATIONS FOR PAYMENT

E.2.1 Owner shall make progress payments on the Contract monthly as Work progresses. Payments shall be based upon estimates of Work completed and the Schedule of Values. All payments shall be approved by the Owner's Authorized Representative. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein.

Owner shall pay to Contractor interest on the progress payment, not including retainage, due the Contractor. The interest shall commence 30 Days after the receipt of invoice ("application for payment") from the Contractor or 15 Days after the payment is approved by the Owner's Authorized Representative, whichever is the earlier date. The rate of interest shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 Days after receipt of the application for payment from the Contract or 15 Days after the payment is approved by the Owner, whichever is the earlier date, but the rate of interest shall not exceed 30%. Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within 15 Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within 7 Days of being notified by the Owner, shall not cause a payment to be made later than specified in this Section unless interest is also paid. Accrual of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and the Contractor.

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

Owner, upon written notice to the Contractor, may elect to make payments to the Contractor only by means of Electronic Funds Transfers ("EFT") through Automated Clearing House ("ACH") payments. If Owner makes this election, the Contractor will be required to arrange to receive EFT/ACH payments.

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

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

Signed:

_____"

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

(a) The request for stored material shall be submitted at least 30 Days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.

(b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.

(c) The material shall be stored in a bonded warehouse and Owner's Authorized Representative shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.

(d) The Contractor shall name the Owner as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Owner.

(e) Payments shall be made for materials only. The submitted amount of the application for payment shall be reduced by the cost of transportation and for the cost of an inspector to check the delivery at out of town storage sites. The cost of said inspection shall be borne solely by the Contractor.

(f) Within 60 Days of the application for payment, the Contractor shall submit evidence of payment covering the material stored.

(g) Payment for stored materials shall in no way indicate acceptance of the materials or waive any rights under this Contract for the rejection of the Work or materials not in conformance with the Contract Documents.

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

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

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

(b) third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by the Contractor;

(c) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Owner may issue checks made payable jointly to Owner and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under Section C.3.2.1);

(d) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;

(e) damage to the Owner or another contractor;

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

(g) failure to carry out the Work in accordance with the Contract Documents;

(h) assessment of liquidated damages, when withholding is made for offset purposes; or

(i) The Contractor having liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State of Oregon.

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

(a) Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in Section E.5. Pending final determination of cost to the Owner of changes in the Work, no amounts for changes in the Work can be included in application for payment until the Contract Price has been adjusted by Change Order;

(b) Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner pursuant to Section E.2.3, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section E.5;

(c) Subtract the aggregate of previous payments made by the Owner; and

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

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

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

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

**E.3 DUAL PAYMENT SOURCES**

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

**E.4 FINAL PAYMENT**

E.4.1 Upon completion of all the Work under this Contract, the Contractor shall notify the Owner's Authorized Representative, in writing, that Contractor has completed Contractor's part of the Contract and shall request final payment. Upon receipt of such notice the Owner's Authorized Representative will inspect the Work, and if acceptable, submit to the Owner a recommendation as to acceptance of the completed Work and the final estimate of the amount due the Contractor. If the Work is not acceptable, Owner will notify Contractor within 15 Days of Contractor's request for final payment. Upon approval of this final estimate by the Owner and compliance by the Contractor with provisions in Section K.3, Affidavit/Release of Liens and Claims, and other provisions as may be applicable, the Owner shall pay to the Contractor all monies due under the provisions of these Contract Documents.

E.4.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner's Authorized Representative (1) a notarized affidavit/release of liens and claims in a form satisfactory to Owner that states that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 Days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

E.4.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.

## SECTION F
## *JOB SITE CONDITIONS*

**F.1 USE OF PREMISES**

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

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

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

representatives or personnel of the Owner. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.

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

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

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

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

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

F.2.7 Contractor shall comply with applicable State of Oregon Governor's executive orders and Oregon Administrative Rules promulgated by the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division. Additionally, Contractor shall regularly consult Oregon OSHA guidance publications regarding construction contractors and construction sites (found at https://osha.oregon.gov/pubs/Pages/index.aspx and utilize those resources and information to develop, update and enforce the Contractor's policies for safety planning and safety practices on the project. Contractor shall also comply with all other federal, state and local government statutes, regulations, administrative rules, ordinances, executive orders, Owner policies and other laws/requirements applicable to the project pertaining to workplace health and safety requirements.

F.2.8 **Utilities and Utility Facilities.** Contractor shall be responsible for locating any and all public or private utilities or utility facilities on the Project site prior to commencement of site work, including all costs associated with obtaining such locates. This shall include both Public and Private Locating services.

This Project may be located within the Oregon Utility Notification Center area which is a notification system for notifying owners of utility facilities about Work being performed in the vicinity of their facilities. The utilities notification system telephone number is 811 (or 1 800 332 2344).

## F.3 CUTTING AND PATCHING

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

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

## F.4 CLEANING UP

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

## F.5 ENVIRONMENTAL CONTAMINATION

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

F.5.1.1 Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of Owner and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Owner and be performed by properly qualified personnel.

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

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

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

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

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

(a) Description of items released (identity, quantity, manifest no., and all other documentation required by law).

(b) Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.

(c) Exact time and location of release, including a description of the area involved.

(d) Containment procedures initiated.

(e) Summary of communications about the release Contractor has had with members of the press or State officials other than Owner.

(f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.

(g) Personnel injuries, if any, resulting from, or aggravated by, the release.

**F.6 ENVIRONMENTAL CLEAN-UP**

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

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

**F.7 FORCE MAJEURE**

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

**F.8 MATERIAL SALVAGE FOR DEMOLITION CONTRACTS**

The Contractor and all Subcontractors involved in demolition work are required to salvage or recycle construction and demolition debris, if feasible and cost-effective.

**F.9 ASBESTOS ABATEMENT LICENSING REQUIREMENTS**

If the work under this Contract involves an asbestos abatement project, Contractor must hold a license issued by the Department of Environmental Quality as required by ORS 468A.720. Contractor carrying out an asbestos abatement project shall be responsible for the safe and proper handling and delivery of waste that includes asbestos-containing material to a landfill authorized to receive such waste.

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

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

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

G.1.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner, Owner’s Authorized Representative, Architect/Engineer, Architect/Engineer’s consultants, and their respective officers, directors, agents, employees, partners, members, stockholders and affiliated companies (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever which arise out of, result from or are related to, (a) any damage, injury, loss, expense, inconvenience or delay described in this Section G.1.2, (b) any accident or occurrence which happens or is alleged to have happened in or about the project site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects, (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement,

representation or warranty of the Contractor contained in the Contract Documents or in any subcontract, (d) the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140), and (e) any lien filed upon the project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section G.1.2.

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

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

G.2.1 The Contractor shall furnish and maintain in effect at all times during the Contract Period, a performance bond in a sum equal to the Contract Price, and a separate payment bond also in a sum equal to the Contract Price. The bonds may be required if the Contract Price is less than the above thresholds, if required by the Contract Documents.

G.2.2 Bond forms furnished by the Owner and notarized by awarded Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.

**G.3 INSURANCE**

Contractor shall obtain at Contractor's expense the insurance specified in the Contract prior to performing under the Contract and shall maintain it in full force and at its own expense throughout the duration of the Contract, as required by any extended reporting period, and all warranty periods that apply. All coverages shall be obtained from insurance companies authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to the Owner.

## SECTION H
## *SCHEDULE OF WORK*

**H.1 CONTRACT PERIOD**

H.1.1 Time is of the essence on this Contract. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein. Contractor shall commence Work on the site within 15 Days of Notice to Proceed, unless directed otherwise.

H.1.2 Unless specifically extended by Change Order, all Work shall be complete by the date contained in the Contract Documents. The Owner shall have the right to accelerate the completion date of the Work, which may require the use of overtime. Such accelerated Work schedule shall be an acceleration in performance of Work under Section D.1.2(f) and shall be subject to the Change Order process of Section D.1.

H.1.3 The Owner shall not waive any rights under the Contract by permitting the Contractor to continue or complete in whole or in part the Work after the date described in Section H.1.2 above.

**H.2 SCHEDULE**

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

H.2.2 The Project Work schedule is essential to the Owner. The Contractor's failure to provide the schedule, schedule information, progress reports, or schedule updates when required will be cause to suspend the Work, or to withhold Contract payments as necessary to protect the Owner, until the Contractor provides the required information to the Owner's Authorized Representative.

**H.3 PARTIAL OCCUPANCY OR USE**

H.3.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage, provided such occupancy or use is consented to by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have reasonably accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, insurance or self-insurance, maintenance, heat, utilities, and damage to the Work, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents with respect to such portion of the Work. Approval by the Contractor to partial occupancy or use shall not be unreasonably withheld. Immediately prior to such partial occupancy or use, the Owner and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. Partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## SECTION I
## *CORRECTION OF WORK*

## I.1 CORRECTION OF WORK BEFORE FINAL PAYMENT

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

## I.2 WARRANTY WORK

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

The Owner shall give Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Owner's demand. If Contractor fails to complete the warranty work within such period as Owner determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, Owner may perform such work and Contractor shall reimburse Owner all costs of the Work; same within 10 Days after demand without affecting Contractor's obligations.

I.2.2 This provision does not negate guarantees or warranties for periods longer than one year including without imitation such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.

I.2.3 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until affected Work has been accepted in writing by the Owner's Authorized Representative.

I.2.4 The one-year period for correction of Work shall be extended with respect to portions of Work performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work, and shall be extended by corrective Work performed by the Contractor pursuant to this Section, as to the Work corrected. The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

I.2.5 Nothing contained in this Section I.2 shall be construed to establish a period of limitation with respect to the other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section I.2 relates only to the specific obligation of the Contractor to correct Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

I.2.6 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

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

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

J.1.1 The Owner and/or the Owner's Authorized Representative has the authority to suspend portions or all of the Work due to the following causes:

(a) Failure of the Contractor to correct unsafe conditions;

(b) Failure of the Contractor to carry out any provision of the Contract;

(c) Failure of the Contractor to carry out orders;

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

(e) Time required to investigate differing site conditions;

(f) Any reason considered to be in the public interest.

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

## J.2 CONTRACTOR'S RESPONSIBILITIES

J.2.1 During the period of the suspension, Contractor is responsible to continue maintenance at the project just as if the Work were in progress. This includes, but is not limited to, protection of completed Work, maintenance of access, protection of stored materials, temporary facilities, and clean-up.

J.2.2 When the Work is recommenced after the suspension, the Contractor shall replace or renew any Work damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete the project in every respect as though its prosecution had been continuous and without suspension.

**J.3 COMPENSATION FOR SUSPENSION**

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

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

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

(a) If Contractor should voluntarily or involuntarily, seek protection under the United States Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;

(b) If Contractor should make a general assignment for the benefit of Contractor's creditors;

(c) If a receiver should be appointed on account of Contractor's insolvency;

(d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;

(e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner or its Authorized Representative;

(f) If Contractor has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State of Oregon; or

(g) If Contractor is otherwise in material breach of any part of the Contract.

J.4.2 At any time that any of the above occurs, Owner may exercise all rights and remedies available to Owner at law or in equity, including, in the event of the conditions set forth in Section J.4.1(f) regarding Contractor's liquidated and delinquent debt (including garnishing all monies due for any and all Work performed by the Contractor, when appropriate) and otherwise recovering any liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State of Oregon. In addition, the Owner may take possession of the premises and of all materials and appliances and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the Work is completed. If the Owner's cost of finishing the Work exceeds the unpaid balance of the Contract Price, Contractor shall pay the difference to the Owner.

**J.5 TERMINATION FOR CONVENIENCE**

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

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

**J.6 ACTION UPON TERMINATION**

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

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

## SECTION K
## *CONTRACT CLOSE OUT*

As a condition of final payment, Contractor shall complete and sign the Contract Closeout Checklist form provided by Owner. If accepted by Owner, Contractor's delivery of the certification as required in K.3 of the Checklist will be deemed to be compliance with the requirements of Section K.3 below and Contractor's delivery of the information required in K.7 of the Checklist will be deemed to be compliance with the requirements of Section K.7 below.

**K.1 RECORD DOCUMENTS**

As a condition of final payment (refer also to Section E.6), Contractor shall comply with the following: Contractor shall provide to Owner's Authorized Representative, Record Documents of the entire project. Record Documents shall depict the project as constructed and shall reflect each and every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed.

**K.2 OPERATION AND MAINTENANCE MANUALS**

As part of the Work, Contractor shall submit two completed operation and maintenance manuals ("O & M Manuals") for review by the Owner's Authorized Representative prior to submission of any pay request for more than 75% of the Work. No payments beyond 75% will be made by the Owner until the O &

M Manuals have been received. The O & M Manuals shall contain a complete set of all submittals, all product data as required by the specifications, training information, phone list of consultants, manufacturers, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Owner's Authorized Representative shall review and return one O & M Manual for any modifications or additions required. Prior to submission of its final pay request, Contractor shall deliver 3 complete and approved sets of O & M Manuals to the Owner's Authorized Representative.

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

As a condition of final payment, the Contractor shall submit to the Owner's Authorized Representative a notarized affidavit/release of liens and claims form, in a form satisfactory to Owner, which states that all Subcontractors and suppliers have been paid in full, all disputes with property owners have been resolved, all obligations on the project have been satisfied, all monetary claims and indebtedness have been paid, and that, to the best of the Contractor's knowledge, there are no claims of any kind outstanding against the project.

The Contractor shall indemnify, defend (with counsel of Owner's choice) and hold harmless the Owner from all claims for labor and materials finished under this Contract. The Contractor shall defend all suits or claims for infringement of any patent or other proprietary rights and save harmless and blameless from loss, on account thereof, the State of Oregon, and its departments, divisions, members and employees. The Contractor shall furnish complete and valid releases or waivers, satisfactory to the Owner, of all liens arising out of or filed in connection with the Work.

**K.4 COMPLETION NOTICES**

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

K.4.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of 30 continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner's Authorized Representative. All equipment contained in the Work, plus all other components necessary to enable the Owner to operate the facility in the manner that was intended, shall be complete on the Substantial Completion date. The Contractor may request that a punchlist be prepared by the Owner's Authorized Representative with submission of the request for the Substantial Completion notice.

**K.5 TRAINING**

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Owner's Authorized Representative, training sessions for all equipment and systems, as required in the individual specifications sections. Contractor shall schedule training sessions at least two weeks in advance of the date of training to allow Owner personnel adequate notice.

The O & M Manual shall be used as a basis for training. Training shall be a formal session, held after the equipment and/or system is completely installed and operational in its normal operating environment.

**K.6 EXTRA MATERIALS**

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

**K.7 ENVIRONMENTAL CLEAN-UP**

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

**K.8 CERTIFICATE OF OCCUPANCY**

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

**K.9 OTHER CONTRACTOR RESPONSIBILITIES**

The Contractor shall be responsible for returning to the Owner all items issued during construction such as keys, security passes, site admittance badges, and all other pertinent items. The Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from the Contractor to the Owner. The utility transfer date shall not be before Substantial Completion and may not be until Final Completion, if the Owner does not take beneficial use of the facility and the Contractor's forces continue with the Work.

**K.10 SURVIVAL**

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

## SECTION L
## *LEGAL RELATIONS & RESPONSIBILITIES*

**L.1 LAWS TO BE OBSERVED**

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

**L.2 FEDERAL AGENCIES**

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

**L.3 STATE AGENCIES**

Administrative Services, Department of
Agriculture, Department of
Soil and Water Conservation Commission
Columbia River Gorge Commission
Energy, Department of
Fish and Wildlife, Department of
Forestry, Department of
Geology and Mineral Industries, Department of
Human Resources, Department of
Consumer and Business Services, Department of
Land Conservation and Development Commission
Parks and Recreation, Department of
State Lands. Division of
Water Resources Department of

**L.4 LOCAL AGENCIES**

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

# Contract Closeout Compliance Checklist

| | |
|---|---|
| **Contract Number** | |
| **Contract Name** | |
| **Contractor** | |
| **Owner's Authorized Rep.** | |

This checklist is intended to assist Agency and Contractor in complying with the Contract Closeout and Final Payment requirements in the General Conditions, Sections K and E.6.

Owner will mark "NA" by any requirement that is not applicable to the Contract. Contractor's and Owner's Authorized Representatives shall place their initials by each requirement listed below that has not been marked "NA" by Owner and provide a Signature at the end of the Checklist.

Keep a copy of the signed form in the Contract Administration file.

| **Requirements** | **Mark NA if not applicable** | **Date completed** | **Contractor initials** | **Owner initials** |
|---|---|---|---|---|
| K.1 Record Documents submitted | | | | |
| K.2 Operations & Maintenance Manuals submitted | | | | |
| K.3 Certification/Release of Claims<br><br>By Contractor's Signature below, Contractor certifies and agrees to the following:<br><br>All Subcontractors and suppliers have been paid in full or will be paid in full out of the final payment, and in compliance with all prompt payment requirements. All disputes with property owners have been resolved, all obligations on the project have been satisfied, all monetary claims and indebtedness have been paid, and, to the best of the Contractor's knowledge, there are no claims of any kind outstanding against the project. | | | | |
| K.4 Completion notices submitted<br><br>Substantial Completion notice<br>Date of substantial completion:<br><br>Final Completion notice<br>Date of final completion: | | | | |
| K.5 Training sessions scheduled | | | | |

| | | | | |
|---|---|---|---|---|
| K.6 Extra materials provided<br>(List individually): | | | | |
| K.7. Environmental Clean-up:<br><br>Contractor hereby notifies Owner that all environmental cleanup that was performed as a part of this contract has been disposed of in accordance with all applicable rules, regulations, laws, and statutes of all agencies having jurisdiction over such environmental pollution. | | | | |
| K.8 Certificate of Occupancy received by Owner | | | | |
| K.9 Other Contractor Responsibilities<br>(List individually): | | | | |
| E.6 Contractor's final payment request submitted | | | | |

**CONTRACTOR'S AUTHORIZED REPRESENTATIVE:**

(Authorized Representative Name) (Title)

(Authorized Representative Signature) (Date)

**OWNER'S AUTHORIZED REPRESENTATIVE:**

(Authorized Representative Name) (Title)

(Authorized Representative Signature) (Date)

# ATTACHMENT D-5

## INSURANCE REQUIREMENTS

## ITB S-6340 [xxxxxx]

## Jessie M. Honeyman Memorial State Park Raw Water System Improvements

***FOR BIDDERS:*** *BIDDERS ARE ENCOURAGED TO CONSULT THEIR INSURANCE AGENT(S) ABOUT THE INSURANCE REQUIREMENTS AS IDENTIFIED IN THIS ATTACHMENT D-5 PRIOR TO BID SUBMISSION.*

*BIDDERS MUST SATISFY THESE INSURANCE REQUIREMENTS BY OBTAINING INSURANCE COVERAGE FROM INSURANCE COMPANIES OR ENTITIES ACCEPTABLE TO STATE THAT ARE ALLOWED TO PROVIDE SUCH INSURANCE UNDER OREGON LAW. ELIGIBLE INSURERS INCLUDE ADMITTED INSURERS THAT HAVE BEEN ISSUED A CERTIFICATE OF AUTHORITY FROM THE OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES AUTHORIZING THEM TO DO AN INSURANCE BUSINESS IN THE STATE OF OREGON, AND CERTAIN NON-ADMITTED SURPLUS LINES INSURERS THAT SATISFY THE REQUIREMENTS OF APPLICABLE OREGON LAW AND ARE APPROVED BY AGENCY. AGENCY'S APPROVAL WILL BE BASED ON ITS ASSESSMENT OF THE NON-ADMITTED SURPLUS LINES INSURER AND THE SUITABILITY OF SURPLUS LINES INSURANCE FOR THIS PARTICULAR PROCUREMENT.*

**INSURANCE REQUIREMENTS**

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit prior to performing under this Contract. Contractor shall maintain such insurance it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. All coverage must be primary and non-contributory with any other insurance and self-insurance with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention, and self-insurance, if any.

If Contractor maintains broader coverage and/or higher limits than the Agency requires or limits shown in this insurance requirement exhibit, Agency shall be entitled to the broader coverage and/or higher limits maintained by Contractor.

**WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain Employers' Liability insurance coverage with limits not less than $1,000,000 each accident.

If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide Workers' Compensation Insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than $1,000,000.

As applicable, Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than $5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

Contractor shall require and ensure that each of its subcontractors complies with these requirements.

**COMMERCIAL GENERAL LIABILITY**

Contractor shall provide Commercial General Liability Insurance covering bodily injury and property damage written on an ISO CG 00 01 10 01 (or equivalent). This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract and must have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than **$1,000,000** per occurrence and not less than **$2,000,000** annual aggregate limit.

**AUTOMOBILE LIABILITY**

Contractor shall provide Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

**CONTRACTOR'S POLLUTION LIABILITY**

Contractor shall provide Contractor's Pollution Liability Insurance covering Contractor's or appropriate Subcontractor's liability for bodily injury, property damage, loss of use of property, loss of value of property, government ordered cleanup costs, natural resource damage, environmental damage, and environmental or natural resource damage resulting from sudden, accidental and gradual pollution and related cleanup costs incurred by Contractor, or Subcontractor if the coverage is obtained by the Subcontractor, all arising out of the goods or materials delivered or services (including transportation risk) performed under this Contract is required. Coverage must be written on an occurrence basis with a per loss limit of no less than **$2,000,000** and not less than **$2,000,000** annual aggregate limit. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limits.

**EXCESS/UMBRELLA INSURANCE**

Excess/Umbrella insurance coverage in the sum of **$5,000,000** must be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Automobile Liability, and Employers' Liability coverage. The amounts of insurance for the insurance required under this Contract, including this Excess/Umbrella insurance requirement, may be met by the Contractor obtaining coverage for the limits specified under each type of required insurance or by any combination of underlying, Excess and Umbrella limits so long as the total amount of insurance is not less than the limits specified for each type of required insurance added to the limit for this Excess/Umbrella insurance requirement.

If Excess/Umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella insurance.

**BUILDER'S RISK AND INSTALLATION FLOATER INSURANCE**

**A. Builder's Risk Insurance**

During the term of this Contract, contractor shall maintain and keep in effect Builders Risk insurance in an amount of no less than **$350,000** on a special form, including earthquake and flood, covering risks of physical loss or damage to the structure(s) including, without limitation, the transmission lines to the interconnected facilities, buildings, temporary structures, materials, supplies and equipment to be incorporated in the Work, and materials, supplies and equipment in transit and/or in an off-site storage location. For new construction, the contractor shall secure, be responsible for payment of premium, deductibles and any penalties associated with the policy. The policy must include coverage for "soft costs" resulting from delay in construction. As applicable, such insurance must cover all building(s), structures, facilities, or other improvements, as outlined in the contract, during construction and testing, and must include the Owner, Design-Builder (if applicable), Consultants, Contractors, and Subcontractors, sub-subcontractors to the Project as insureds. Any deductible must not exceed $50,000 for each loss, except the earthquake and flood deductible must not exceed five (5) percent of each loss or $50,000, whichever is more. The policy must be written on a replacement cost basis and must contain an agreed amount endorsement waiving any coinsurance penalty. The policy must include as loss payees the Owner, the Contractor and it Subcontractors as their interest may appear.

**B. Builder's Risk Period**

Such insurance must be maintained until the later of (a) final payment is made, or (b) no person or entity other than the Owner has an insurable interested in the covered property.

**C. Builder's Risk Losses**

A loss insured under the Builder's Risk and Builder's Risk Installation Floater must be adjusted by the Owner and made payable to the Owner for the insureds, as their interests may appear. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner must have power to adjust and settle a loss with insurers.

**WAIVER OF SUBROGATION**

Contractor grants to Owner a waiver of any right to subrogation that the Contractor or its insurers may acquire against the Owner by virtue of the payment of any loss under any property insurance policy required under this Contract, including Builder's Risk Insurance and Builder's Risk Installation Floater Insurance. Contractor agrees to obtain from their insurer(s) any endorsements necessary to affect this waiver of subrogation.

**ADDITIONAL INSURED**

All liability insurance, except for Workers' Compensation and Professional Liability and Directors and Officers Liability (if applicable), required under this Contract must include the State of Oregon, it's officers, employees, and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

For Commercial General Liability, the Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance provided is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

(i) Contractor 's completion and Agency's acceptance of all Services required under the Contract, or

(ii) Agency or Contractor termination of this Contract, or

(iii) The expiration of all warranty periods provided under this Contract.

**CERTIFICATE(S) AND PROOF OF INSURANCE**

Contractor shall provide to Agency Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an endorsed Additional Insured and include copies of all required additional insured endorsements (or equivalent). The Certificate(s) must also verify a waiver of subrogation provision in favor of the Owner is included in the Builder's Risk and/or Builder's Risk Installation Floater insurance policies and all other applicable insurance policies as allowed by law. If a Partial Occupancy endorsement is required under the Builder' Risk and/or Builder's Risk Installation Floater insurance policy, a copy of the endorsement must be provided with the Certificate. If a Contractor Pollution Liability coverage requirement includes an Asbestos Liability and/or Lead Liability endorsement(s), copies of the endorsement(s) must be provided with the Certificate. If the Contractor is transporting any hazardous material under this contract, copies of endorsements CA 99 48 or equivalent and MCS-90 (if applicable) must be included. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**NOTICE OF CHANGE OR CANCELLATION**

The contractor or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW**

Contractor agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Agency.

**STATE ACCEPTANCE**

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit.

# ATTACHMENT E

# ADDITIONAL PROJECT REQUIREMENTS

- ATTACHMENT E-1: INADVERTANT DISCOVERY PLAN
- ATTACHMENT E-2: TREE PROTECTION PLAN