

# Project Manual

## Jefferson County School District Card Access Control System

445 SE Buff Street  
Madras, OR 97741

July 20, 2022

# Jefferson County School District

## Card Access Control System

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**JEFFERSON COUNTY SCHOOL DISTRICT 509J**

**District-Wide**

**Card Access Control System**

**Thursday, August 11, 2022, no later than 2:00pm prevailing local time**

**Invitation to Bid**

Sealed bids will be received by Simon White, Director of Operations, Jefferson County School District 509J, at the Administration Building, 445 SW Buff Street, Front Desk, Madras, Oregon, 97741, by the time and date listed above. The bids will then be publicly opened and read aloud.

The scope of work for this bid includes, but is not limited to the following: Installation of a card access control system.

A **MANDATORY** pre-bid meeting will be held Wednesday, August 3, 2022 @ 1:00pm prevailing local time at the Jefferson County School District Administration Building, 445 SE Buff Street, Madras, OR. Questions can be directed to Mike Tiller, Project Manager, [mike.tiller@tillersschoolhouse.com](mailto:mike.tiller@tillersschoolhouse.com)

Bidding documents are those prepared by ColeBreit Engineering, 721 SW Industrial Way, #110, Bend, OR, (541) 728-3293. Bidding documents may be obtained from the following link: <https://colbisecurebids.com/o/509j/0108-22> and Central Oregon Builders Assoc. (COBA), 1051 NE 4th St., Bend OR 97703, 541-389-1058 or online at: [www.Coba.org](http://www.Coba.org). Bidding documents will be available for examination during the bidding period at Jefferson County School District's Administration Office and at ColeBreit Engineering.

This project is a PREVAILING WAGE project therefore no bid will be received or considered unless the Bid contains a statement by the bidder, as part of the bid, that "Contractor agrees to be bound by and will comply with the applicable provisions of 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148."

Publish Date: July 20, 2022 & July 22, 2022

1.1 SUBMISSION OF BIDS AND BID OPENING:

- A. In accordance with ORS 279C.365, bids will be received by Simon White, Director of Operations, Jefferson County School District 509J for the Card Access Control System and will be opened and read aloud at the times and places set forth in the Advertisement for Bids. Bidders, or their representatives, and other interested persons may be present at the opening of proposals.
- B. The envelope containing the Bid form and required attachments must be sealed and addressed to Jefferson County School District 509J, Jefferson County, Oregon, 445 SE Buff Street, Madras, Oregon 97741, and marked on the outside: "Card Access Control System", with name of the Bidder and its Oregon State Construction Contractor's Board Registration Number.
- C. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

1.2 BIDDING DOCUMENTS:

- A. Bidding Documents include the Advertisement for Bids, Instructions to Bidders, Bid Form, First Tier Subcontractor Disclosure Statement, the Bid Bond, Affidavit of Non-Collusion, the Statement of Qualifications, and the proposed Contract Documents, including any Addenda issued prior to receipt of bids. All requirements and obligations of the Bidding Documents are hereby incorporated by reference into the Contract Documents and are binding on the Successful Bidder upon award of the Contract.
- B. Bidders may obtain complete sets of the Bidding Documents as designated in the Advertisement for Bids. Bidders are responsible for all costs of reproduction.
- C. Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the District or the Architect shall assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- D. The District, in making copies of the Bidding Documents available on the above terms, does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant authority for any other use.

1.3 DEFINITIONS:

- A. THE BID:  
A Bid is a complete and properly signed offer to do the work for the sums stipulated therein, submitted in accordance with the Bidding Documents.
- B. BASE BID:  
The Base Bid is the sum stated in the Bid for which the Bidder offers to perform all the Work shown and described in the Bidding Documents as a lump sum bid, to which Work may be added or deducted for the sums stated in Alternate Bids, if any.
- C. ALTERNATES:  
An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted by the District. Any or all Alternates may be accepted or rejected in any order.

1.4 QUALIFICATIONS OF BIDDERS:

- A. Before the Bid is considered for award, the District shall review the bidder qualification form submitted with Bidder's Bid. Bidder qualifications to be listed upon the qualification form will include as a minimum, a listing of Bidder's previous contracts of a nature similar with technical complexity, operations and size to that being bid upon; a listing of Bidder's staff to include managerial, technical, and laboring positions; summary of Bidder's plan for completion of the Work and equipment available for use in the execution of the Contract; and the listing of the projects to which Bidder is currently obligated or anticipates being obligated during this Work. The District reserves the right to request the Bidder submit the following additional information within seventy-two (72) hours after Bid opening: (1) references, to include a listing of previous and current projects, (2) financial statements indicating current financial status,

prepared in accordance with generally accepted accounting principles, by a Certified Public Accountant licensed to do business in the State of Oregon, and (3) Contractor's Drug Testing policy in accordance with ORS 279C.505(2). The District reserves the right to reject the Bid of any Bidder who fails to furnish promptly and properly all the information called for as aforesaid when notified to do so.

- B. Pursuant to ORS 279C.440, a Bidder may be disqualified from consideration for award of District contracts if any of the following conditions appear:
1. Bidder has been convicted of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
  2. Bidder has been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the Bidder's responsibility as a contractor.
  3. Bidder has been convicted under state or federal antitrust statutes.
  4. Bidder has committed a violation of a contract provision that is regarded by the District or the Construction Contractors Board to be so serious as to justify disqualification. A violation may include but is not limited to a failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a failure to perform or an unsatisfactory performance caused by acts beyond the control of the Bidder may not be considered to be a basis for disqualification.
  5. Bidder does not carry workers' compensation or unemployment insurance as required by statute.
- C. Bidder's representations concerning its qualifications will be construed as a covenant under the Contract. Should it appear that Bidder has made a material misrepresentation, District shall have the right to terminate the Contract for Contractor's breach, and District may then pursue such remedies as exist elsewhere under this Contract, or as otherwise are provided at law or equity.
- D. The District shall issue a written decision to disqualify a Bidder under ORS 279C.440. Such decision will identify the reasons why the Bidder is disqualified. The Bidder may appeal its disqualification pursuant to ORS 279C.445.

1.5 BIDDER'S REPRESENTATIONS: Each Bidder by submitting its Bid represents that:

- A. Bidder has read and understands the Bidding Documents and its Bid is made in accordance therewith; and Bidder agrees to be bound by the terms and requirements set forth in the Bidding and Contract Documents.
- B. Bidder has visited the site, has familiarized itself with the local conditions under which the Work is to be performed in accordance with Paragraph 12 herein, and has correlated its observations with the requirements of the proposed Contract Documents.
- C. Its Bid is based upon the materials, systems and equipment required by the Bidding Documents without exception.
- D. Bidder has the capability, in all respects, and the moral and business integrity, reliability, technical ability, financial resources, physical plant, management, superintendence, equipment and materials which will assure effective and efficient good-faith performance in full compliance with the Contract Documents and with any and all schedules and completion dates required by the District.
- E. The Bidder acknowledges and represents that it has made allowances for normal inclement weather indigenous to the Project Site, in its estimating, planning and scheduling of the Work.
- F. The Bidder further acknowledges that the Contract Documents are, in its opinion, appropriate and adequate for completing this project and for the construction of sound and suitable work.
- G. The Bidder hereby certifies that the Work shall be completed, in place, in full accordance with the Contract Documents, within the time limits specified.

1.6 PREPARATION AND SUBMITTAL OF BID FORM:

- A. Bids shall be submitted utilizing the Bid Form provided with the Bidding Documents, and shall be complete in every respect. The total Bid amount shall be entered in words and figures in the space provided. Where applicable, the unit price of lump sum items, and their extensions, shall be entered in figures in the respective columns provided for each bid item. All entries shall be typewritten or printed in ink. The signatures of all persons shall be in longhand. Any entry of an amount that appears on the face of the bid to have involved an erasure, deletion, whiteout, substitution and/or other such change or alteration shall be initialed by the person signing the bid and show the date of the change or alteration. A failure to comply with this requirement may be cause for disqualification of the Bid.
- B. For lump sum Bids, in the event of a discrepancy between the Bid amount in writing and that in figures, the written value shall govern.
- C. Bids shall not contain any restatement or qualifications of work to be done, and alternate bids will not be considered unless called for. No oral, email, facsimile or telephonic bids or modifications will be considered.
- D. Bids shall be delivered to the District on or before the day and hour set for the receipt of bids, enclosed in a sealed, opaque envelope and bearing the title of the work, name of the Bidder and Bidder's CCB Registration Number.

1.7 BID SECURITY:

- A. Each Bid must be accompanied by bid security in the form of: (1) an irrevocable letter of credit; or (2) a cashier's check or a Certified Check of the Bidder, made payable to the District; or (3) a surety bond on the Bid Bond Form provided herein or on a similar form which in every respect materially complies with said Bid Bond. Bid security shall be in the amount of ten percent (10%) of the Base Bid plus any positive alternate amounts. Any Bid Bond shall be issued by a Surety company licensed to conduct business in the State of Oregon and be acceptable to the District. The Surety signing the Bid Bond shall be registered with the Oregon State Insurance Commissioner, and the Surety's name shall appear in the current Authorized Insurance Company list in the State of Oregon published by the office of the Insurance Commissioner. Each Surety's name must also appear on the United States Treasury Department's list of authorized sureties, circular 570, as amended.
- B. The Bid security is given as a guarantee that the Bidder will enter into a Contract if awarded the Work and, in the case of refusal or failure to so enter into said Contract, the security shall be declared forfeited to the District, in accordance with ORS 279C.385. Such security shall be returned to all but the three (3) lowest Bidders within seven (7) days after the opening of the Bids and the remaining securities will be returned within forty-eight- (48) hours after the District and the successful Bidder have executed the Contract. If no Contract has been awarded or the Bidder has not been notified of the acceptance of its Bid, within thirty (30) days of the Bid opening, the Bidder may withdraw its Bid and request the return of its Bid security. If, at the District's request, the Bidder agrees to extend and maintain its' Bid beyond the specified thirty (30) days, its Bid security will not be returned until after the District and the Successful Bidder have executed the Contract.

1.8 INSURANCE BINDER:

- A. Each Bid shall be accompanied by a letter or form from the Bidder's insurance company stating that upon award of the Contract the types and amount of insurance required elsewhere in these specifications will immediately become effective.

1.9 UNIT PRICES:

- A. The Bidder shall include in the spaces provided on the Bid Form a Bid for each unit price.
- B. The District may accept or reject any or all of these unit prices and include them in the Contract. The District is not obligated to use these unit prices and may require the Contractor to provide a complete breakdown of costs listed therein.

1.10 STATEMENT OF QUALIFICATIONS:

Each bid shall be accompanied by a Statement of Qualification completed on the form included herein or on a similar form, which materially includes the information requested.

1.11 LIQUIDATED DAMAGES (Forfeiture of Security Deposit):

The successful Bidder, upon its failure or refusal to execute the Contract within ten (10) days after it has received a Notice of Intent to Award, shall forfeit to the District the security deposited with its Bid, as liquidated damages for such failure or refusal.

1.12 SITE CONDITIONS AND CONDITIONS OF THE WORK:

- A. Each Bidder must acquaint itself thoroughly as to the character and nature of the Work to be done and the conditions under which the work will be performed. Each Bidder furthermore must make a careful examination of the site of the Work and inform itself fully as to the difficulties to be encountered in the performance of the Work, the facilities for delivering, storing and placing materials and equipment, existing and available services and utilities, environmental and access constraints, permit requirements and other conditions relating to construction and labor.
- B. The Successful Bidder, subject to Paragraph 12.6 of the General Conditions, Section 00 7000, entitled "Differing Site Conditions", assumes all risk as to the nature and behavior of the soil or subsurface conditions which underlie the Work or is adjacent thereto, or difficulties that may be due to any unfavorable conditions that may be encountered in the Work, whether apparent on surface inspection or disclosed after construction begins.
- C. No plea of ignorance of conditions that exist or may hereafter exist on the site of the Work, or difficulties that may be encountered in the execution of the Work, as a result of failures to make necessary investigations and examinations, will be accepted as an excuse for any failure or omission on the part of the Successful Bidder to fulfill in every detail all the requirements of the Contract Documents and to complete the Work for the consideration set forth therein, or as a basis for any claim whatsoever.
- D. Insofar as possible, the Successful Bidder, in carrying out its work, must employ such methods or means as will not cause interruption of or interference with the Work of the District or any separate Contractor.
- E. The Contract includes excavation on an unclassified basis. The cost of all excavation and backfill required under this Contract is a part of the Base Bid. No distinction will be made insofar as payment is concerned between earth and rock.
- F. ☐ If box is checked, either Bidder or a subcontractor must be licensed under ORS 468A.720 regarding asbestos abatement.

1.13 BIDDER'S QUESTIONS, ADDENDA AND INTERPRETATIONS:

- A. Bidders and Sub Bidders- shall promptly notify the District of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding and Contract Documents or of the site and local conditions. No interpretation of the meaning of the drawings, specifications or other Contract Documents will be made to any Bidder orally.
- B. Every request for such technical and design interpretation shall be in writing addressed to ColeBreit Engineering, 721 SW Industrial Way, #110, Bend, OR 97702. To be given consideration the request must be received by the Architect at least seven (7) calendar days prior to the date fixed for the opening of the Bids.
- C. Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the Bidding Documents which, if issued, will be mailed or transmitted via email to all prospective Bidders (to the respective addresses and email addresses furnished for such purposes) not later than seventy-two (72) hours prior to the date and time fixed for the opening of the Bids. (Each Bidder wishing to receive notice of addenda shall register as a prime bidder with Central Oregon Builders Association (COBA) 1051 NE 4<sup>th</sup> Street, Bend, Oregon 97703. Addenda can also be downloaded from the following link: <https://colbisecurebids.com/o/509j/0108-22> The District will be responsible for any other

explanations or interpretations of the proposed documents. Failure of any Bidder to receive any such addendum or interpretation shall not relieve any Bidder from any obligation under its Bid as submitted. All addenda so issued shall become a part of the Contract Documents.

- D. If the Bidder (or any person bidding to Bidder and/or subsequently in contract with the Bidder, relating to the subject project) knows, or should have known, that an ambiguity, discrepancy, error, omission or conflicting statement exists in the Bidding or Contract Documents, said Bidder (or sub-bidder) has an obligation to seek a clarification thereof from the District prior to the Bid. The District will welcome such a clarification request, and, if deemed necessary by the District, the District will issue a written addendum clarifying the matter in question. Change orders presented at the initial meeting between the District and the Contractor will be presumed to have been the proper subject of a clarification and will be disallowed.
- E. Each Bidder shall ascertain prior to submitting its Bid that it has received all Addenda issued and shall acknowledge receipt and inclusion in its Proposal of all Addenda.

1.14 PROTEST PROCESS:

- A. A Bidder may protest the Specifications or Contract terms and conditions by delivering a written protest on those matters to the District not less than ten (10) days prior to the date fixed for the opening of the Bids. All protests of Specifications or Contract terms and conditions must be in writing, and must comply with OAR 137-049-0260(3).
- B. A Bidder may submit to the District a written protest of the District's intent to award the Contract within seven (7) days after the District's issuance of the notice of intent to award the Contract. A Bidder may submit a protest of the award only as allowed by, and only in compliance with, OAR 137-049-0450(4).

1.15 SECURITY FOR FAITHFUL PERFORMANCE:

The Successful Bidder shall furnish a Performance Bond and Payment Bond, each in an amount equal to one hundred percent (100%) of the Contract sum, as security for the faithful performance of this Contract and also as security for the payment of all persons performing labor and furnishing materials under this Contract. The Performance and Payment Bonds shall be acceptable to the District, in accordance with State law and shall be delivered to the District not later than the date of execution of the Contract. The Surety signing the Bidder's Bond shall be registered with the Oregon State Insurance Commissioner, and the Surety's name shall appear in the current Authorized Insurance Company list in the State of Oregon published by the office of the Insurance Commissioner. Each Surety's name must also appear on the United States Treasury Department's list of authorized sureties, circular 570, as amended. No Work shall commence at the project site until approved Bonds are received by the District. Both bonds shall be in compliance with ORS Sections 279C.375, 279C.625 and 701.430.

1.16 TIME FOR COMPLETION:

The time for completion of this Contract shall be as listed in the Bid Form, Specification Section 00 4100 noted as "Milestone Dates List" for Substantial Completion, and as fixed in the Owner Contractor- Agreement.

1.17 LOCATION OF THE WORK:

The site of the proposed work will be District-Wide and on District owned property, public streets, easements and/or other right-of-way's, as shown on- the drawings.

1.18 LIABILITY INSURANCE AND WORKER'S COMPENSATION:

The Successful Bidder will be required to carry public liability and worker's compensation and other insurance in the amounts and under the terms stipulated under the General Conditions. No Work shall commence at the project site until approved Certificates are received by the District.

1.19 BIDDERS REFERRED TO LAWS:

- A. The attention of the Bidders is called to the provisions of all Local, State and Federal laws, regulations, ordinances and resolutions applicable to the work, as well as laws, regulations, ordinances, resolutions



and permits relating to obstructing streets, maintaining signals, storing and handling of explosives, preserving safety or affecting the Bidder, or its employees or its work hereunder in its relation to the District or any other person. The Bidder shall obey all such laws, regulations, ordinances, permits or resolutions applicable to the Work or controlling or limiting Contractors while engaged in the execution of the Work under this Contract.

- B. The provisions of this Contract shall be interpreted in accordance with the laws of the State of Oregon and in accordance with the laws, ordinances, regulations, permits and resolutions of the City of Madras and Jefferson County.
- C. The District will not receive or consider a Bid for a Public Improvement Contract unless the Bidder is registered with the Construction Contractors Board, or is licensed by the State Landscape Contractors Board, as specified in OAR 137-049-0230, as applicable.

1.20 TAXES:

Contractor shall include in its Bid and pay for all applicable taxes. Refer to General Conditions regarding further discussion.

1.21 RIGHT TO REJECT BIDS:

The District may reject any Bid not in compliance with all prescribed public contracting procedures and requirements, including the requirement to demonstrate the Bidder's responsibility under ORS 279C.375(3)(b), and may reject for good cause all Bids after finding that doing so is in the public interest. The District reserves the right to cancel the solicitation at any time in its sole discretion and to waive minor informalities and irregularities, in accordance with applicable law, when it deems necessary or advisable, in its sole discretion.

1.22 MODIFICATION OR WITHDRAWAL OF BID:

- A. Prior to the time and date designated for receipt of Bids, any Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder, and must be received by the District on or before the date and time set for receipt of Bids, and it shall be so worded as not to reveal the amount of the original Bid.
- B. Withdrawn Bids may be resubmitted up to the time designated for the receipt of the Bids provided that they are then fully in conformance with the Instructions to Bidders.
- C. After Bid opening, the District may permit a Bidder to withdraw its Bid, based on one or more clerical errors in the Bid, only if the Bid shows with objective proof and by clear and convincing evidence:
  - 1. The nature of the error;
  - 2. That the error is not a minor informality under this subsection or an error in judgment;
  - 3. That the error cannot be corrected or waived under DJ-AR 49-0350;
  - 4. That the Bidder acted in good faith in submitting a Bid that contained the claimed error and in claiming that the alleged error in the Bid exists;
  - 5. That the Bidder acted without gross negligence in submitting a Bid that contained a claimed error;
  - 6. That the Bidder will suffer substantial detriment if the Contracting Agency does not grant the Bidder permission to withdraw the Bid;
  - 7. That the Contracting Agency's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the Contracting Agency or the public it represents; and
  - 8. That the Bidder promptly gave notice of the claimed error to the Contracting Agency.
- D. Bid security, if any is required, shall be in an amount sufficient for the Bid as modified or resubmitted.
- E. A decision denying withdrawal of Bid pursuant to Article 21.A herein shall be final and conclusive unless the Bidder appeals the decision within ten (10) days after receipt of the decision.
- F. If, upon appeal, it is determined that the decision refusing withdrawal of the Bid was arbitrary or capricious, the sole relief shall be withdrawal of the Bid and return of the Bid security.

1.23 DISCLOSURE AND SUBSTITUTION OF FIRST-TIER SUBCONTRACTORS – IF APPLICABLE

- A. Within two (2) working hours after the date and time of the deadline when the bids are due to the public contracting agency, for any Public Improvement project exceeding \$100,000, all Bidders shall submit to the Agency a disclosure form, included in the Bid Form (Section 00 4100), identifying any first-tier subcontractors (those Entities that would be contracting directly with the prime contractor) that will be furnishing labor and/or materials on the contract, if awarded, whose subcontract value would be equal to or greater than:
  - 1. Five percent (5%) of the total Contract Price, but at least \$15,000; or
  - 2. \$350,000, regardless of the percentage of the total Contract Price.
- B. Bidders are required to disclose the following information about each required first-tier subcontractor:
  - 1. The subcontractor's name and address,
  - 2. The category of Work that the subcontractor would be performing,
  - 3. The subcontractor's Construction Contractor Board (CCB) registration number, if one is required, and
  - 4. The subcontract dollar value.
- C. The District must reject a bid if the Bidder fails to submit the disclosure form with this information by the stated deadline. (DJ-AR 49-0360) If there are no subcontractors or suppliers required to be disclosed, Bidder must provide the required disclosure form, noting on the completed form "None". Compliance with the disclosure and submittal requirements of ORS 279C.370 and this rule is a matter of Responsiveness. Bids which are submitted by Bid Closing, but for which the separate disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract Award. A First Tier Subcontractor Disclosure Form which has no subcontractors or suppliers and is completed with the word "None" must be submitted separately and be properly marked in the same manner as any other first-tier subcontractor disclosure form.
- D. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585.

1.24 DETAILED BID BREAKDOWN:

- A. Upon notification from the District to the Bidder that it has submitted the apparent lowest responsive Bid, the Bidder shall, within twenty-four (24) hours, provide a detailed breakdown of its Bid in a form acceptable to the District.
- B. The breakdown may be used by the District to verify accounting requirements, and to determine whether the Bidder has grossly misjudged the requirements of any area.
- C. The Bidder's failure to provide the requested detailed breakdown in the specified time may result in rejection of the Bid Proposal in the sole discretion of the District.

1.25 AWARD OF CONTRACT:

- A. If the District determines that a contract is to be awarded, it will award the contract to the lowest responsive and responsible Bidder. The "lowest responsible bidder" will be the lowest bidder who has substantially complied with all bidding requirements and procedures and who has not been disqualified by the District under ORS 279C.440. In determining the lowest responsible bidder, the District shall add a percentage increase of the bid of nonresident bidder as required by ORS 279A.120. In the event that all Bids exceed the District's cost estimate, the District may negotiate with the lowest responsive and responsible Bidder in accordance with ORS 279C.340 to solicit value engineering and other options to attempt to bring the contract within the contracting agency's cost estimate.
- B. The Lowest Bidder is determined by the aggregate amount of the Base Bid, plus any Alternates selected by the District.

- C. A Responsive Bidder shall mean a Bidder who has submitted a Bid which conforms, in all material respects, to the Bidding Documents.
  - D. A Responsible Bidder shall mean a Bidder who has the capability, in all respects, to perform fully the Contract requirements and the moral and business integrity and reliability which will assure good faith performance. In determining responsibility, the District must determine that the Bidder:
    - 1. Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to meet all contractual responsibilities;
    - 2. Has completed previous contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that, to the extent the costs associated with and time available to perform a previous contract were within the Bidder's control, the Bidder stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. A Contracting Agency should carefully scrutinize a Bidder's record of contract performance if the Bidder is or recently has been materially deficient in contract performance. In reviewing the Bidder's performance, the Contracting Agency should determine whether the Bidder's deficient performance was expressly excused under the terms of contract, or whether the Bidder took appropriate corrective action. The Contracting Agency may review the Bidder's performance on both private and Public Contracts in determining the Bidder's record of contract performance. The Contracting Agency shall make its basis for determining that a Bidder is not responsible under this paragraph part of the Solicitation file;
    - 3. Has a satisfactory record of integrity. A Bidder may lack integrity if a Contracting Agency determines the Bidder demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a Contracting Agency. A Contracting Agency may find a Bidder not Responsible based on the lack of integrity of any Person having influence or control over the Bidder (such as a key employee of the Bidder that has the authority to significantly influence the Bidder's performance of the Contract or a parent company, predecessor or successor Person). The standards for Conduct Disqualification under DJ-AR 49-0370 may be used to determine a Bidder's integrity. A Contracting Agency may find a Bidder non-responsible based on previous convictions of offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Bidder's performance of a contract or subcontract. The Contracting Agency shall make its basis for determining that a Bidder is not responsible under this paragraph part of the Solicitation file;
    - 4. Is legally qualified to contract with the Contracting Agency; and
    - 5. Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Bidder fails to promptly supply information requested by the Contracting Agency concerning responsibility, the Contracting Agency shall base the determination of responsibility upon any available information, or may find the Bidder not responsible.
  - E. The ability of the low Bidder to provide the required bonds will not of itself demonstrate responsibility of the Bidder.
  - F. The District reserves the right to defer award of this Contract for a period of thirty (30) days after the due date of the Bids. During this period of time, the Bidder shall guarantee the prices quoted in its Bid.
- 1.26 SUBCONTRACTORS:
- A. All Subcontractors proposed for the Work must be acceptable to the District.
  - B. The District reserves the right to request the proposed Subcontractors to complete qualification forms and/or current financial statements prepared by a Certified Public Accountant. These forms will be similar to those required of a Bidder under the Instructions to Bidders.

1.27 MINIMUM WAGE RATES:

Labor required for the construction of this project is subject to the minimum wage rates as provided in the Supplementary General Conditions. No Bid will be received or considered by the District unless the Bid contains a statement by the Bidder as a part of its Bid that "Contractor agrees to be bound by and will comply with the provisions of 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148."

1.28 PRE-BID CONFERENCE (MANDATORY):

A Mandatory Pre-Bid Conference will be conducted by the District at the time indicated in the Advertisement for Bids to afford Bidders the opportunity to question the District and the Architect. The meeting will be held at the location identified in the Advertisement for Bids. (If no time is given in the Advertisement for Bids, no Pre-Bid Conference will be held.) Any statements made by the District's representatives at the conference are not binding upon the District unless confirmed by written addendum.

1.29 MILESTONE DATES AND SCHEDULE:

- A. A list of Milestone Dates is included in the Bidding Documents. Each Bidder shall submit the list of Milestone Dates, in its original form, with its bid and, in so doing, will attest that the Bidder intends to complete the Work and other aspects of the Project within the Milestone Dates. The Bidder may not condition its Bid on the acceptance District of delayed Milestone Dates.
- B. Within seven (7) calendar days after issuance of Notice to Proceed, the Contractor shall deliver to the District a detailed construction schedule for review and acceptance by the District and shall thereafter be referred to as the Schedule. The Schedule shall be, in form and content, acceptable to the District.
- C. The Bidder's attention is drawn to Division 1, Section 01 3200 of the General Requirements entitled "Schedule and Reports" for additional requirements.

1.30 SUBSTITUTIONS:

The attention of potential bidders and other interested parties is called to the conditions set forth in Division 1, Section 01 2500 of General Requirements, "Substitutions", regarding approval and product options for substitutions.

1.31 CONTRACTOR'S DRUG TESTING PROGRAM

Per ORS 279C.505(2), prior to Contract Award, Contractor shall certify to the District that it has a drug testing program in place for its employees that includes, at a minimum, the following:

- A. A written employee drug-testing policy.
- B. 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
- C. Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

1.32 BACKGROUND CHECKS

No Unsupervised Contact with Students. Unsupervised contact with students means contact with students that provide the person opportunity and probability for personal communication or touch when not under direct supervision. Contractor will ensure that Contractor, any subcontractors, and their officers, agents and employees will have no direct unsupervised contact with students while on District property. Contractor will work with the District to ensure compliance with this requirement. If Contractor is unable to ensure through a security plan that none of its officers, agents or employees will have direct, unsupervised contact with students in a particular circumstance or circumstances, Contractor shall so notify the District prior to beginning any Work that could result in such contact. Contractor authorizes District to obtain information about Contractor and Contractor's history and to conduct a criminal background check, including fingerprinting, of any officer, agent or employee of Contractor that will have unsupervised contact with students. Contractor also agrees to cause Contractor's employees and/or subcontractors, if any, to authorize District to conduct such background checks. Contractor shall pay all fees assessed by Oregon Department of Education and by the District's background

check vendor for processing the background check. District may deduct the cost of such fees from a progress of final payment to the Contractor under this contract, unless the Contractor elects to pay such fees directly.

1.33 PERMITS & FEES

The Contractor shall obtain all permits for the Project. The Owner will pay for the permits (including right of way permits, grading and drainage, foundation, mechanical, plumbing and electrical as necessary to initially begin construction), utility connection fees, system development charges and related inspections. The Contractor will be responsible to obtain and pay for all other permits, assessments, penalties, charges, licensing and re-inspection fees required for the proper execution of the Work which are legally required at the time the bids are received or thereafter as a consequence of the Contractor's acts or omissions. The Contractor is responsible for coordinating and obtaining all required inspections and approval signatures. The Contractor is required to submit all inspection records to the District at the completion of the project and as a prerequisite for final payment. Contractor shall not be entitled to any additional time for performance because of its failure to secure or coordinate with the Owner for procurement of any required permits on a timely basis. The contractor will be required to maintain the permit documents at the site as required by the governing authority.

END OF SECTION

Date: August 11, 2022 Time: 2:00 p.m. Current Local Time

TO:

JEFFERSON COUNTY SCHOOL DISTRICT 509J

OWNER

445 SE BUFF STREET, Front Desk

ADDRESS

MADRAS, OREGON 97741

CITY/STATE

FROM:

BIDDER

ADDRESS

CITY/STATE

TELEPHONE

EMAIL ADDRESS

Operating as (strike out conditions that do not apply) an individual, a Limited Liability Company, a Corporation, organized and existing under the law of the State of \_\_\_\_\_, or a Proprietorship, a Partnership, or Joint Venture consisting of \_\_\_\_\_

BASE BID:

1. Having become completely familiar with the local conditions and legal requirements affecting the cost of Work at the place where Work is to be executed, and having carefully examined the site conditions as they currently exist, and having carefully examined Bidding Documents prepared by ColeBreit Engineering, LLC titled,

**JCSD SECURITY SYSTEM & SECURITY CARD ACCESS**

together with any addenda to such Bidding Documents as listed hereinafter, the undersigned hereby proposes and agrees to provide all labor, materials, physical plant, equipment, transportation and other facilities and services as necessary and/or required to execute all of the Work described by the aforesaid Bidding Documents for the lump sum consideration:

BASE BID: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

said amount being hereinafter referred to as the Base Bid.

2. If notified of acceptance of this Bid and contract award within thirty (30) calendar days after receipt of bids, the undersigned agrees to deliver all bonds and proof of insurance coverage required by the Specifications and to execute a contract for the abovenamed project work and the aboves tated consideration on the form required, within ten (10) calendar days of such notification.

**BID ALTERNATES: NOT APPLICABLE**

3. Bid Alternates for this project are as follows (reference Specification Section 01 2300 Alternates and Unit Prices for a complete description of all alternates):

**A. ALTERNATE #1 – N/A**

☐ Add to the Base Bid

JEFFERSON COUNTY SCHOOL DISTRICT 509J  
Card Access Control System

00 4100-1

☐ Deduct from the Base Bid

Lump Sum Amount      \$ \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ and 00/100 dollars.

**B. ALTERNATE #2 – N/A**

☐ Add to the Base Bid  
☐ Deduct from the Base Bid

Lump Sum Amount      \$ \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ and 00/100 dollars.

**C. ALTERNATE #3 – N/A**

☐ Add to the Base Bid  
☐ Deduct from the Base Bid

Lump Sum Amount      \$ \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ and 00/100 dollars.

**UNIT PRICES:**

4. Provide unit cost pricing to add or deduct the following items (See Section 01 2300 Alternates and Unit Prices for a complete description of the following Unit Price Items):

UNIT PRICES WILL NOT BE USED FOR THIS CONTRACT

**ADDENDA ACKNOWLEDGEMENT:**

5. The undersigned acknowledges receipt of the following addenda: (List by number and date appearing on addenda.)

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____
_____	_____	_____	_____

**TIME OF COMPLETION:**

6. The undersigned agrees to substantially complete all Work under this Contract within the dates specified in the milestone date schedule, as set forth in the Owner-Contractor Agreement and this bid form.

**CHANGES IN WORK:**

7. The undersigned agrees that when changes in Work are ordered which involve extra cost over and above Contract Sum, and when such work, due to an emergency, is ordered to proceed on basis of cost-plus fee, such shall be as required by the General Conditions and Supplementary Conditions.

**BID SECURITY:**

8. Bid security in the amount of ten percent (10%) of the Base Bid plus any additive alternates is attached.

Failure to submit such security shall result in the Bid being considered non-responsive.

9. The undersigned further agrees to execute the formal Contract within ten (10) days from date of Owner's Notice of Intent to Award, and in case the undersigned fails or neglects to appear within the specified time to execute the Contract, and the undersigned is considered having abandoned the Contract by the Owner, the bid security accompanying this Bid will be forfeited to the Owner by reason of such failure on the part of the undersigned.
10. The undersigned further agrees that the bid security may be retained by the Owner and that said bid security shall remain with the Owner until the Contract has been signed and Performance Bond in a form acceptable to the Owner has been made and delivered to the Owner.
11. The undersigned has checked all of the above figures and understands that Owner and the Project Manager will not be responsible for any errors or omissions on part of undersigned in preparing this Bid.
12. In submitting this Bid, it is understood by the Bidder that the Bid is a "firm offer," irrevocable, valid and binding, and may not be withdrawn for a period of thirty (30) days from time of opening.
13. The undersigned hereby acknowledges that he has read and understands the Drawings, Specifications, Addenda and all other Contract Documents pertaining to this Project. The undersigned certifies that the Contract Documents are, in his opinion, adequate, feasible and complete for performing the Work and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. The undersigned further certifies that he has, or has available, the equipment, personnel, materials, facilities and technical and financial ability necessary to complete the Work in accordance with the Contract Documents and within the time specified therein. The Bidder certifies that he has made allowances for normal inclement weather indigenous to the Project site.
14. The following information is provided pursuant to the Contract Documents:
  - (1) Legal Name of Firm: \_\_\_\_\_
    - a. If Firm is a corporation or limited liability company, state of incorporation or organization: \_\_\_\_\_.
    - b. If Firm is a partnership, state names of partners:  
\_\_\_\_\_  
\_\_\_\_\_
    - c. If Firm is an individual using a trade name, state name of individual:  
\_\_\_\_\_
  - (2) Construction Contractors Board Registration Number: \_\_\_\_\_
  - (3) Signature of person or persons legally authorized to bind Bidder to a Contract. A Bid submitted by an agent shall have a current Power of Attorney attached certifying the agent's authority to bind the Bidder.
    - a. Signature: \_\_\_\_\_
    - b. Name (type): \_\_\_\_\_



SECTION 00 4100  
BID FORM

00 4100-4

c. Title: \_\_\_\_\_ (Corporate Seal)

d. Address: \_\_\_\_\_

15. The names and addresses of other persons interested as principals in this Bid are as follows:

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

16. The undersigned declares that the person or persons signing this Bid is/are fully authorized to sign on behalf of the firm listed and to fully bind the firm listed to all the Bid's conditions and provisions thereof.

17. It is agreed that no person or persons or company other than the firm listed below or as otherwise indicated has any interest whatsoever in this Bid or the Contract that may be entered into as a result of the Bid and that in all respects the Bid is legal and firm, submitted in good faith without collusion or fraud.

18. It is agreed that the undersigned has complied or will comply with all requirements of local, state, and national laws, and that no legal requirement has been or will be violated in making or accepting this Bid, in awarding the Contract to him and/or in the prosecution of the work required.

19. Pursuant to ORS 279A.120, bidder (check one) is \_\_\_/is not \_\_\_ a resident bidder. If not, indicate State of residency \_\_\_\_\_.

20. Contractor agrees to be bound by and will comply with the provisions of 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148.

21. Contractor certifies that it has not discriminated and will not discriminate against minority, women or emerging small business enterprises in obtaining any required subcontracts.

22. The following bank reference is given:

Name of Bank: \_\_\_\_\_

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

Bank Officer: \_\_\_\_\_

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 2022

Firm Name: \_\_\_\_\_

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

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

Name (type): \_\_\_\_\_

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

**ENCLOSURES:**

- ☐ Bid Form
- ☐ Bid Bond
- ☐ Affidavit of Non-Collusion
- ☐ Acknowledgement of Principal Bidder
- ☐ Milestone Dates List
- ☐ Insurance Binder
- ☐ Statement of Qualifications

**FORM OF BID BOND**

**KNOW ALL MEN BY THESE PRESENTS:** That we, \_\_\_\_\_ as Principal and \_\_\_\_\_ a Corporation duly organized and existing under the laws of the State of \_\_\_\_\_ and legally doing business in the State of Oregon, a surety, are held and firmly bound and obligated unto the Jefferson County School District 509J, Jefferson County, and the State of Oregon, hereinafter called the Owner, in the full and just sum of Dollars (\$ \_\_\_\_\_), lawful money of the United States of America for the payment of which sum of money well and truly to be made, the said Principal and Surety bind themselves, their and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Signed, Sealed and Dated this \_\_\_\_\_ day of \_\_\_\_\_ AD, 20\_\_\_\_.

**THE CONDITION OF THIS OBLIGATION IS SUCH,** that if the Owner shall make any award to the Principal for: CARD ACCESS CONTROL SYSTEM,

according to the terms of the proposal or bid made by the Principal therefore, and the Principal shall duly make and enter into a Contract with the Owner in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety and Sureties approved by the Owner, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect.

**IN TESTIMONY WHEREOF,** the Principal and Surety have caused these presents to be duly signed and sealed.

\_\_\_\_\_  
Principal:

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

\_\_\_\_\_  
Surety:

\_\_\_\_\_  
By Attorney-in-Fact:

State of Oregon                 )  
County of                         ) ss

Sign Here:

(Title)

Notary Public in and for the State of Oregon, residing at:

00 4100-7

**(ACKNOWLEDGEMENT OF PRINCIPAL OF BIDDER, IF A CORPORATION)**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022 before me personally came and appeared to me known, who being by me duly sworn, did depose and say that he resides at \_\_\_\_\_

that he is the \_\_\_\_\_ of \_\_\_\_\_ the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the impressions affixed to said instrument is an impression of such seal; that it was so affixed by order of the directors of said corporation; and that he signed his name thereto by like order.

\_\_\_\_\_  
(SEAL)  
My Commission Expires \_\_\_\_\_

**(ACKNOWLEDGEMENT OF PRINCIPAL OF BIDDER, IF A LIMITED LIABILITY COMPANY)**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022 before me personally came and appeared, to me known, and known to me to be one of the members/managers of the firm of \_\_\_\_\_ described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same as and for the act and deed of said firm.

\_\_\_\_\_  
(SEAL)  
My Commission Expires \_\_\_\_\_

**(ACKNOWLEDGEMENT OF PRINCIPAL OF BIDDER, IF A PARTNERSHIP)**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022 before me personally came and appeared, to me known, and known to me to be one of the partners of the firm of \_\_\_\_\_ described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same as and for the act and deed of said firm.

\_\_\_\_\_  
(SEAL)  
My Commission Expires \_\_\_\_\_

**(ACKNOWLEDGEMENT OF PRINCIPAL OF BIDDER, IF A SOLE PROPRIETORSHIP)**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022 before me personally came and appeared, to me known, and known to me to be one of the members of the firm of \_\_\_\_\_,

described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same as and for the act and deed of said firm.

\_\_\_\_\_  
(SEAL)  
My Commission Expires \_\_\_\_\_

**MILESTONE DATES LIST**

Substantial Completion

March 15, 2023

Final Completion

March 31, 2023

**STATEMENT OF QUALIFICATIONS (Page One)**

**This Statement of Qualification form shall be submitted with the bid.**

Submitted By (Firm/Company): \_\_\_\_\_

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

1. Date Firm First Organized \_\_\_\_\_

2. Financial Status:

What is bonding capacity? \$ \_\_\_\_\_

Credit available for this Contract? \$ \_\_\_\_\_

Gross amount of Contracts now in hand? \$ \_\_\_\_\_

Current value of assets? \$ \_\_\_\_\_

Has Contractor (or Contractor's responsible managing individual) ever declared bankruptcy? If so, when and where?

3. List projects similar to the requirements of this project for which Contractor had a contract in excess of \$100,000 during the past three (3) years. Start with current or most recent projects:

Project Name	Owner (Phone #)	Contract Amount	Project Status (Dates)
--------------	-----------------	-----------------	------------------------




**STATEMENT OF QUALIFICATIONS (Page Two)**

4. Who will be the Project Manager? \_\_\_\_\_

Who will be the Project Superintendent? \_\_\_\_\_

List experience relevant and similar to the requirements of this project for which this individual has been Project Superintendent:

Project Name	Owner (Phone #)	Contract Amount	Project Status (Dates)

5. Please state the work Contractor normally performs with Contractor's own forces.

6. Please list any litigation or arbitration between firm and any Owner in the last three years.

**I certify that the foregoing statement is true to the best of my information and belief. I understand the Owner is relying upon this statement in their determination as to whether Contractor is a responsible bidder.**

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature and Title of Officer)

**1st TIER SUBCONTRACTOR DISCLOSURE INSTRUCTIONS AND FORM**

(1) Pursuant to ORS 279C.370 Bidders are required to disclose information about certain first-tier subcontractors when the District estimates the Contract value for a Public Improvement to be greater than \$100,000. Specifically, when the Contract amount of a first-tier subcontractor furnishing labor, or labor and materials, would be greater than or equal to: (i) 5% of the project Bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract in its Bid submission or within two (2) working hours after Closing:

- (a) The subcontractor's name,
- (b) Dollar value and,
- (c) The category of work that the subcontractor would be performing.

If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to indicate "NONE" on the Disclosure Form. The district must reject a bid if the bidder fails to submit the disclosure form with this information by the stated deadline.

(2) A Bidder shall submit the disclosure form required by ORS 279C.370 either in its Bid submission or within two (2) working hours after Closing. Compliance with the disclosure and submittal requirements is a matter of responsiveness. Bids which are submitted by Closing, but for which the disclosure submittal has not been made by the specified deadline, are not responsive and shall not be considered for Contract award.

(3) The District shall obtain, and make available for public inspection, the disclosure forms required by ORS 279C.370. The District shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. The District is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585.

**FIRST TIER SUBCONTRACTOR DISCLOSURE FORM**

PROJECT: Card Access Control System  
BID CLOSING: August 11, 2022, 2:00 p.m.

This form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date and within two working hours after the advertised bid closing time.

List below the name of each subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter "NONE" if there are no subcontractors that need to be disclosed. (ATTACH ADDITIONAL SHEETS IF NEEDED.)

SPEC SECTION	NAME	ADDRESS	CCB #	CONTRACT AMOUNT

END OF SECTION

**REFERENCE:**

1. The Form of Agreement between the Owner and the Contractor shall be in the following form:

\* \* \* \* \*

**OWNER-CONTRACTOR AGREEMENT**

DATE OF CONTRACT:

CONTRACT NUMBER:

PROJECT NUMBER: 0108-22

**THIS AGREEMENT**, made this day of \_\_\_\_\_, 2022.

By and Between

Jefferson County School District 509J  
445 SE Buff Street  
Madras, OR 97741

And

(Contractor)  
(Mailing Address)

All correspondence, submittals and notices relating to or required under this Contract shall be sent in writing to the above addresses or fax numbers; unless either party is notified in writing by the other, of a change in address.

**WITNESSETH**

**WHEREAS**, it is the intention of the Owner to obtain the services of the Contractor in connection with the Card Access Control System, Hereinafter referred to as the "Project" or the "Work"; and

**WHEREAS**, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement,

**NOW, THEREFORE**, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and the Contractor:

**Article 1**  
**DEFINITIONS**

- 1.1 Capitalized terms used but not defined in this Agreement shall have the meanings given such terms in the Information for Bidders and the General Conditions, as applicable.
- 1.2 The Contract Documents are as defined in the General Conditions. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein.
- 1.3 The Drawings and Specifications referred to in the Contract Documents have been prepared by ColeBreit Engineering, LLC for the Jefferson County School District 509J, Jefferson County, Oregon and are entitled, Jefferson County School District: Security System & Security / Card Access.
- 1.4 The Construction Project Manager is Mike Tiller, Tiller's Schoolhouse Consulting. If there is no Construction Project Manager designated by the Owner, all references to "Construction Project Manager" shall be deemed to refer to the Owner.

**Article 2**  
**STATEMENT OF THE WORK**

- 2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary to fully and properly perform and complete the Work as required by the Contract Documents.
- 2.2 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the Contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work".

**Article 3**  
**ARCHITECT**

- 3.1 The Architect (as defined in the General Conditions) shall be:

ColeBreit Engineering, LLC  
721 SW Industrial Way, #110  
Bend, OR 97702

The Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Architect and so advising the Contractor in writing, at which time the person or organization so designated shall be the Architect for purposes of this Contract.

**Article 4**  
**TIME OF COMMENCEMENT AND COMPLETION**

- 4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed.

4.2 Time is of the essence. The Contractor shall achieve Substantial Completion(s) and Final Completion, within the time periods stated hereunder taken from the date of Notice to Proceed and Contractor's Bid.

SPECIFIC DATES:

Substantial Completion  
Final Completion

March 15, 2023  
March 31, 2023

4.3.1 The liquidated damages incurred by the Owner due to the Contractor's failure to Substantially Complete the Card Access Control System within the Contract Time, including any extensions thereof, shall be Zero dollars (\$0) per day. The liquidated damages incurred by the Owner due to the Contractor's failure to finally complete the Jefferson County School District, Card Access Control System within the Contract Time, including any extensions thereof, shall be Zero dollars (\$0) per day for each consecutive day beyond the Time for Final Completion.

4.3.2 The amount of liquidated damages for failure to meet any of the above noted Final Completion dates are in addition to the amount of liquidated damages for failure to Substantially Complete the Work.

4.4 The Contractor agrees said sums are agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the contractor to complete the Work within time as stipulated, it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

4.5 The amount of liquidated damages set forth in Article 4.3 hereinabove shall be assessed cumulatively. This provision for liquidated damages does not bar the Owner's rights to enforce other rights and remedies against the contractor, including but not limited to, specific performance or injunctive relief. The amount of liquidated damages relates only to the Owner's inability to do the Work; and it does not limit the Owner from recovering, in addition, costs incurred for extended administration or additional services relating to or arising out of a delay completion.

4.6 If Final Completion is not achieved through no fault of the contractor, the Owner may process final payment under ORS 279C.570 and withhold one hundred percent (100%) of the value of the uncompleted work. This value shall be determined by the Construction Project Manager.

**Article 5**  
**CONTRACT SUM**

5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the times and in the installments hereinafter specified, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (herein referred to as the "Contract Sum").

5.2 The Contract Sum is based upon the following alternates and unit prices, if any, which are set forth in the Contract Documents and which are hereby accepted by the Owner:

***(Alternates accepted and applicable unit prices to be listed here in executed contract)***

6.1 The Contractor hereby agrees that on the date established for updates for every month during the performance of the Work he will deliver to the Construction Project Manager an Application for Payment in accordance with the provisions of the General Conditions and Section 01 2900. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions.

6.2 Past-due progress payments shall bear interest at the statutory rate in accordance with ORS 279C.570.

7.1 The Contractor shall submit the Performance Bond, Payment Bond, Certificates of Insurance, and Certificate of Compliance with Oregon tax laws, as required by the Contract Documents, prior to commencement of the Work.

7.2 The Contractor shall perform at least five percent (5%) of the total Work with forces that are in the direct employment of the Contractor's organization.

7.3 Subcontracting requirements shall be in accordance with ORS 279A.105, and as further described in the General Conditions and Supplementary Conditions (if any).

7.4 The Contractor shall comply with the Prevailing Wage Rates of the State of Oregon, effective, January 1, 2022 and as amended, attached by reference, governing all covered workers for all work on this project.

7.5 The Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and with Section V of the Rehabilitation Act of 1973, and ORS Chapters 659 and 659a.

**IN WITNESS WHEREOF**, the parties execute this Agreement as of the day and year first written above.

**OWNER** Jefferson County School District 509J  
Jefferson County, Oregon

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

Date: \_\_\_\_\_

**CONTRACTOR**

By: \_\_\_\_\_ (Seal)  
 \_\_\_\_\_ (Title)

Date: \_\_\_\_\_

CERTIFICATE OF COMPLIANCE WITH OREGON TAX LAWS

By signature on the Contract, I, the undersigned being authorized to represent \_\_\_\_\_ hereby certify that \_\_\_\_\_ is not, to the best of my knowledge, in violation of any Oregon tax law described in ORS 305.380(4). For the purposes of this certification, "Oregon tax laws" are ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

END OF SECTION



SECTION 00 6113  
PERFORMANCE & PAYMENT BOND

00 6113-1

Bond No.

Amount: \$

KNOW ALL MEN BY THESE PRESENTS that, we  
, as Principal (Contractor), and \_\_\_\_\_, a corporation organized and existing under the  
laws of the State of Oregon \_\_\_\_\_, and duly authorized to transact a SURETY business in the State of  
Oregon, as SURETY, are held and firmly bound unto JEFFERSON COUNTY SCHOOL DISTRICT 509J,  
JEFFERSON COUNTY, OREGON, in the sum of \_\_\_\_\_ DOLLARS, (\$  
) , lawful money of the United State of America, for the payment whereof well and truly to be made, we and each of  
use, jointly and severally, bind ourselves, our and each of our heirs, executors, administrators, successors and assigns  
firmly by these presents.

THE CONDITIONS of this obligation are such that, whereas the above Principal did on the \_\_\_\_ day of  
\_\_\_\_\_, 2022 enter into a Contract with Jefferson County School District 509J, Jefferson County, Oregon for the  
construction required for the Card Access Control System which Contract is made a part hereof as if fully copied  
herein;

NOW, THEREFORE, if the said Principal faithfully, punctually and completely performs and abides by all  
covenants and conditions of said Contract, and with all laws, ordinances, regulations, and orders of the State of  
Oregon, and Jefferson County, and the agencies and bureaus thereof, directly or indirectly governing or applicable to  
the Principal's performance under the said Contract, including but not limited to the requirements of Oregon Revised  
Statutes Chapter 279A and 279C relating to public contracts, which hereby is made a part hereof as if fully copied  
herein, and shall make payment promptly, as due to Jefferson County School District 509J, Jefferson County, Oregon  
and to all other public entities as may be required, and to all subcontractors and to all persons supplying to the Principal  
or his (its) subcontractors' equipment, supplies, labor, or materials for the prosecution of the work or any part thereof,  
provided for in said Contract, then this obligation shall be null and void, otherwise to be in full force and effect.

Surety agrees (1) that any extension of time allowed said Principal for completion of work or for delivery under  
the said Contract shall not impair this obligation or reduce any period of maintenance or warranty provided in said  
Contract; (2) that any change made in the terms or provisions of said Contract increasing the price to be paid to  
Principal, without notice to the SURETY shall not impair this obligation, but any such change shall automatically  
increase the obligation of the SURETY hereunder in a like amount, PROVIDED that such increase shall not exceed  
twenty-five percent (25%) of the original amount of this obligation without consent of the SURETY; and (3) that this  
obligation shall continue to bind the said Principal and SURETY notwithstanding successive payments made  
hereunder for successive breaches, until the full amount of the said obligation is exhausted.

IN WITNESS WHEREOF, the Principal and Surety have caused these presents to be executed on this  
day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Principal

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

Title \_\_\_\_\_

\_\_\_\_\_  
Surety

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

Attorney in Fact

COUNTERSIGNED:

---

Oregon Resident Agent

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Address

---

NOTE

If Principal is operating under an assumed business name, there must also be set forth in the first paragraph of the bond, the names of all the partners or the individuals owning the business, and the bond must be executed by one of them.

If the Principal is a corporation, the bond must be executed by one of the officers authorized to execute bonds, showing his official title and the seal of the corporation.

The bond must be executed by an attorney-in-fact for the surety company, showing on the face thereof the Oregon agent for service, and bear the seal of the surety company. Where the bond is executed by a person outside the state of Oregon, his authority to execute bonds should be shown.

The bond must be furnished by a surety company authorized to do business in Oregon, and in an amount equal to the full contract price.

END OF SECTION

**REFERENCES:**

1. The General Conditions shall be "General Conditions of the Contract and/or Construction, Jefferson County School District 509J, Jefferson County, Oregon," bound herein.

**SUPPLEMENTS:**

1. Supplements may modify, change, delete, or add to the General Conditions. Where any article of the General Conditions is modified or any paragraph deleted, subparagraph or clause thereof is modified, or deleted by these supplements, the unaltered provisions of such article, paragraph, subparagraph or clause shall remain in effect. The General Conditions and the Supplementary General Conditions are applicable to all of the Work under this Contract and shall apply to one Contractor and all Subcontractor's and Sub-subcontractors.

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ARTICLE 1  
GENERAL PROVISIONS

1.1 DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplementary and Special), the Drawings, the Specifications, and all Addenda issued prior to execution of the Contract, written amendments to the Contract signed by the Owner and the Contractor, Change Orders, a written interpretation or clarification issued by the Architect pursuant to Subparagraph 3.2.17 or a written order issued by the Construction Project Manager pursuant to Subparagraph 12.1.2, the Bidding Documents, such as the Advertisement or Invitation to Bid and the Instructions to Bidders, and the Contractor's Proposal.

1.1.2 THE CONTRACT

The Contract is the sum of all the Contract Documents. This Contract represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by (1) a written amendment to the Contract signed by the Owner and the Contractor, (2) a Change Order, (3) a written interpretation or clarification issued by the Architect pursuant to Subparagraph 3.2.17, or (4) a written order issued by the Construction Project Manager pursuant to Subparagraph 12.1.2.

1.1.3 THE WORK

The Work comprises the completed construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 THE PROJECT

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

1.1.5 PLANS OR DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

1.1.6 SPECIFICATIONS

The Project Manual is that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services. These are written to, and for, the Contractor, with guidance and reference given to suppliers and subcontractors in separate sections. It is the responsibility of the Contractor to ensure that all construction items in each section are implemented.

1.1.7 PROJECT MANUAL

The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

1.1.8 AS SHOWN, AS INDICATED, AS DETAILED

These words, and words of like implication, refer to information contained in the drawings describing the Work, unless explicitly stated otherwise in other Contract Documents.

1.1.9 BIDDER

Any individual, company, corporation, partnership, or joint venture who submits a bid to the Owner for the Work as distinct from a sub-bidder who submits a bid to a Bidder. "Lowest responsible bidder" and "resident bidder" are as defined in ORS 279C.375 and ORS 279A.120.

1.1.10 BIDDING DOCUMENTS

The Invitation to Bid, Instructions to Bidders, Sample Forms, Proposal, all Conditions of the Contract, Specifications, Drawings and Addenda issued prior to receipt of bids by Owner.

1.1.11 DIRECTED, REQUIRED, ACCEPTABLE

When these words refer to the Work or its performance, "directed," "required," "permitted," "ordered," "designated," "prescribed," and words of like implication, mean "by direction of," "requirements of," "permission of," "order of," "designation of," or "prescription of" the Architect. Likewise, "acceptable," "satisfactory," "in the judgement of," and words of like import, mean "recommended by," "acceptable to," "satisfactory to," or "in the judgement of" the Architect.

1.1.12 MANUFACTURER

An individual, company, or corporation who manufactures, fabricates, or assembles a standard product. A standard product is one that is not made to special design, and is furnished by either direct sale or by contract to the Contractor, Subcontractor or Vendor.

1.1.13 MATERIAL SUPPLIER OR VENDOR

A person or organization who supplies, but who is not responsible for the installation of, materials, products and equipment of a standard nature that are not specifically fabricated for this particular contract.

1.1.14 PRODUCT

The term "product" includes materials, systems and equipment.

1.1.15 PROPOSAL

A complete and properly signed document (whether entitled "bid" or "proposal") whereby a Bidder proposes to do the Work or designated portion thereof for the sums stipulated therein, supported by data called for by the bidding requirements.

1.1.16 PROVIDE

As a directive to the Contractor, "provide" means "furnish and install completely".

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. Work not covered in the Contract Documents will not be required unless it is consistent therewith or is reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings unless otherwise specifically defined herein.

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

1.2.3 If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the order of precedence as herein set forth according to their latest date of execution; written interpretation or clarification by the Architect issued pursuant to Subparagraph 3.2.18 or by the Construction Project Manager pursuant to Subparagraph 12.1.2; Change Orders; written amendments to the Owner-Contractor Agreement; the Owner-Contractor Agreement; Addenda; Special Conditions; Supplementary Conditions; General Conditions; Specifications; Drawings; Bidding Documents; Contractor's Proposal. The Specifications take precedence over Drawings for the specific type or quality of materials or the quality of installation; the Drawings take precedence over the Specifications with regard to quantities, locations or detail of installation; as between schedules and general notes given on Drawings, the general notes shall take precedence; as between general notes given on the Drawings and specific, detailed notes, the latter shall take precedence; as between large-scale Drawings and small-scale Drawings, the larger scale shall take precedence. Specifications having greater detail or specificity; and details take precedence over general drawings.

1.2.4 The Contractor agrees that nothing contained in the Contract Documents or any Contract between the Owner and the Construction Project Manager or the Owner and the Architect shall create any contractual relationship between the Construction Project Manager and the Contractor, the Architect and the Contractor, the Architect and the Construction Project Manager, or between the Owner, Architect and Construction Project Manager and any Subcontractor or Sub-subcontractors. The Contractor acknowledges and agrees that this Agreement is not intended to create, nor shall any provision be interpreted as creating any contractual relationship between the Owner or Contractor and any third parties.

1.2.5 Any material or operation specified by reference to published specifications of a manufacturer, a society, an association, a code, or other published standard, shall comply with requirements of the listed document which is current on date of receipt of Proposals. In case of a conflict between referenced document and Project Specifications, Project Specifications shall govern. In case of a conflict between referenced documents, the one having more stringent requirements or higher value shall govern.

1.2.6 The Contractor, if requested, shall furnish an affidavit from manufacturer certifying that a material or product delivered to job meets requirements specified.

1.2.7 By executing the Contract, the Contractor represents that Contractor has visited the site, familiarized itself with the local conditions under which the Work is to be performed, and correlated Contractor's observations with the requirements of the Contract Documents.

1.2.8 The Contract Documents may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

### 1.3 OWNERSHIP AND USE OF DRAWINGS AND SPECIFICATIONS

1.3.1 Unless otherwise provided in the Contract Documents, the Contractor will be furnished one copy of the Contract Documents. Any reproduction and use of the Contract Documents shall be solely and exclusively for the execution of the Work, and may not be used on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and Architect.

1.3.2 After Bid Award, electronic copies containing simplified versions of the electronic construction drawings will be forwarded to the general contractor for the general contractor's use and distribution as base drawings for the preparation of the general contractor's shop drawings. The Architect, or the Architect's consultants, will not issue electronic drawing files of any nature to anyone other than the Contractor. The electronic copies may contain the following simplified drawings, as deemed appropriate by the Architect: Civil Site Plan(s), Base Floor and Reflected Ceiling Plans from architectural, structural, mechanical, electrical and other specialty consultants, General Building Sections.

The electronic copies will not contain the following items: Addenda issued during bidding, Specifications, Details, Schedules, or other items issued in the Project Manual.

Electronic drawings will generally be in AutoCad format, unless other formats are used by the Architect or their consultants. The Architect will not convert the formats provided to the Contractor, from other formats.

1.3.3 All Drawings, Specifications and copies thereof furnished to, or made by, the Contractor are and shall remain property of the Architect and the Owner. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Owner on request at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the common law copyright or other reserved rights of the holder thereof.

ARTICLE 2  
OWNER

2.1 DEFINITION

2.1.1 The Owner is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number. The term Owner means the Owner or its authorized representatives or agents.

2.2 CONSTRUCTION PROJECT MANAGER

2.2.1 The Construction Project Manager is the Owner's exclusive representative and agent to the Contractor with respect to this Project during construction and until the issuance of the final Certificate of Payment. The Owner's communications with the Contractor and Architect shall be exclusively through the Construction Project Manager. The Construction Project Manager will have full authority to act on behalf of the Owner with regard to all aspects of this Project except that the Owner must approve all Change Orders and payments to the Contractor. All of the Construction Project Manager's actions with regard to this Project will be as an agent and representative of the Owner. If no Construction Project Manager is designated in the Owner-Contractor Agreement, all references to the "Construction Project Manager" shall be deemed to refer to the Owner.

2.2.2 The Construction Project Manager is not authorized to revoke, alter, enlarge, relax or release any requirements of the Contract Documents, nor to approve or accept any portion of the Work not executed in accordance with, nor to issue instructions contrary to the Contract Documents.

2.3 INFORMATION, SERVICES AND RIGHTS OF THE OWNER

2.3.1 The Owner, through the Construction Project Manager, will provide administration of the Contract as hereinafter described.

2.3.2 The Owner and the Construction Project Manager shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.

2.3.3 The Owner and the Construction Project Manager shall not be responsible for or have control or charge of the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

2.3.4 The Owner and Construction Project Manager will not be responsible for the failure of the Contractor to plan, schedule and execute the Work in accordance with the approved schedule or the failure of the Contractor to meet the Contract completion dates or the failure of the Contractor to schedule and coordinate the Work of Contractor's own trades and Subcontractors or to coordinate and cooperate with other separate Contractors.

2.3.5 The Owner and Construction Project Manager will not be responsible for the acts or omissions of the Architect, the Contractor, any other contractor, or any subcontractor, or any other contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.

2.3.6 The Construction Project Manager has authority to disapprove, condemn or reject work on behalf of the Owner when, in the Construction Project Manager's opinion, the Work does not conform to the Contract Documents. Whenever in the Construction Project Manager's reasonable opinion it is considered necessary or advisable to ensure the proper implementation of the intent of the Contract Documents, the Construction Project Manager shall have the authority to require special inspection or testing of any work in accordance with the provisions of the Contract Documents whether or not such work is then fabricated, installed, or completed.

2.3.7 The Construction Project Manager will have authority to require special inspection or testing of the Work in accordance with Subparagraph 2.3.6 whether or not such Work is then fabricated, installed or completed. However, neither the Construction Project Manager's authority to act under Subparagraphs 2.3.6 and 2.3.7, nor any decision made by the Construction Project Manager in good faith either to exercise or to not exercise such authority, shall give rise to any duty or responsibility of the Construction Project Manager to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.

2.3.8 The Construction Project Manager shall have the authority and discretion to call, schedule and conduct job meetings to be attended by the Contractor, Subcontractor representatives and the Architect to discuss such matters as procedures, progress, problems and scheduling.

2.3.9 The Construction Project Manager will establish procedures to be followed for processing all shop drawings, catalogs and other Project reports and other documentation, test reports and maintenance manuals.

2.3.10 The Construction Project Manager will review all requests for changes and shall implement the processing of Change Orders including applications for extensions of time.

2.3.11 The Construction Project Manager will review and process all applications for payment by the Contractor, including final application for payment and will consult with the Architect as appropriate.

2.3.12 The Owner will furnish all surveys in its possession describing the physical characteristics, legal limitations and utility locations for the site of the Project. The Contractor shall carefully review this data since the Owner makes no warranty as to accuracy or completeness of such surveys.

2.3.13 The Owner will secure and pay for easements for permanent structures or permanent changes in existing facilities.

2.3.14 Information or services under the Owner's control will be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.

## 2.4 OWNER'S RIGHT TO STOP THE WORK

2.4.1 If the Contractor fails to correct defective Work as required by Paragraph 4.6 or persistently fails to carry out the Work or supply labor or material in accordance with the Contract Documents, the Construction Project Manager, by a written order, may instruct the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Construction Project Manager to stop the Work on behalf of the Owner shall not give rise to any duty on the part of the Construction Project Manager to exercise this right for the benefit of the Contractor or any other person or entity.

2.4.2 The Construction Project Manager may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as it may determine to be appropriate for the convenience of the Owner.

## ARTICLE 3 ARCHITECT

### 3.1 DEFINITION

3.1.1 The Architect is the person or organization lawfully licensed to practice architecture or engineering, or any entity lawfully practicing architecture or engineering, and identified as such in the Owner-Contractor Agreement, and is referred to throughout the Contract Documents as if singular in number. The term Architect means the Architect and its architects and engineers, whether under contract or within its own organization, or its authorized representatives.

3.1.2 Communications between the Contractor or subcontractors and Architects, employees or subconsultants, shall be limited to matters of information; but in no case shall such communications relate to or authorize changes in the Work or give rise to claims for additional Work. The Architect, its architects, engineers, and their employees must communicate with the Contractor only through the Architect's authorized representative and through the Construction Project Manager as provided elsewhere in these contract documents.

### 3.2 SERVICES OF THE ARCHITECT

3.2.1 The Architect will provide certain services as hereinafter described.

3.2.2 The Architect shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access so the Architect may perform its functions under the Contract Documents.

3.2.3 The Architect is not the agent of the Owner and has no authority to agree on changes in the Contract Sum or Contract Time on the Owner's behalf. The Architect will not be responsible for or have control or charge of the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in



connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not be responsible for the acts or omissions of the Contractor, any Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

3.2.4 The Architect shall review Shop Drawings, Product Data and Samples, and other submissions of the Contractor as well as the Work performed by the Contractor but only for conformance with the design concept of the Project and for general compliance with the Contract Documents. The review of submittals shall be accomplished by the Architect within fifteen (15) calendar days from date of receipt except when authorized otherwise by the Construction Project Manager.

3.2.5 The Construction Project Manager will establish with the Architect, procedures to be followed for review and processing of all Shop Drawings, catalog submissions, Project reports, test reports, maintenance manuals, and other necessary documentation, as well as requests for changes and applications for extensions of time.

3.2.6 The Architect shall, when requested by the Construction Project Manager, prepare Change Orders.

3.2.7 Should errors, omissions or conflicts in the Drawings, Specifications or other Contract Documents by the Architect be discovered, the Architect will prepare such amendments or supplementary documents, and provide consultation as may be required.

3.2.8 The Architect will make such periodic visits to the Project site as may be necessary to familiarize itself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of such on-site observations, the Architect shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. The Architect and its consulting engineers shall not be required to make exhaustive or full-time on-site inspections to check the quality or quantity of the Work, but shall make as many inspections as may be reasonably required to fulfill the Architect's obligations to the Owner.

3.2.9 The Architect will render written field reports to the Construction Project Manager in the form required by the Construction Project Manager relating to the periodic visits and inspections of the Project required by Subparagraph 3.2.8.

3.2.10 The Architect shall consult with the Construction Project Manager regarding the Contractor's Applications for Payment and shall sign the Certificates of Payment as provided in Subparagraph 9.4.2.

3.2.11 If the Architect observes any work that does not conform to the Contract Documents, the Architect shall report this observation to the Construction Project Manager.

3.2.12 The Architect has authority to disapprove, condemn or reject work on behalf of the Owner when, in the Architect's opinion, the Work does not conform to the Contract Documents. Whenever in the Architect's reasonable opinion it is considered necessary or advisable to ensure the proper implementation of the intent of the Contract Documents, the Architect will have the authority to require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work is then fabricated, installed or completed.

3.2.13 The Architect will prepare on a regular basis, a "deficiency list" of items during the process of construction that are not in conformance with the Contract Documents. The Construction Project Manager will transmit such lists to the Contractor for corrections.

3.2.14 The Architect will prepare and submit to the Construction Project Manager "punchlists" at Substantial Completion of Work of the Contractor which are not in conformance with the Contract Documents. The Construction Project Manager will transmit such lists to the Contractor for correction or completion thereof.

3.2.15 The Architect and Construction Project Manager shall conduct observations to determine the dates of Substantial Completion and Final Completion and will jointly issue a final Certificate for Payment.

3.2.16 The Architect will prepare a set of reproducible Record Drawings showing significant changes in the Work made during the construction process, based on the as-built drawings and other data furnished by the Contractor. The Architect will also transmit the as-built drawing in electronic format.

3.2.17 The Architect will provide the Owner assistance in the original operation of any equipment or system such as initial start-up, testing, adjusting and balancing.

3.2.18 As required, the Architect will render to the Construction Project Manager, within a reasonable time, interpretations or clarifications of requirements of the Contract Documents. The Architect will make all interpretations consistent with the intent of, and reasonably inferable from, the Contract Documents. The Architect's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents.

3.2.19 All communications, correspondence, submittals and documents exchanged between the Architect and the Contractor in connection with the Project shall be through the Construction Project Manager or in the manner prescribed by the Construction Project Manager.

3.2.20 If the Owner terminates the employment of the Architect, the Owner may appoint a new Architect. Status of the new Architect under the Contract Documents shall be that of the former Architect.

3.2.21 The Architect is not bound to define the limits of any subcontract, and will not enter into disputes between the Contractor and its employees, including Subcontractors. Notwithstanding any provision of the Contract Documents to the contrary, all decisions, order and certificates of Architect are advisory only and not binding upon Owner until approved by Owner.

#### ARTICLE 4 CONTRACTOR

##### 4.1 DEFINITION

4.1.1 The Contractor is the person or organization identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number. The term Contractor means the Contractor or its authorized representatives, who shall have authority to bind the Contractor in all matters pertinent to this Contract.

4.1.2 The service or services to be rendered under this Contract are those of an independent contractor. Contractor is not an officer, employee or agent of the Owner as those terms are used in ORS 30.265.

4.1.3 Contractor 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.

4.1.4 If this payment is to be charged against federal funds, Contractor certifies that it is not currently employed by the federal government. This does not preclude the Contractor from holding another contract with the Federal Government. Contractor certifies he/she is not an employee of the Jefferson County School District 509J, Jefferson County, Oregon for purposes of performing work under this Contract.

4.1.5 Contractor shall certify that all subcontractors performing Work described in ORS 701.005(2) (i.e., construction work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence Work under the Contract.

##### 4.2 REVIEW OF CONTRACT DOCUMENTS

4.2.1 Before submitting a Proposal to the Owner, and continuously after the execution of this Agreement, the Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner through the Construction Project Manager, any error, inconsistency or omission the Contractor may discover including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. By submitting a Proposal for this Agreement and the Work under it, the Contractor agrees that the Contract Documents, along with any supplementary written instructions issued by or through the Construction Project Manager that have become a part of the Contract Documents, appear accurate, consistent, and complete insofar as can reasonably be determined. If the Contractor has reported in writing an error, inconsistency or omission and has promptly stopped the affected Work until instructed, and otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner or the Architect for any damage resulting from failing to report to the Owner or the Architect of any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall do no Work without Contract Documents and, when required, approved Shop Drawings, Product Data or samples for such portions of the Work.

#### 4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work, using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing any of the Work.

4.3.3 The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Architect or the Construction Project Manager in their administration of the Contract, or by inspections, tests or approvals (or the lack thereof) required or performed under Paragraph 4.22 by persons other than the Contractor.

4.3.4 The Contractor shall employ a competent Superintendent and necessary assistants who shall be in regular attendance at the Project site during all phases of the progress of the Work. The Superintendent shall represent the Contractor and all communications given to the Superintendent shall be as binding as if given to the Contractor. As soon as practicable after Contract award, the Contractor shall provide a management chart and a list of personnel which shall constitute the superintending staff. All references to the Superintendent below shall be taken to mean superintending staff. The Contractor shall not employ a proposed Superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the Superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

4.3.5 The Superintendent shall remain on the Project not less than eight hours per day, five days a week unless the job is closed down due to a general strike, conditions beyond the control of the Contractor, termination of the Contract in accordance with the Contract Documents, or until Final Completion. The Superintendent shall not be employed on any other project during the course of this Work. The Superintendent that is assigned to the Project by the Contractor shall not be relieved of his position until after the Project has had its Final Completion with the Punchlist complete in its entirety, all the O & M Manuals complete, as-built drawings complete and accepted, and all demonstrations have been delivered.

4.3.6 If the Owner and/or Architect object to the Contractor's Project Team (i.e., Superintendent, Project Manager, etc.) that has been assigned to the Project, the Owner will reply in writing within seven (7) days after bid. Contractor will then assign different members to perform the Work acceptable to both Owner and Architect.

4.3.7 Before starting work, the Contractor shall locate all general reference points. The Contractor shall employ a registered surveyor (licensed by the State of Oregon) to perform such work. The Contractor shall take such steps as are necessary to prevent the dislocation or destruction of the reference points, and shall be responsible for the accuracy of the site and building layout and elevations for the work.

#### 4.4 LABOR AND MATERIALS

4.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the execution and completion of the Work in accordance with the Contract Documents and any applicable code, regulation or statute, whether or not specifically required thereby as long as the same is reasonably inferable therefrom as being necessary to produce the intended results, and whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

4.4.2 All work under this Contract shall be performed in a skillful and workmanlike manner.

4.4.3 The Contractor shall at all times enforce strict discipline and good order among its employees and Subcontractors, and shall not employ on the Work any unfit person or anyone not skilled in the task assigned. The Owner may, in writing, require the Contractor to remove from the Work any employee the Owner deems incompetent, careless or otherwise objectionable.

#### 4.5 WARRANTY

4.5.1 The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not conforming to these requirements, including

substitutions not properly approved and authorized, is hereby deemed defective. If required by the Construction Project Manager or the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

4.5.2 If, within one year after the Date of Final Completion of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so. This obligation shall survive Termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

4.5.3 Nothing contained in this Paragraph 4.5 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.6 hereof. The establishment of the time period of one year after the Date of Final Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which its 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 its obligations other than the obligation to correct the Work in accordance with this Paragraph 4.5.

4.5.4 The warranties set forth in Paragraph 4.5 and elsewhere in the Contract Documents shall survive final acceptance under Paragraph 9.9.

#### 4.6 UNCOVERING AND CORRECTION OF WORK

4.6.1 If any portion of the Work should be covered contrary to the request of the Owner, the Architect or the requirements specifically expressed in the Contract Documents, it must be, if required in writing by the Owner, uncovered for observation and shall be replaced at the Contractor's expense.

4.6.2 If any other portion of the Work has been covered which the Architect or the Owner has not specifically requested to observe prior to being covered, either may request to see such Work and it shall be uncovered by the Contractor. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it be found that this condition was caused by the Owner or a separate contractor as provided in Article 6, in which event the Owner shall be responsible for the payment of such costs.

4.6.3 The Contractor shall promptly correct all Work rejected by the Construction Project Manager or the Architect as defective or as failing to conform to the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Architect's and the Construction Project Manager's additional services made necessary thereby.

4.6.4 The Contractor shall, unless removal is waived by the Owner, remove from the site all portions of the Work which are defective or non-conforming, or if permitted or required, shall correct such Work in place by and at the expense of the Contractor promptly after notice, and such rejected Work shall not thereafter be tendered for acceptance unless the Contractor gives notice that the Work was subject to former rejection or requirement of correction.

4.6.5 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Owner, the Owner may either (1) by contract or otherwise replace or correct such Work and charge the Contractor the cost occasioned the Owner thereby and remove and store the materials or equipment at the expense of the Contractor; or (2) terminate this Contract for default as provided in Paragraph 13.3.

4.6.6 The Contractor shall bear the cost of restoring any work of the Owner or separate contractors destroyed or damaged by such correction or removal.

4.6.7 If the Owner prefers to accept defective or non-conforming Work, it may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. If the amount is determined after final payment, it shall be paid to the Owner by the Contractor.

#### 4.7 TAXES

4.7.1 The Contractor shall pay all consumer, use, and other similar taxes for the work or portions thereof provided by the Contractor, which are legally enacted at the time the bids are received, whether or not yet effective. Compliance with all Oregon tax laws shall be certified by the Contractor.

#### 4.8 PERMITS, FEES AND NOTICES

4.8.1 The Owner shall coordinate and obtain all permits necessary to obtain the general building permit for the Project. The Owner will pay for the general building permits (including right of way permits, grading and drainage, foundation, mechanical, plumbing and electrical as necessary to initially begin construction), utility connection fees, system development charges and related inspections. The Contractor will be responsible to obtain and pay for all other permits, assessments, penalties, charges, licensing and re-inspection fees required for the proper execution of the Work which are legally required at the time the bids are received or thereafter as a consequence of the Contractor's acts or omissions. The Contractor is responsible for coordinating and obtaining all required inspections and approval signatures. The Contractor is required to submit all inspection records to the District at the completion of the project and as a prerequisite for final payment. Contractor shall not be entitled to any additional time for performance because of its failure to secure or coordinate with the Owner for procurement of any required permits on a timely basis. The contractor will be required to maintain the permit documents at the site as required by the governing authority.

4.8.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations or orders of any public authority bearing on the performance of the Work.

4.8.3 If the Contractor performs any of the Work knowing it to be contrary to any laws, ordinances, rules, regulation or orders of any public authority bearing on the performance of the Work, and does so without reasonable notice to the Construction Project Manager of same, Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto.

4.8.4 The Contractor and its subcontractors shall comply with the provisions of ORS 757.541 through 757.571 relating to notice prior to excavation.

#### 4.9 ALLOWANCES

4.9.1 Allowances will not be used under this contract.

#### 4.10 CONTRACTOR'S CONSTRUCTION SCHEDULE

4.10.1 The Contractor, immediately after being awarded the Contract, shall prepare and submit, for the Construction Project Manager's approval, a Construction Schedule for the Work which shall provide for expeditious and practicable execution of the Work for completion within the Contract Time. This schedule shall be coordinated with the entire Project Construction Schedule to the extent required by the Contract Documents. The Construction Schedule shall be revised as required by the conditions of the Work and the Project, subject to the Construction Project Manager's approval.

The Contractor's Construction Schedule shall conform to the requirements of Division 1, Section 01 3200.

#### 4.11 RESPONSIBILITY FOR COMPLETION

4.11.1 The Contractor shall furnish such manpower, services, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations, Sundays and holidays, as may be necessary to ensure the prosecution and completion of the Work or specified portions thereof within the specific dates of the Contract. If it becomes apparent to the Construction Project Manager from progress on the current Construction Schedule that the Work will not be completed within the Contract Time, the Contractor agrees that it will, as necessary, take some or all of the following actions, at no additional cost to the Owner, to improve the progress:

1. increase manpower in such quantities and crafts as will substantially eliminate, in the judgment of the Construction Project Manager, the backlog of work;
2. increase the number of working hours per shift, shifts per working day, working days per week or the amount of equipment, or any combination of the foregoing, sufficiently to substantially eliminate, in the judgment of the Construction Project Manager, the backlog of work; and
3. reschedule activities to achieve maximum practical concurrency of accomplishment of activities.

In addition, if any of the conditions noted under paragraph 4.11.2 should occur, the Construction Project Manager may require the Contractor to submit a Recovery Schedule demonstrating the Contractor's proposed plan to make up lag in scheduled progress and to ensure completion of the Work within the Contract Time. If the Construction Project Manager finds the proposed plan not acceptable, it may require the Contractor to submit a new plan. If the actions taken by Contractor or the second plan proposed are not satisfactory, the Construction Project Manager may require Contractor to take any of the actions set forth in this Paragraph 4.11, without additional cost to the Owner, to make up the lag in scheduled progress.

4.11.2 In the event any of the following conditions exist, the Contractor shall, at no additional cost to the Owner, require that its' Superintendent, workers, and all subcontractors affecting the progress of the work be at the job site not less than ten (10) hours per day, six (6) days per week:

1. should Substantial Completion not be accomplished on schedule;
2. should Final Completion not be accomplished on schedule;
3. should the Project schedule indicate the Contractor to be ten (10) or more work days behind schedule at any time during construction up until twenty (20) days prior to scheduled Substantial Completion;
4. should the Project schedule indicate the Contractor to be five (5) or more work days behind schedule at any time during the last twenty (20) days prior to scheduled Substantial Completion.

4.11.3 Failure of the Contractor to substantially comply with the requirements of this Paragraph 4.11 may be considered grounds for a determination by the Owner, pursuant to Subparagraph 13.3.1, that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified.

#### 4.12 DOCUMENTS AND SAMPLES AT THE SITE

4.12.1 The Contractor shall maintain in a safe place at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders, amendments and written interpretations and clarifications, in good order and marked currently to record all changes applicable to the Work made during construction and approved Shop Drawings, Product Data and Samples. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work certified in writing by the Contractor to show complete and exact "as-built" conditions, stating sizes, kind of materials, vital piping, conduit locations and similar matters.

#### 4.13 SHOP DRAWINGS AND SAMPLES

4.13.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.13.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor which illustrate a material, product or system for some portion of the Work.

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

4.13.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents. Contractor shall submit all shop drawings, samples, product data in the quantity and format specified in Division 1, Section 01 3300.

4.13.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that it has determined and verified all materials, field measurements, and field construction criteria related thereto, and that it has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions, pertaining to Shop Drawings, as may be issued by the Construction Project Manager.

4.13.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Architect's review of Shop Drawings, Product Data or Samples under Subparagraph 3.2.4 unless the Contractor has received a Change Order for same. Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Architect's review thereof.

4.13.7 The Contractor shall make any corrections required by the Architect and shall resubmit the corrected copies of Shop Drawings or new Samples. Resubmittal of Shop Drawings necessitated by required corrections shall not be a cause for extension of time. The Contractor shall direct specific attention in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than the corrections requested on previous submittals.

4.13.8 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been reviewed by the Architect as provided in Subparagraph 3.2.4. All such portions of the Work shall be in accordance with approved submittals.

4.13.9 Shop Drawings and Samples shall be dated and bear: Project name; description or names of equipment, materials and items; and complete identification of locations at which materials or equipment are to be installed.

4.13.10 Submission of Shop Drawings, Product Data or Samples shall be accompanied by transmittal letter containing Project name, Contractor's name, number of drawings and samples, titles and other pertinent data.

4.13.11 Each Shop Drawing and Product Data submittal shall bear the Contractor's stamp or seal stating that the submittal has been reviewed by the Contractor and that it conforms to the requirements of the Contract Documents.

#### 4.14 USE OF SITE

4.14.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site or access to the site with any materials or equipment.

4.14.2 The Contractor shall coordinate all of its operations with and secure approval from the Owner before using any portion of the site.

4.14.3 The Contractor shall not occupy the site nor commence work thereon until deemed by the Construction Project Manager to be in compliance with all bond and insurance requirements.

#### 4.15 CUTTING AND PATCHING OF WORK

4.15.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

4.15.2 The Contractor shall not damage or endanger any portion of the Work of the Owner or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner and of such separate contractor. The Contractor shall not unreasonably withhold its consent to cutting or otherwise altering the Work from the Owner or any separate contractor.

4.15.3 Existing structures and facilities, including but not limited to buildings, utilities, topography, streets, curbs, walks, etc., that are damaged or removed due to required excavations or other construction work, shall be patched, repaired or replaced by the Contractor to the satisfaction of the Construction Project Manager, the Architect, the owner of such structures and facilities and authorities having jurisdiction. In the event the local jurisdictional authorities require that such repairing and patching be done with their own labor and materials, the Contractor shall abide by such regulations and pay for such work.

#### 4.16 CLEANING UP

4.16.1 The Contractor at all times shall keep the premises and streets or areas used for access thereto free from accumulation of waste materials or rubbish caused by its operations. At the completion of the Work, the Contractor shall remove all its waste materials and rubbish from and about the Project as well as all tools, construction equipment, machinery and surplus materials.

4.16.2 If the Contractor fails to clean up during or at the completion of the Work, the Owner may do so as provided in Paragraph 6.3 and the cost thereof shall be charged to the Contractor.

#### 4.17 COMMUNICATIONS

4.17.1 The Contractor shall forward all communications, whether to the Architect or Owner, only through the Construction Project Manager. Similarly, all communications to the Contractor from the Owner and Architect will be through the Construction Project Manager.

#### 4.18 ROYALTIES AND PATENTS

4.18.1 The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall indemnify and hold the Owner, Construction Project Manager and Architect harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, it shall be responsible for such loss unless it promptly gives notice of such infringement to the Construction Project Manager.

#### 4.19 INDEMNIFICATION

4.19.1 To the fullest extent permitted by law, the Contractor shall at its sole cost and expense, indemnify, defend, satisfy all judgments and hold harmless the Owner, the Construction Project Manager and the Architect, and their respective directors, officers, agents, representatives, and employees, from and against all claims, actions, judgments, costs, penalties, liabilities damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, action, judgment, cost, penalty, liability, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent or other wrongful act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 4.19. If any provision herein could be read to require a type or degree of indemnification or insurance not permitted by Oregon law, it is hereby expressly restricted to require only that type or degree of indemnification or insurance which is permitted by Oregon law. Without limitation, to the extent required under ORS 30.140, no provision of this Agreement shall require Contractor, or its surety or insurer to indemnify another against liability for damage arising out of death or bodily injury to persons or damage to property caused in whole or in part by negligence of the indemnitee, provided this paragraph shall not affect any provision of this Agreement that requires Contractor or Contractor's surety or insurer to indemnify against liability for damage arising out of death or bodily injury to persons or damage to property to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the indemnitor, or the fault of the indemnitor's agents, representatives or subcontractors.

4.19.2 In any and all claims against the Owner, the Construction Project Manager or the Architect or any of their agents, representatives or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 4.19 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' workmen's compensation acts, disability acts or other employee benefit acts.

4.19.3 No provision of this Paragraph 4.19 shall give rise to any duties on the part of the Construction Project Manager, the Architect or the Owner or their agents, representatives or employees.

4.19.4 It is the intent of this contract to require the Contractor to indemnify the Owner, Construction Project Manager, and the Architect and their agents, representatives and employees, to the fullest extent permitted by Oregon Revised Statutes as it now exists or is hereafter amended. It is specifically intended that the Contractor's indemnity shall cover allegations of concurrent negligence of indemnitor and indemnitee, their agents or employees; and that the duty to so indemnify shall cover all costs of defense of such claims. The Contractor's indemnity obligations shall not cover allegations or adjudicated determinations that the liability arises from the sole negligence of an indemnitee. The Contractor shall provide insurance covering such indemnity obligations subject to the terms and conditions provided in Article 11 including the naming of Owner, Construction Project Manager and Architect as additional insured upon such policy.

4.19.5 The provisions of Subparagraph 4.19 shall survive the completion, termination or expiration of this Contract.

#### 4.20 PERSONS AUTHORIZED TO SIGN DOCUMENTS

4.20.1 The Contractor shall, within five (5) days after Notice to Proceed or execution of the Contract, whichever is earliest, file with the Construction Project Manager a list of all persons who are authorized to sign documents such as contracts, certificates, and affidavits, on behalf of the Contractor and to fully bind the Contractor to all the conditions and



provisions of such documents, except that in the case of a corporation it shall file with the Construction Project Manager a certified copy of a resolution of the Board of Directors of the corporation in which are listed the names and titles of the corporation's personnel who are authorized to sign documents on behalf of the corporation and to fully bind the corporation to all the conditions and provisions of such documents.

#### 4.21 CONDITIONS AFFECTING THE WORK

4.21.1 The Contractor shall be responsible for having taken all steps necessary to ascertain the nature and location of the Work, and the general and local conditions and legal requirements which can affect the Work or the cost thereof. Failure by Contractor to fully acquaint itself with conditions which may affect the Work, including, but not limited to, conditions relating to transportation, handling, storage of materials, availability of labor, utility services, roads, weather, topographic and subsurface conditions, other separate contractors, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the prosecution of the Work, shall not relieve Contractor of its responsibilities under the Contract Documents and shall not constitute a basis for an equitable adjustment under any circumstances. The Owner assumes no responsibility for any understanding or representations concerning conditions made by the Contractor, any of its officers, agents, employees or Subcontractors prior to the execution of this Contract, unless such understanding or representations are expressly stated in the Contract Documents.

4.21.2 If in the execution of the Work any valuable items or materials of any kind are discovered buried or hidden within the Work, such items or materials shall be the property of the Owner. The Contractor shall take reasonable precautions to prevent any persons from removing or damaging such items or materials and shall, immediately upon discovery thereof and before removal, acquaint the Construction Project Manager or the Architect with such discovery and carry out, at the expense of the Owner, the Construction Project Manager's orders as to disposal of the same.

#### 4.22 TESTS

4.22.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall arrange for such inspection, testing or approval, and shall give the Construction Project Manager timely notice of its readiness so the Architect and the Construction Project Manager may observe such inspection, testing or approval. The Owner shall bear all costs of such inspections, tests or approvals.

4.22.2 If the Architect or the Construction Project Manager determines that any Work requires special inspection, testing, or approval which Subparagraph 4.22.1 does not include, the Construction Project Manager will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 4.22.1. If such special inspection or testing reveals a failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including compensation for the Architect's and the Construction Project Manager's additional services made necessary by such failure. If such special inspection or testing reveals that the Work is in compliance with all applicable requirements, the Owner shall bear all costs thereof.

4.22.3 Inspections and tests required to establish compliance with the Contract Documents, as provided for in the Contract Documents, will be made by a pre-qualified, independent testing agency approved by the Owner. The cost of services of such agency will be paid by the Owner. When the initial tests indicate non-compliance with the Contract Documents, any subsequent retesting occasioned by non-compliance shall be performed by the same agency and the cost thereof borne by the Contractor. Representatives of the testing agency shall have access to the Work at all times. The Contractor shall provide facilities for such access in order that the agency may properly perform its functions.

4.22.4 Inspections or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

4.22.5 The independent testing agency shall prepare the test reports, logs, and certificates applicable to the specific inspections and tests and promptly deliver the specified number of copies of same to the designated parties. Certificates of inspection, testing or approval required by public authorities shall be secured by the Contractor and delivered to it by the Owner, in such time as to not delay progress of the Work or final payment therefor.

4.22.6 Inspection and laboratory testing shall be provided as called for in the General Requirements and Technical Specifications by an independent testing consultant retained by the Owner.

#### 4.23 ENVIRONMENTAL POLLUTION

4.23.1 Unless disposition of environmental pollution is specifically a part of this Contract, 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)" are those 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 bona fide risk or danger to the health or well being of Contractor's or any subcontractor's work force.

4.23.2 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).

#### 4.24 SPILL RESPONSIBILITY

4.24.1 Contractor will be responsible for any and all releases of hazardous substances during performance of the Contract which occur as a result of, or are contributed by, actions of its agents, personnel, or subcontractors. Contractor agrees to promptly dispose of such spills or leaks to satisfaction of the Owner and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Owner.

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

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

4.24.1.2 Contractor shall be liable for any and all costs, expenses, damages, claims, and causes of action, or any of them, related to or arising out of a spill, release, discharge, or leak of (or from) any environmental pollutant or hazardous substance or material, to the extent such spill, release, discharge, or leak was caused or contributed to by Contractor's (i) negligence or (ii) failure to perform in accordance with the Contract Documents. Nothing in this paragraph 4.24 shall limit Contractor's liability or responsibility under paragraph 4.19 of the General Conditions.

4.24.2 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 for petroleum products. 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, at a minimum:

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

4.24.2.2 Whether the quantities released require EPA/DEQ reporting, and, if so, when it was reported.

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

4.24.2.4 Containment procedures initiated.

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

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

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

4.25 ENVIRONMENTAL CLEAN-UP

4.25.1 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 certify to the Owner that all environmental pollution clean-up which was performed as part of this Contract has been disposed of in accordance with all applicable rules, regulations, laws, and statutes of all agencies having jurisdictions over such environmental pollution. The notice shall indemnify and hold the Owner harmless from any claims resulting from the disposal of the environmental pollution including removal, encapsulation, transportation, handling, and disposal.

ARTICLE 5  
SUBCONTRACTORS

5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Construction Documents as if singular in number and means a Subcontractor or its authorized representatives. The term Subcontractor does not include any separate contractor or its subcontractors.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or its authorized representatives.

5.1.3 Nothing contained in the Contract Documents is intended to nor shall it create any contractual relationship between the Owner, the Construction Project Manager, the Architect or any of their agents, employees or representatives and any Subcontractor or Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Within five (5) days of receipt of a Notice to Proceed, the Contractor shall furnish to the Construction Project Manager in writing for review and acceptance by the Owner the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Construction Project Manager will promptly reply to the Contractor in writing stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Construction Project Manager to reply promptly shall constitute notice of no reasonable objection. The Contractor understands and agrees that it alone is responsible to the Owner for all of the Work under this Agreement and that any review of Subcontractors or Sub-subcontractors by Owner or the Construction Project Manager will not in any way make the Owner responsible to nor for the actions or failures of any Subcontractor or Sub-subcontractor.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner has made reasonable objection under the provisions of Subparagraph 5.2.1.

5.2.3 If the Owner, the Construction Project Manager or the Architect, has reasonable objection to any such proposed person or entity, the Contractor shall submit a replacement to whom the Owner, the Construction Project Manager and Architect, have no reasonable objection, and the Contract Sum shall be increased or decreased by the difference in cost occasioned by such replacement and an appropriate Change Order shall be issued; however, no increase in the Contract Sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting names as required by Subparagraph 5.2.1 or if the Construction Project Manager stated said objection in writing before the submission by the Contractor of the accepted proposal or if the proposed subcontractor is unable to enter into and carry out its work under its proposed subcontract, or if the Subcontractor fails to comply with all applicable laws, or if the proposed subcontractor is not an on-going business in the field of its proposed subcontract, or if the proposed subcontractor does not have a labor force and the means of supply compatible with the scope of the subcontract.

5.2.4 If the Owner requires a change of any proposed subcontractor or person or organization previously accepted by it the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued.

5.2.5 The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner, the Construction Project Manager or the Architect, makes objection to such substitution.

### 5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By an appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor in terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with its Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and shall identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to its Sub-subcontractors.

### 5.4 PREPARATORY WORK

5.4.1 Before starting each section of Work, the Contractor shall ensure that the responsible Subcontractor has carefully examined all preparatory work that has been executed to receive its work. The Subcontractor shall check carefully, by whatever means are required, to ensure that the work and adjacent related work will finish to proper contours, planes, and levels. The Subcontractor shall promptly notify the Contractor who shall notify the Construction Project Manager in writing of any defects or imperfections in preparatory work which will, in any way, affect satisfactory completion of the Work. Absence of such notification will be construed as an acceptance of preparatory work and later claims of defects therein will not be recognized.

5.4.2 Under no conditions shall a section of Work proceed prior to preparatory work having been completed, cured, dried, and otherwise made satisfactory to receive such related work. Responsibility for timely installation of all materials and equipment rests solely with the Contractor, who shall maintain coordination control at all times.

## ARTICLE 6 WORK BY OWNER OR BY SEPARATE CONTRACTORS

### 6.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under any contract terms and conditions which the Owner, in its sole discretion, may require.

6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

### 6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate its Work with theirs as required by the Contract Documents.

6.2.2 If any part of the Work depends for proper execution or results upon work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, carefully inspect and promptly report to the Owner any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to so inspect and promptly report shall constitute an acceptance of the Owner's or separate contractors' work as fit and proper to receive its Work, except as to latent defects which Contractor could not have reasonably discovered by its inspection.

6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

6.2.4 Should the Contractor wrongfully cause damage to work or property of the Owner, or to other work on the site, the Contractor shall promptly remedy and be wholly responsible for such damage.

6.2.5 Should the Contractor wrongfully cause damage to the work or property of any separate contractor, the Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute at law. If such separate contractor sues or initiates a proceeding against the Owner, the Construction Project Manager and/or the Architect on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings at its own expense, and if any judgment or award against the Owner, the Construction Project Manager and/or the Architect arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Owner, the Construction Project Manager and/or the Architect for all attorneys' fees and court or arbitration costs which the Owner, the Construction Project Manager and/or the Architect have incurred.

6.2.6 In the event there is more than one contractor engaged on the Project, each such contractor shall be responsible to the other for damages to work, injury to any person or persons, or for any loss, cost, claims or damages arising out of or in connection with the work required by each contract with the Owner or any loss, cost, expense or damage caused by separate contractor's neglect or failure to finish or satisfactorily complete its part of the Work within the time prescribed. In all events the provisions of Paragraph 4.19 shall be applicable.

6.2.7 Whenever the Contractor receives items from a separate contractor or from the Owner for storage, erection or installation, the Contractor receiving such items shall give receipt for items delivered, and thereafter will be held responsible for care, storage and any necessary replacing of item or items received.

6.2.8 When certain items of equipment and other work are indicated as "NIC" (not in contract), or to be furnished and installed under other contracts, any requirements for preparation of openings, provision of backing, etc., for receipt of such "NIC" work will be furnished upon written request of the Contractor who shall properly form and otherwise prepare its work in a satisfactory manner to receive such "NIC" work.

### 6.3 OWNER'S RIGHT TO PERFORM DISPUTED WORK

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by the Contract Documents, for accomplishing coordination or doing required cutting, filling, excavating or patching as required by the Contract Documents, the Owner may carry out such work and charge the cost thereof to the several contractors responsible therefor as the Owner shall determine to be just.

## ARTICLE 7 MISCELLANEOUS PROVISIONS

### 7.1 GOVERNING LAW

7.1.1 This Contract shall be governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Contract.

7.1.2 If any of the provisions of this Contract shall be held invalid or unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Contract will not be impaired, if the essential terms and conditions of this Contract remain, valid, binding, and enforceable.

### 7.2 SUCCESSORS AND ASSIGNS

7.2.1 The Owner and the Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it in whole or part without the written consent of the Owner, nor shall the Contractor assign any monies due or to become due to it hereunder, without the prior written consent of the Owner.

7.3 WRITTEN NOTICE

7.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party who gives the notice.

7.4 CLAIMS AND DAMAGES

7.4.1 Claims by either the Owner or Contractor must be initiated by written notice to the other party, with a copy sent to the Architect. Claims by either party must be initiated within 7 days after occurrence of the event giving rise to such claim or within 7 days after the claimant first recognizes the condition giving rise to the claim, whichever is later.

7.5 PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND

7.5.1 Contractor shall secure, include costs therefore in the Proposal, and pay for a performance bond and payment bond in compliance with ORS 279C.380 and other applicable Oregon Revised Statutes issued by a bonding company licensed to transact business in the State of Oregon.

Liability under each bond shall be:

100% of Contract sum for (1) performance of the Contract and (2) labor and material payment.

7.5.2 The Contractor shall deliver the required bonds to the Owner not later than three (3) days following the date the Owner-Contractor Agreement is entered into.

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

7.5.4 The Contractor shall commence no work on site until satisfactory compliance with Subparagraph 7.5.1. through

7.5.3. Failure to obtain such bonds in a timely manner shall not be a basis of claim for extension in time.

7.6 RIGHTS AND REMEDIES

7.6.1 The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the Owner available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law or equity.

7.6.2 The failure of the Owner, the Construction Project Manager or the Architect to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Contract, or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of such provision or right(s) or of the right to subsequently demand such strict performance or exercise such right(s), and the rights shall continue unchanged and remain in full force and effect.

7.6.3 Contractor agrees that it can be adequately compensated by money damages or time extensions for any breach of this Contract which may be committed by the Owner and hereby agrees that, no default, act, or omission of the Owner, the Construction Project Manager or the Architect, except only for failure to make payments as required by the Contract Documents, shall constitute a material breach of the Contract entitling Contractor to cancel or rescind the provisions of this Contract or (unless the Owner shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. Contractor hereby waives any and all rights and remedies to which it might otherwise be or become entitled, saving only its right to money damages or time extensions pursuant to the terms of this contract.

7.7 DISPUTE RESOLUTIONS

7.7.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract shall be subject to mediation as a condition precedent to binding dispute resolution. Mediation shall be before the Arbitration Service of Portland, Inc. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Madras, Oregon, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

7.7.2 Any claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by then-current rules of the Arbitration Service of Portland, Inc. in effect on the date of the Contract. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must

assert in the demand all claims then known to that party on which arbitration is permitted to be demanded. A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Contract shall be specifically enforceable under applicable law in any court having jurisdiction thereof. Each party consents and submits to the jurisdiction of the state courts located in Jefferson County, Oregon.

7.7.3 Either party, at its sole discretion, may consolidate an arbitration conducted under this Contract with any other arbitration to which it is a party provided that the arbitrations to be consolidated substantially involve common questions of law or fact, and the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s). Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder.

## ARTICLE 8 TIME

### 8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Final Completion of the Work, including authorized adjustments thereto.

8.1.2 The date of commencement of the Work is the date established in the Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein.

8.1.3 The Date of Substantial Completion of the Work or designated portion thereof is the date certified by the Architect and the Construction Project Manager when the Work has sufficiently progressed, in accordance with the Contract Documents, so the Owner can fully occupy and utilize the Work or designated portion thereof for the use which it is intended, with all of the parts and systems operable as required by the Contract Documents and where all work is complete, accessible, operable and usable by the Owner. Only incidental corrective work under "punchlists" and final cleaning (if required) beyond cleaning needed for the Owner's full use may remain for Final Completion.

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

### 8.2 PROGRESS AND COMPLETION

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the work on the date of commencement as defined in Subparagraph 8.1.2. It shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial and Final Completion within the Contract Dates stated in the Contract Documents.

8.2.3 If a date or time of completion is included in the Contract, it shall be the Date of Substantial Completion as defined in Subparagraph 8.1.3, including authorized extensions thereto, unless otherwise provided.

8.2.4 Attention is directed to the fact that the Work is urgently needed by the Owner and that time is of the essence. For this reason, it shall be agreed that the Contractor will substantially complete the Work, or designated portions thereof, under the Contract, within the time and dates established in the Contract Documents for such completion, and that it will complete the Contract in all its details for final acceptance as specified after Substantial Completion.

### 8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 Except as specifically provided under Paragraph 2.4 (Owner's Right to Stop Work) or Paragraph 12.1 (Changes in the Work), Contractor shall not be entitled to payment or compensation of any kind from the Owner for direct, indirect, or impact damages, including but not limited to costs of acceleration, arising because of reasonable hindrance or delay

from any cause whatsoever, whether such hindrance or delay be foreseeable or unforeseeable or avoidable or unavoidable provided however, that this provision shall not preclude recovery by Contractor for damages for unreasonable delays or hindrances caused by the acts or omissions of the Owner or persons acting for the Owner. Notwithstanding the foregoing, under no circumstances shall Contractor be entitled to delay damages attributable to a delay in Owner's execution of the Contract unless the Owner executes the Contract after the time provided for in the Contract Documents. The Contractor shall not in any event be entitled to damages arising out of actual or alleged loss of efficiency; morale, fatigue, attitude, or labor rhythm; constructive acceleration; home office overhead; expectant underrun; trade stacking; reassignment of workers; concurrent operations; dilution of supervision; learning curve; beneficial or joint occupancy; logistics ripple; seasons change; extended overhead; profit upon damages for delay; impact damages; or similar damages. Except as provided in this subparagraph, the Contractor's sole remedy for delays shall be an extension of time.

8.3.2 The Contract Time shall be adjusted only for Changes in the Work (pursuant to Paragraph 12.1), Owner's Rights to Stop Work (pursuant to Subparagraph 2.4) and Excusable Delays (pursuant to Subparagraph 8.3.3). In the event the Contractor requests an extension of the Contract Time, it shall furnish such justification and supporting evidence as the Owner may deem necessary for a determination as to whether the Contractor is entitled to an extension of time under the provisions of this Contract. The Owner, after receipt of such justification and supporting evidence, shall make its findings of fact and decision thereon and shall advise the Contractor in writing thereof. If the Owner finds that the Contractor is entitled to any extension of the Contract Time, the Owner's determination as to the total number of days' extension shall be based upon the currently approved schedule and on all data relevant to the extension. Such data will be included in the next monthly updating of the schedule. The Contractor acknowledges and agrees that actual delays (due to said changes, suspension of Work or excusable delays) in activities which, according to the schedule, do not affect the Contract Time or Specific Dates, will not be the basis for an extension of the Contract Time or Specific Dates.

8.3.3 Subject to other provisions of this Contract, Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Sum) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its Subcontractors as follows:

8.3.3.1 Labor strikes (including strikes affecting transportation), that do, in fact, directly and critically affect the progress of the Work; however, an extension of Contract Time on account of an individual labor strike shall not exceed the number of calendar days of said strike;

8.3.3.2 Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed work or stored materials, provided that an act of neglect by the Contractor did not contribute to such damage;

8.3.3.3 Abnormal inclement weather; however

1. Contractor agrees that it shall not be entitled to a time extension for normal inclement weather which can be expected at the Project locale due to precipitation **or** temperature, based upon actual data from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) for the locale of the Project.
2. Contractor agrees that the measure of abnormal inclement weather due to precipitation **or** temperature during the period covered by this Contract shall be the number of days in excess of the average of the previous 10 years as shown in the NOAA weather data, in which precipitation exceeded the average by 0.10 inch (or in the case of snow or ice pellets, 1 inch or more), or in which the highest temperature was 32 degrees F. or below. Either precipitation **or** temperature will be used for the entire month in question.
3. No extension of time will be made for abnormal inclement weather after the principal portions of the Work are enclosed except for site work which critically affects the Contract Time or Specific Dates. For the purpose of this Paragraph 8.3, the term "enclosed" is defined to mean when the Work is sufficiently closed in (exterior walls up and roof in place) so as to permit any structure, or major portion thereof which is part of the Work, to be adequately heated so as to allow the various trades to perform their work. The Construction Project Manager shall determine when the structure is



"enclosed" and shall issue, upon the request of Contractor, a letter certifying the date the Work became enclosed for the purposes thereof.

4. If the total calendar days lost due to inclement weather, from the start of the Work at the Project site by the Contractor until the principal portions of the Work are enclosed, exceeds the total number of days to be expected for the same period, a time extension, if granted, shall only be the number of calendar days needed to equal the excess number of calendar days lost due to such abnormal inclement weather.

8.3.3.4 Acts of the public enemy, acts of the State, Federal or local Government in its sovereign capacity, and acts of another contractor in the performance of a contract with the Owner relating to the Project.

8.3.4 All claims for extensions of time shall be made in writing to the Construction Project Manager no more than seven (7) days after the beginning of the delay; otherwise all such claims are waived by the Contractor. In the case of a continuous cause of delay only one written claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

8.3.5 If no schedule or agreement is made stating the dates upon which written interpretations as set forth in Subparagraph 3.2.17 shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen (15) days after demand is made for them, and not then unless such claim is reasonable.

## ARTICLE 9 PAYMENTS AND COMPLETION

### 9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Owner-Contractor Agreement and, including authorized adjustments thereto, is the total amount payable by the Owner to the Contractor for the performance of the Work under the Contract Documents.

### 9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Owner a Schedule of Values allocated to the various portions of the Work, as set forth in Division 1, Section 01 2973 of the General Requirements entitled "Schedule of Values," and supported by such data to substantiate its accuracy as the Construction Project Manager and the Owner may require. This schedule, unless objected to by the Owner, shall be used only as a basis for the Contractor's Applications for Payment.

### 9.3 APPLICATIONS FOR PAYMENT

9.3.1 On or about the dates specified in the Contract Documents, Contractor shall meet with the Construction Project Manager and submit a completed Progress Report, in accordance with the requirements of Contract Documents, supported by such data substantiating the Contractor's right to payment as the Owner or Construction Project Manager may require. Contractor shall also certify that it has paid all due and payable amounts for which previous certificates for payment were issued and payments received from the Owner. Each application for payment thereafter shall include the Contractor's statement that prevailing wages have been paid in accordance with ORS 279C.800 through 279C.870.

9.3.1.1 The submission and approval of the Construction Schedule and monthly updates thereof as required by the Contract Documents shall be an integral part and basic element of the Application upon which progress payment shall be made. The Contractor shall be entitled to progress payments only upon substantial compliance with all the requirements of this Article 9, which compliance shall be a condition precedent to the processing of Contractor's Applications.

9.3.2 Retainage shall be in accordance with ORS 279C.550 through 279C.570.

9.3.2.1 The Owner shall make progress payments on the contract monthly as work progresses on the Work. Payments shall be based upon estimates of work completed that are approved by the Architect and the Owner. A progress payment shall not be considered acceptance or approval of any work or waiver of any defects therein. The Owner shall pay to the Contractor interest on the progress payment, not including retainage, at a rate equal to 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 invoice from the contractor or 15 days after the payment is approved by the contracting agency, whichever is the earlier date, but the rate of interest may not exceed 30 percent. The interest shall commence 30 days after the request for payment is made by the Contractor or 15 days after the payment is approved by the Owner, whichever is the earlier date.

9.3.2.2 The Owner shall reserve as retainage from any progress payment on this Contract an amount not to exceed five percent of the payment.

9.3.2.3 The retainage held by the Owner shall be included in and paid to the Contractor as part of the final payment of the Contract Sum. The Owner shall pay to the Contractor interest at the rate of one and one-half percent per month on the final payment due the Contractor, interest to commence 30 days after the work under the contract has been completed and accepted and to run until the date when the final payment is tendered to the Contractor. The Contractor shall notify the Owner in writing when the Contractor considers the work complete and the Owner shall, within 15 days after receiving the written notice, either accept the work or notify the Contractor of work yet to be performed on the Contract. If the Owner does not within the time allowed notify the Contractor of work yet to be performed to fulfill contractual obligations, the interest provided by this subparagraph shall commence to run 30 days after the end of the 15-day period.

9.3.3 Payments may be made by the Owner at its sole discretion, on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site by the Contractor. Materials once paid for by the Owner become the property of the Owner and may not be removed from the Project site without the Owner's written permission.

9.3.4 The Contractor warrants that title to all Work (including all materials and equipment) within the scope of an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor from Owner, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances (hereinafter referred to in this Article 9 as "liens"); and that no Work, materials or equipment covered by Application for Payment will have been acquired by the Contractor, or by any other person performing or furnishing any portion of the Work for Contractor, subject to an agreement under which a security interest therein or any other encumbrance thereon is retained by the seller or supplier, or is otherwise imposed thereon by Contractor or such other person.

9.3.5 Everything charged to the Contractor by the Owner under the provisions of the Contract shall be paid to the Owner within three (3) days of written demand. Such charges may be deducted by the Owner from monies due or to become due under the Contract. The Owner may recover such charges from the Contractor or its surety.

#### 9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Construction Project Manager after receipt of the Contractor's Application for Payment, will within a reasonable time issue a Certificate of Payment to the Owner, with a copy to the Contractor, for such amount as the Construction Project Manager and Architect, determine is properly due, or notify the Contractor in writing of the reasons for withholding a Certificate as provided in paragraph 9.6.

9.4.2 The signing of a Certificate for Payment will constitute a representation by the Construction Project Manager or Architect to the Owner, that based upon observations at the site, pursuant to their agreements with the Owner, and the data comprising the Application for Payment, the Work has progressed to the point indicated and that, to the best of their knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to: an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion; the results of any subsequent tests required by or performed under the Contract Documents; minor deviations from the Contract Documents correctable prior to completion; and any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, by signing a Certificate for Payment, the Construction Project Manager and Architect shall not thereby be deemed to represent that either has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, or that either has reviewed the construction means, methods, techniques, sequences or procedures, or that either has made any examination to ascertain how or for what purpose the Contractor has used the monies previously paid on account of the Contract Sum.

9.5 PROGRESS PAYMENTS

9.5.1 After a Certificate for Payment has been issued, the Owner shall make payment in the manner and within the time provided in Division 1, Section 01 2900.

9.5.1.1 Prior to the twenty-fifth (25<sup>th</sup>) day of each month, the Contractor shall submit to the Architect and the Construction Project Manager a draft Application for Payment. The Application shall be on the forms required by Division 1, Section 01 2900 and shall be accompanied by such other certificates as may be required by the Owner. On or before the last day of each month, the Contractor shall submit to the Architect and the Construction Project Manager an Application for Payment that has been corrected from the draft Application. No Application for payment will be accepted after the date of Substantial Completion until the Request for Final Payment, except that if extensions in the contract Time total thirty (30) calendar days or more there shall be additional progress payments for each full thirty (30) calendar days of the Contract Time extension.

9.5.1.2 The Owner shall make payment on or before the fourteenth (14<sup>th</sup>) day of the month following Application submittal. Progress payments shall bear interest at the statutory rate established in ORS 279C.570, thirty days (30) after the request for payment is made by the Contractor or fifteen days (15) after the payment is approved by the Owner, whichever is the earlier date. Interest, if any, on a final payment due and unpaid shall commence upon expiration of the applicable time period under Article 13.

9.5.2 The Contractor shall pay each Subcontractor (including material suppliers and laborers) performing labor or furnishing material for the Work within seven (7) days of receipt of payment from the Owner out of the amount paid to the Contractor on account of the Work of such Subcontractor, material supplier, or laborer, the amount which said Subcontractor is entitled as required by Oregon Revised Statutes, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Work. The Contractor shall, by an appropriate agreement with each Subcontractor, also require each Subcontractor to make payments to its Sub-subcontractors in similar manner. The Contractor or Subcontractor may withhold payment of not more than 5% from the monies earned by any Subcontractor or any Sub-subcontractor or supplier in accordance with ORS 701.410 to 701.440 as it now exists or may hereafter be amended except as provided in ORS 279C.580.

9.5.3 The Owner may, on request and at its discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Construction Project Manager on account of Work done by such Subcontractor.

9.5.4 Neither the Owner, the Construction Project Manager nor the Architect shall have any obligation to pay, nor to see to the payment of, any monies to any Subcontractor except as may otherwise be required by law.

9.5.5 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work which is not in accordance with the Contract Documents.

9.5.6 Contractor agrees to keep the Work and the site(s) on which Work is to be performed free and clear of all liens and claims of liens on materials furnished pursuant to the Contract Documents. Contractor hereby waives any right it may have in connection with the Work to file any liens, mechanics or otherwise. Notwithstanding anything to the contrary contained in the Contract Documents, if any such lien is filed or there is any reason to believe that any lien may be filed at any time during the progress of the Work or the duration of this Contract, the Owner may refuse to make any payment otherwise due the Contractor or withhold from any payment due to Contractor a sum sufficient in the opinion of the Owner to pay all obligations and expenses necessary to satisfy such lien or claim and completely indemnify the Owner against any such lien or claim unless and until Contractor shall furnish satisfactory evidence that the indebtedness and the lien in respect thereof, if any, has been satisfied, discharged and released of record or that the Contractor has caused such lien to be released of record if and as provided by law pending the resolution of any dispute between Contractor and the person filing such lien; and if such evidence is not furnished by Contractor to the Owner within a period of five (5) days after demand to do so, the Owner may discharge such indebtedness and deduct the amount required therefore, together with any and all losses, costs, damages and attorney's fees suffered or incurred by the Owner from any sum payable to Contractor under the Contract Documents. Final Payment to Contractor may be withheld until the Work and the site(s) on which the Work is to be performed are free and clear of any and all liens or rights thereto arising because of Work performed or materials furnished under the Contract Documents. This Subparagraph 9.5.6 shall be specifically included in all subcontracts and Purchase Orders entered into by Contractor.

9.5.7 Pursuant to Oregon Revised Statutes ORS 279C.505, the Contractor shall make prompt payment, as due, to all persons supplying to the Contractor labor or material for the prosecution of the work provided for herein, pay all contributions or amounts due the State Industrial Accident Fund from the Contractor incurred in the performance of the contract herein, not permit any lien or claims to be filed or prosecuted against the Owner on account of any labor or material furnished, and to pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

9.5.8 Pursuant to ORS 279C.515, if the Contractor fails, neglects or refuses to make prompt payments of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with a "public contract", as defined in ORS 279A, as such claim become due, the proper official representing the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to come due the Contractor by reason of this Contract, but the payment of a claim in the manner authorized herein shall not relieve the Contractor or its surety from its or its obligation with respect to any unpaid claims.

#### 9.6 PAYMENTS WITHHELD

9.6.1 The Construction Project Manager and Architect may decline to certify payment and may withhold the Certificate in whole or in part, to the extent necessary to protect the Owner, if in their opinion they are unable to make representations to the Owner as provided in Subparagraph 9.4.2. If the Construction Project Manager and Architect are unable to make representations to the Owner as provided in Subparagraph 9.4.2 and to certify payment in the amount of the Application, they will notify the Contractor as provided in Subparagraph 9.4.1. If the Contractor, the Architect and the Construction Project Manager cannot agree on a revised amount, the Construction Project Manager and Architect will promptly issue a Certificate for Payment in the amount for which they are able to make such representations to the Owner. The Construction Project Manager and Architect may also decline to certify payment or any part thereof or, because of subsequent observations, they may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in their opinion to protect the Owner from loss because of:

1. defective work not remedied;
2. third party claims filed or reasonable evidence indicating probable filing of such claims;
3. failure of the Contractor to make payments as required by the Contract to Subcontractors or for labor, materials or equipment;
4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
5. damage to the Owner or another contractor;
6. reasonable evidence that the Work will not be or has not been completed within the Contract Time or Specific Dates;
7. failure to carry out the Work in accordance with the Contract Documents;
8. liens filed or reason to believe it is probable a lien will be filed for any portion of the Work, as more specifically provided in Subparagraph 9.5.6; or
9. failure or refusal of the Contractor to fully comply with Division 1, Section 01 3200 of the General Requirements entitled "Schedules and Reports."

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made for amounts withheld because of them.

#### 9.7 FAILURE OF PAYMENT

9.7.1 If the Owner does not make payment to the Contractor within the time provided for elsewhere in the Contract Documents, or if no time is stated, within a reasonable time, after receipt of the Contractor's approved Application for Payment from the Construction Project Manager; and if the Contractor is not responsible for such failure; and if the Owner is otherwise not entitled under the Contract Documents or applicable law to withhold payment, Contractor shall give Owner written notice thereof within seven (7) days of such failure to make payment. Should the Owner fail, within fourteen (14) days of receipt of such notice from the Contractor, to make payment to Contractor or to specify, in writing, the justification for withholding or not making payment, Contractor may stop the Work until payment of the amount owing according to the Contract Documents has been received. In such event, the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be effected by appropriate Change Order as provided herein. Should Owner specify to Contractor, within the fourteen (14) day period stated

above, the basis for the Owner's refusal to make payment, such decision of the Owner shall be final and binding upon the Contractor unless the Contractor, within seven (7) days of the receipt of such writing from the Owner, notifies the Construction Project Manager.

#### 9.8 SUBSTANTIAL COMPLETION

9.8.1 When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for the Owner a list of items to be completed or corrected and request in writing that the Work be inspected for Substantial Completion determination. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Architect and the Construction Project Manager, on the basis of an inspection, jointly determine that the Work or designated portion thereof is substantially complete, they will then prepare a Certificate of Substantial Completion, state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall not commence until the Date of Final Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion or the Contract Documents. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

9.8.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Construction Project Manager and the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or such portion thereof, as provided in the Contract Documents.

9.8.3 Should the Architect and the Construction Project Manager determine that the Work or the portion thereof designated by Contractor pursuant to Subparagraph 9.8.1 is not substantially complete, they shall provide the Contractor a written notice stating why the Work or designated portion thereof is not Substantially Complete. The Contractor shall expeditiously complete the Work and shall re-request in writing that the Architect and the Construction Project Manager perform a Substantial Completion inspection. Contractor shall pay Owner for all costs associated with such re-inspection by the Construction Project Manager and Architect.

9.8.4 The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the Application for Payment for the Substantial Completion payment, and except for the sum due for Final Completion and the retainage sum due after Final Completion.

#### 9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect and the Construction Project Manager will promptly make such inspection and, when they find the Work acceptable under the Contract Documents and the Contract fully performed, they will jointly issue a final Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. The final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.9.2 have been fulfilled.

9.9.1.1 For Final Completion of the Work or designated portion thereof to be achieved, (1) Substantial Completion of the Work or designated portion thereof must have been achieved, (2) the Owner must have received a final certificate of occupancy and all other governmental approvals necessary and required for the Owner to occupy or utilize the Work or designated portion thereof for its intended purpose, or a temporary certificate of occupancy if Contractor is not responsible for the non-issuance of a final certificate of occupancy, (3) the Contractor must have submitted all warranties, operating and maintenance manuals, as-built drawings and Specifications, keys and other submittals required for the Work or designated portion thereof, and (4) the Contractor otherwise must have fully performed and completed all of its other obligations required for Final Completion under the Contract Documents with respect to the Work or designated portion thereof.

9.9.2 Neither final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens as required by Subparagraph 9.5.6 and the Contractor submits to the Owner (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or its

property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, (3) valid waivers of all construction lien claims by the Contractor and each Subcontractor in a form acceptable to the Owner, and (4) 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 any 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 any loss. If any such lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the Owner may be compelled to pay in discharging such lien or claim, including all costs and attorneys' fees. The Owner may withhold from final payment any sum that the Owner has reason to believe may be needed to satisfy any lien, claim or threat of lien arising out of the Work. The Owner may deduct from final payment an amount equal to any costs, expenses and attorneys' fees incurred by the Owner in removing or discharging any liens arising out of the Work. Payment of the retained percentage shall be in accordance with and subject to the conditions as set forth in ORS 279C.570.

9.9.3 If Owner, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the Contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and may make payment in proportion to the amount of work accomplished.

9.9.4 The making of Final Payment shall not constitute a waiver of any claims by the Owner against the Contractor.

9.9.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

#### 9.10 LIQUIDATED DAMAGES

9.10.1 Should the Contractor fail to substantially complete the Work on or before the date stipulated for Substantial Completion (or such later date as may result from extension of time granted by Owner), it shall pay the Owner, as liquidated damages, the sum specified in the Contract for each consecutive calendar day that terms of the contract remain unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the Contractor to complete the Work or designated portion thereof within time as stipulated; it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

9.10.2 For each consecutive calendar day that the Work remains incomplete after the date established for Final Completion, the Owner will retain from the compensation otherwise to be paid to the Contractor the sum specified in the Contract. This amount is the minimum measure of damages the Owner will sustain by failure of the Contractor to complete all remedial work, correct deficient work, clean up and other miscellaneous tasks as required to complete all work specified. This amount is in addition to the liquidated damages prescribed above.

9.10.3 For the purposes of Liquidated Damages, the date of Final Completion shall be the date as stated in the Architect's letter to the Owner that the Project is finally complete.

#### 9.11 OWNER'S RIGHT TO OCCUPY INCOMPLETE WORK

9.11.1 Should the Work, or any portion thereof, be incomplete for Substantial Completion or Final Completion at the scheduled date or dates, the Owner shall have the right to occupy any portion of the Work. In such an event, the Contractor shall not be entitled to any extra compensation on account of said occupancy by the Owner or by the Owner's normal full use of the Work, nor shall the Contractor interfere in any way with said normal full use of the Work. Further, in such an event, the Contractor shall not be entitled to any extra compensation on account of the Owner's occupancy and use of the Work, nor shall the Contractor be relieved of any responsibilities of the Contract including the required times of completion. Such occupancy by the Owner does not, by itself, constitute Substantial Completion nor Final Completion.

### ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

## 10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Owner, the Construction Project Manager and the Architect, or their agents, employees or representatives, are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for safety precautions and programs in connection with the Work. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

10.1.2 Any notice given to the Contractor by the Owner, the Construction Project Manager or the Architect of a safety or property protection violation will not; (1) relieve the Contractor of sole and complete responsibility for the violation and the correction thereof, or of sole liability for the consequences of said violation; (2) impose any obligation upon Owner, Construction Project Manager or Architect to inspect or review Contractor's safety program or precautions or to enforce Contractor's compliance with the requirements of this Article 10; and (3) impose any continuing obligation upon Owner, Construction Project Manager or Architect to provide such notice to Contractor or any other person or entity.

## 10.2 SAFETY OF PERSONS AND PROPERTY

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

1. all employees on the Work and all other persons who may be affected thereby;
2. all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavement, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, any Subcontractor, and Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Clause 10.2.1.2 and 10.2.1.3, except damage or loss caused by the acts or omissions of the Owner or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to its obligations under Paragraph 4.19.

10.2.6 The Contractor shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents and monitoring of the Work to insure compliance with all applicable laws, ordinances, rules, regulations and lawful orders of public authority bearing on the safety of persons or protection of property. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the Owner.

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

## 10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at its discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.

ARTICLE 11  
INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain such insurance as will protect it, the Owner, the Construction Project Manager and the Architect and their agents, representatives and employees from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by itself or by any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' compensation, disability benefit and other similar employee benefit acts (with Workers' Compensation and Employers Liability Insurance in an amount not less than those necessary to meet the statutory requirements of the state(s) having jurisdiction over any portion of the Work;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of persons performing work or services or supplying materials for the Work;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- .7 Without limiting the above, during the term of the Contract, the Contractor shall, at its own expense, purchase and maintain the following insurance with companies licensed to do business in the jurisdiction in which the Project is located and satisfactory to the Owner.

1. Workers' Compensation with limits as required by law.
2. Employer's Liability (Stop Gap) \$ 1,000,000
3. Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form. This coverage shall include contractual liability insurance for the indemnity provided under this contract. The \$2,000,000 Each Occurrence limit can be met by any combination of underlying General Liability and Umbrella or Excess coverage limits to meet the below requirements:

The following limits of insurance will be carried:

a.	Coverage	Limit
	Each Occurrence	\$2,000,000
	General Aggregate	\$4,000,000 *
	Products-Completed Operations Aggregate	\$4,000,000*
	Personal & Advertising Injury	\$2,000,000
	Fire Damage (Any one Fire)	\$100,000
	Medical Expense	\$5,000

\*To apply on a per location basis

4. Comprehensive Automobile Liability covering all owned, non-owned, and hired automobiles ("Symbol 1"):
  - a. Combined Single Limit \$ 1,000,000
5. Umbrella coverage will also be required, and will apply over all primary liability policies including but not limited to coverages outlined in 2, 3, & 4 above.
  - a. Occurrence/Aggregate Limit \$ 2,000,000



6. Jefferson County School District 509J, its officers, directors, employees, Construction Project Manager, and Architect shall be named as additional insured on all liability policies, by endorsement. This additional insured coverage shall include completed operations.
7. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the Jefferson County School District. Any failure to comply with this provision will not affect the insurance coverage provided to the District.
8. As evidence of the insurance coverage required by this contract, including additional insured endorsement, the contractor shall furnish a Certificate of Insurance to Jefferson County School District. No contract shall be effected until the required certificates have been received and approved by the District. A renewal certificate will be sent to the District 10 days prior to coverage expiration. Where noted above, copies of policy endorsements must be attached to all Certificates of Insurance. Note that certificates cannot change, modify or endorse insurance policies.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be primary and noncontributing to any insurance possessed or procured by the Owner, and limits of liability shall not be less than those set forth in the Special Conditions of this Contract.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 4.19.

11.1.4 The insurance required by Subparagraph 11.1 shall be written for not less than any limits of liability specified in the Contract Documents or required by law, whichever is greater.

11.1.5 Before signing this Contract, or commencing work on any project or allowing any Subcontractor to commence work, the Contractor shall obtain all insurance required under this subparagraph. The Contractor shall maintain this insurance until Final Completion. Proof of insurance will be required prior to performing work under the warranty.

11.1.6 The service or services to be rendered under this contract are those of an independent contractor in accordance with ORS 670.600 and 670.605. Contractor is not an officer, employee or agent of the Owner as those terms are used in ORS 30.265.

11.1.7 The Contractor, its subcontractors, if any, and all employees providing work, labor or materials under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide worker's compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide Oregon worker's compensation coverage for their workers who work at a single location within Oregon for more than thirty days (30) in a calendar year. Contractors who perform the work without the assistance or labor of any employee need not obtain such coverage. This shall include Employers Liability Insurance with coverage limits of not less than \$1,000,000 each accident.

11.1.8 Coverages provided by the Contractor must be underwritten by an insurance carrier deemed acceptable by the Owner. The Owner reserves the right to reject any or all insurance carrier(s) with an unacceptable financial rating.

#### 11.2 - PROPERTY INSURANCE

11.2.1 Unless otherwise provided, the Owner shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. All contractors, subcontractors, and sub-subcontractors will be financially responsible for their own equipment, tools, machinery, and supplies during the course of this project. If not covered under the all risk insurance or other wise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit.

11.2.2 Any loss insured under Subparagraph 11.2.1 is to be adjusted with the Owner and made payable to the Owner as trustee for this insured, as their interests may appear, subject to the requirements of any applicable mortgagee clause and of Subparagraph 11.2.8. The Contractor shall pay each Subcontractor a just share of any insurance monies

received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each Subcontractor to make payments to its Sub-subcontractor in similar manner.

11.2.3 The Owner and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this Paragraph 11.2 or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee. The Contractor shall require, by appropriate agreement, written where legally required for validity, similar waivers in favor of the Owner and the Contractor by Subcontractors and Sub-subcontractors. With respect to the waiver of rights of recovery, the term Owner shall be deemed to include, to the extent covered by property insurance applicable thereto, its consultants, employees and agents, including the Construction Project Manager and the Architect and their consultants, officers, employees and agents. The Contractor waives as against any separate contractor described in Article 6 all rights for damages caused by fire or other perils in the same manner as is provided above as against the Owner. The Owner shall require, by appropriate agreement, written where legally required for validity, similar waivers in favor of the Contractor by any separate contractor and its Subcontractors and Sub-subcontractors.

11.2.4 If required in writing by any party in interest, the Owner as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of its duties. It shall deposit in a separate account any money so received, and it shall distribute it in accordance with such agreement as the parties in interest may reach, or in accordance with a court order or award. If after such loss no other special agreement is made, replacement of damaged work shall be covered by an appropriate Change Order.

11.2.5 The Owner as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within five days after the occurrence of loss to the Owner's exercise of this power, and if such objection be made, the matter shall be decided by a court of competent jurisdiction or as the parties in interest otherwise agree. The Owner as trustee shall, in that case, make settlement with the insurers in accordance with the directions of such arbitrators. If distribution of the insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

11.2.6 If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, Contractor shall obtain the consent of the insurance company or companies providing the property insurance, by endorsement to the policy or policies. No insurance required by this Article 11 shall be canceled or lapsed on account of such partial occupancy or use.

11.2.7 In the event Contractor neglects, refuses or fails to provide the insurance required under the Contract Documents, or if such insurance is canceled for any reason, the Owner shall have the right but not the duty to procure the same, and the cost thereof shall be deducted from monies then due or thereafter to become due to Contractor.

11.2.8 Contractor will be responsible for a deductible carried by the Owner on Property Insurance policies referenced in 11.2.1. This deductible level will be \$25,000 per occurrence.

### 11.3 EFFECT OF SUBMISSION OF CERTIFICATES

11.3.1 The Owner and Construction Project Manager shall be under no obligation to review any Certificates of Insurance provided by the Contractor or to check or verify the Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. The Contractor is fully liable for the amounts and types of insurance required herein and is not excused should any policy or certificate of insurance provided by the Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.

### 11.4 FAILURE OF COMPLIANCE

11.4.1 Should the Contractor fail to provide and maintain in force any and all insurance, or insurance coverage required by the Contract Documents or by law, or should a dispute arise between Owner and any insurance company of Contractor over policy coverage or limits of liability as required herein, the Owner shall be entitled to recover from the Contractor all amounts payable, as a matter of law, to Owner or any other parties, including but not limited to the Construction Project Manager and the Architect, had the required insurance or insurance coverage been in force. Said recovery shall include, but is not limited to interest for the loss of use of such amounts of money, plus all attorney's fees costs and expenses incurred in securing such determination and any other consequential damages arising out of the failure of the Contractor or insurance company to comply with the provisions of the Contract Documents, or any policy

required hereby, or any other requirements regarding insurance imposed by law. Nothing herein shall limit any damages for which Contractor is responsible as a matter of law.

ARTICLE 12  
CHANGES IN THE WORK

12.1 CHANGES IN THE WORK

12.1.1 The Owner may, at any time, without notice to the sureties and without invalidating the Contract, by written order designated or indicated to be a Change Order, make any Change in the Work within the general scope of the Contract, including, but not limited to Changes:

1. in the Specifications and the Drawings,
2. in the sequence, method or manner of performance of the Work,
3. in the Owner-furnished facilities, equipment, materials, services or site, or
4. directing acceleration in the performance of the Work.

12.1.2 Any other written order (which terms as used in this Subparagraph shall include direction, instruction, interpretation or determination) from the Owner, the Construction Project Manager or the Architect which causes any such change, shall be treated as a Change Order under this subparagraph, provided that the Contractor gives the Construction Project Manager prompt, written notice stating the date, circumstances and source of the order and that the Contractor regards the order as a Change Order.

12.1.3 Except as provided in Subparagraphs 12.1.1 and 12.1.2, no order, statement, or conduct of the Owner, the Construction Project Manager or the Architect shall be treated as a change or entitle the Contractor to an equitable adjustment hereunder.

12.1.4 If any change under this Paragraph 12.1 causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the Work under this Contract, including work not affected directly by the change, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective Specifications, no claim for any Change under Subparagraph 12.1.2 shall be allowed for any costs incurred more than seven (7) days before the Contractor gives the Construction Project Manager written notice as therein required.

12.1.5 If the Contractor intends to assert a claim for an equitable adjustment under this Article, it must, within twenty (20) days after receipt of a written Change Order under Subparagraph 12.1.1 above or the furnishing of a written notice under Subparagraph 12.1.2, submit to the Construction Project Manager a written statement setting forth the general nature and approximate cost of such claim, unless this period is extended by the Construction Project Manager. The statement of claim hereunder may be included in the notice under Subparagraph 12.1.2 above.

12.1.6 No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after Final Payment under this Contract.

12.1.7 The cost or credit to the Owner resulting from a Change in the Work shall be determined in one or more of the following ways (subject to DJ-AR 49-0910):

1. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data as the Construction Project Manager may require to permit evaluation. At a minimum, the Contractor shall submit an itemized breakdown of the cost and/or time required by the Change in the Work including, but not limited to, the following:
  - .a Material quantities and costs.
  - .b Direct labor hours and hourly rates for specific work or operation to be performed.
  - .c Equipment costs or rental charges.
  - .d Specified overhead and profit markup as identified in Subparagraph 12.1.10.
2. by unit prices stated in the Contract Documents or subsequently agreed upon;
3. by cost to be determined in a manner agreed upon by the parties plus a stipulated fixed or percentage fee; or
4. by the method provided in Subparagraph 12.1.12.

12.1.8 For the purposes of Subparagraph 12.1.7, cost shall be limited to the following: cost of materials and equipment, including cost of delivery; cost of in-field labor not including project staff or supervision, including Social Security, payroll taxes, fringe benefits, unemployment insurance and workers' compensation insurance; rental rate of and fuel for power tools and equipment not normally on the project.

12.1.9 For the purposes of Subparagraph 12.1.7, overhead shall include the following: project insurance, taxes, bond premiums, general administration, supervision which includes project managers and staff not completing direct material work in the field, superintendence, general foremen, wages of time-keepers, watchmen and clerks, small tools, incidentals, general office expense, home office overhead, project office overhead and expenses, and all other expenses not included in "cost."

12.1.10 For the purposes of Subparagraph 12.1.7, combined overhead and profit included in the total cost to the Owner for any Change shall not exceed the rates set forth in the following schedule:

1. for the Contractor, for work performed by its own forces, 15% of cost;
2. for each Subcontractor involved, work performed by Subcontractor forces, 15% of the cost; and
3. for the Contractor, for work performed by Subcontractors;  
9% of total subcontractor costs if total subcontractor costs are less than \$5,000, and  
7% of total subcontractor costs if total subcontractor costs are equal to or greater than \$5,000

This shall also apply for overhead and profit to the Subcontractor for its Sub-subcontractors.

12.1.11 If the net value of a Change results in a credit from the Contractor or Subcontractor, the credit given shall be the net cost without overhead or profit. The cost as used herein shall include all items of labor, materials and equipment.

12.1.12 If none of the methods set forth in Subparagraph 12.1.7.1, is agreed upon, the Contractor, provided it receives a written order signed by the Construction Project Manager, shall promptly proceed with the Work involved. The cost of such Work shall then be determined subject to DJ-AR 49-0910 by the Construction Project Manager on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, the stipulated allowance for overhead and profit. In such case, and also under Subparagraphs 12.1.7.3 and 12.1.7.4 above, the Contractor shall keep and present, in such form as the Construction Project Manager may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including cost of delivery; cost of labor, including social security, payroll taxes, unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; and rental value of equipment and machinery. Pending final determination of cost by the Owner, payments of account shall be made on the Certificate for Payment issued by the Construction Project Manager and the Architect.

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

12.1.14 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or the Contractor, the applicable unit prices shall be equitably adjusted.

12.1.15 Nothing in this Article shall excuse the Contractor from proceeding with the Contract as changed.

12.1.16 The amount payable to the Contractor under this Contract, the Contract Time and the date required for performance of any part of the Work may be changed only by a written Change Order to this Contract.

12.1.17 In the event that the Contractor fails to submit its proposal within the designated period of time or in the event that the parties are unable to agree as to the reasonable cost and time to perform the Change in or addition to the Work based upon the Contractor's Proposal and the Construction Project Manager and Owner do not elect to have the Change in the Work performed on a time and material basis, the Owner and Construction Project Manager shall make a unilateral determination of the reasonable cost and time to perform the Change in the Work, based upon their own estimates, the Contractor's submission or a combination thereof. A Change Order shall be issued for the amounts of

cost and time determined by the Construction Project Manager and the Owner and shall become binding upon the Contractor unless the Contractor submits its protest in writing to the Owner within twenty (20) days of the issuance of the Change Order. Owner has the right to direct in writing the Contractor to perform the Change in the Work, which is the subject of such Change Order. Failure of the parties to reach agreement regarding the cost and time of the performing the Change in the Work and/or any pending protests, shall not relieve that Contractor from performing the Change in the Work promptly and expeditiously.

## 12.2 CLAIMS FOR ADDITIONAL COST

12.2.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, it shall give the Construction Project Manager written notice thereof within seven (7) days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 10.3. No claim shall be valid unless so made. Contractor hereby waives all claims not so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order, subject to DJ-AR 49-0910.

12.2.2 If the Contractor claims that additional cost is involved because of, but not limited to, any written interpretation pursuant to Subparagraph 3.2.17, the Contractor shall make such claim as provided in Subparagraph 12.2.1.

## 12.3 DISPUTES REGARDING CHANGES.

12.3.1 If any dispute should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the Contract Time as a result of a Change in the Work, the Contractor shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the Owner in writing. The Owner shall, however, pay to the Contractor up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute if said Change in the Work results in an increase in the Contract Sum; and the Owner shall have the right to decrease the Contract Sum up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in a decrease in the Contract Sum.

## 12.4 AUDIT RIGHTS

12.4.1 With respect to any Change in the Work resulting in an increase in the Contract Sum, the Contractor shall afford (and shall require its Subcontractors to afford) access to the Owner at all reasonable times to any books, correspondence, instructions, receipts, vouchers, memoranda and records of any kind relating thereto, all of which shall be maintained by the appropriate parties for a period of at least two (2) years from and after the date the Owner makes payment on account of such Change in the Work. The Contractor authorizes the Owner (and shall require its Subcontractors to authorize the Owner) to check directly with any suppliers of labor and material with respect to any item chargeable to the Owner under this Article, to confirm balances due and to obtain sworn statements and waivers of lien, all if the Owner so elects.

## 12.5 MINOR CHANGES IN THE WORK

12.5.1 The Owner shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

## 12.6 DIFFERING SITE CONDITIONS

12.6.1 Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the drawings or indicated in the specifications, it shall immediately give notice to the Construction Project Manager of such conditions before they are disturbed. The Construction Project Manager and the Architect shall thereupon promptly investigate the conditions and if it finds that they materially differ from those shown on the drawings or indicated in the specifications, the Architect shall at once make such changes in the drawings and/or specifications as it may find necessary. Any increase or decrease of cost resulting from such changes shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. However, neither the Owner, Construction Project Manager nor the Architect shall be liable or responsible for additional work, costs or changes to the Work due to material differences between actual conditions and any geotechnical, soils and other reports, surveys and analyses made available for the Contractor's review.

## 12.7 GENERAL PROVISIONS RELATED TO CHANGES

12.7.1 The Contractor shall not be entitled to any amount of indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of Article 12, and which the Contractor, its Subcontractors or Sub-subcontractors or any other person may incur as a result of reasonable delays, interferences, suspensions, changes in sequence or the like, arising from the performance of any and all changes in the Work performed pursuant to this Article 12. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of its direct costs as compensable hereunder and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents. This provision shall not preclude recovery by Contractor for damages for unreasonable delays, interferences, suspensions, changes in sequence or the like that are caused by the acts or omissions of the Owner or persons acting for the Owner pursuant to the provisions of the Contract.

## ARTICLE 13 TERMINATION OF THE CONTRACT

### 13.1 TERMINATION BY THE CONTRACTOR

13.1.1 The Contractor shall have the right to terminate the contract only upon those conditions and with such rights as are set forth in ORS 279C.

### 13.2 TERMINATION FOR CONVENIENCE OF OWNER

13.2.1 The Owner may, at any time upon ten days' written notice to the Contractor and Contractor's surety, terminate (without prejudice to any right or remedy of the Owner) the whole or any designated portion of the Work for the convenience of the Owner.

### 13.3 DEFAULT TERMINATION

13.3.1 The Owner may, upon ten (10) days' written notice to the Contractor, terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) the whole or any portion of the Work required by the Contract Documents in any one of the following circumstances:

1. if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will ensure the Substantial Completion of the Work within the Contract Time;
2. if the Contractor is in material default in carrying out any provisions of this Contract for a cause within its control;
3. if the Contractor is adjudged a bankrupt, makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency;
4. if the Contractor fails to supply a sufficient number of properly skilled workers or proper materials;
5. if the Contractor fails to make prompt payment to Subcontractors or for materials or labor;
6. if the Contractor persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or
7. if the Contractor substantially violates any provision of the Contract Documents.

The right of the Contractor to proceed shall not be so terminated under this Paragraph 13.3 because of any delays in the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its Subcontractors as set forth in Subparagraph 8.3.3.

13.3.2 If, after Contractor has been terminated for default pursuant to this Paragraph 13.3, it is determined that none of the circumstances set forth in Subparagraph 13.3.1 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph 13.2.

### 13.4 ALLOWABLE TERMINATION COSTS

13.4.1 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 13.2, then the Owner shall only be liable to Contractor for those costs reimbursable to Contractor in accordance with Subparagraph 13.4.2, plus a markup of ten percent on the actual fully accounted costs recovered under 13.4.2; provided, however, that if it appears

that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

13.4.2 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 13.2, the Owner shall pay the Contractor the amounts determined by the Construction Project Manager as follows:

1. an amount for supplies, services, or property accepted by the Owner pursuant to Subparagraph 13.5.1.6 (or sold or acquired pursuant to Subparagraph 13.5.1.7) and not heretofore paid for, and to the extent provided in the Contract such amount shall be equivalent to the aggregate price for such supplies or services computed in accordance with the Price or Prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and
2. the total of:
  - (1) the cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Subparagraph 13.4.2.1 or 13.4.2.2(2),
  - (2) the cost of settling and paying claims arising out of the termination of Work under subcontracts or orders, pursuant to Subparagraph 13.5.1.5, which are properly chargeable to the terminated portion of the Contract (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination), which amounts shall be included in the costs payable under (1) above, and
  - (3) the reasonable costs of settlement, including accounting, legal, clerical and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation and other costs incurred in connection with the protection or disposition of property allocable to this Contract.

13.4.3 The total sum to be paid to the Contractor under this Paragraph 13.4 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made, by the Contract Price of Work not terminated and as otherwise permitted by this Contract. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in this Subparagraph 13.4.3, the fair value, as determined by the Construction Project Manager, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner or to a buyer pursuant to Subparagraph 13.5.1.7.

13.4.4 If the Owner terminates in whole or in any part of the Work pursuant to Paragraph 13.3, then the Owner may procure, upon such terms and in such manner as the Construction Project Manager may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this Contract to the extent not terminated hereunder.

### 13.5 GENERAL TERMINATION PROVISIONS

13.5.1 After receipt of a Notice of Termination from the Owner, pursuant to Paragraph 13.2 or 13.3, and except as otherwise directed by the Construction Project Manager, the Contractor shall:

1. stop Work under the Contract on the date and to the extent specified in the Notice of Termination;
2. place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
3. terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;
4. assign to the Owner in the manner, at the times and to the extent directed by the Construction Project Manager, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the Owner shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

5. settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Construction Project Manager, to the extent it may require, which approval or ratification shall be final for all the purposes of this clause;
6. transfer title and deliver to the entity or entities designated by the Owner, in the manner, at the times and to the extent, if any, directed by the Construction Project Manager, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated:
  - (1) the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated by the Notice of Termination, and
  - (2) the completed or partially completed plans, drawings, information and other property related to the Work;
7. use its best efforts to sell, in the manner, at the times, to the extent and at the price or prices directed or authorized by the Construction Project Manager, any property of the types referred to in Subparagraph 13.5.1.6; provided, however, that the Contractor:
  - (1) shall not be required to extend credit to any buyer, and
  - (2) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Construction Project Manager; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Owner to the Contractor under this Contract or shall otherwise be credited to the price or cost of the Work covered by this Contract or paid in such other manner as the Construction Project Manager may direct;
8. take such action as may be necessary, or as the Construction Project Manager may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

13.5.2 The Contractor shall, from the effective Date of Termination until the expiration of three years after final settlement under this Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, but without direct charge to the Owner, all books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the Work terminated hereunder, or, to the extent approved by the Construction Project Manager, photographs, micro-photographs or other authentic reproductions thereof.

13.5.3 In arriving at any amount due the Contractor pursuant to Paragraph 13.4, there shall be deducted:

1. all unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of this Contract;
2. any claim which the Owner may have against the Contractor;
3. such claim as the Construction Project Manager determines to be necessary to protect the Owner against loss because of outstanding or potential liens or claims; and
4. the agreed price for, or the proceeds of sale of any materials, supplies or other things acquired by the Contractor or sold, pursuant to the provisions of Subparagraph 13.5.1.7, and not otherwise recovered by or credited to the Owner.

13.5.4 If the termination, pursuant to Paragraph 13.2, be partial, the Contractor may file with the Construction Project Manager a claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause must be asserted within six months from the effective date of the Notice of Termination.

13.5.5 The Contractor shall refund to the Owner any amounts paid by the Owner to the Contractor in excess of costs reimbursable under Paragraph 13.4.

13.5.6 The Owner may, at its option and Contractor's expense, have costs reimbursable under Paragraph 13.4 audited and certified by independent certified public accountants selected by the Owner.



GENERAL CONDITIONS OF THE CONTRACT

13.5.7 The Contractor shall be entitled to only those damages and that relief from termination by the Owner as specifically provided in Article 13.

END OF SECTION

REFERENCE:

"GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION," consist of the General Conditions of the Contract (Section 00 7000) and are further revised and supplemented by the provisions of these Supplementary General Conditions of the Contract, hereinafter called the "Supplementary General Conditions." The General Conditions and the Supplementary General Conditions are applicable to all of the Work under this Contract and shall apply to the Contractor, and to all Subcontractors and Sub-subcontractors.

SUPPLEMENTS:

The following supplements modify, change, delete, or add to the General Conditions.

PUBLIC CONTRACTING PROVISIONS

In accordance with OAR 137-049-0200, the following contract provisions are required by Oregon law:

- (1) Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or materials for the performance of the work provided for in this agreement. [ORS 279C.505(1)(a)]
- (2) Contractor shall pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred on the performance of the agreement. [ORS 279C.505(1)(b)]
- (3) Contractor shall not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or materials. [ORS 279C.505(1)(c)]
- (4) Contractor shall pay to the Department of Revenue all sums withheld from employees under ORS 316.167. [ORS 279C.505(1)(d)]
- (5) Contractor shall demonstrate that an employee drug testing program is in place. [ORS 279C.505(2)]
- (6) For demolition, Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. [ORS 279C.510(1)]
- (7) For lawn and landscape maintenance, Contractor is required to compost or mulch yard waste material at an approved site, if feasible and cost-effective. [ORS 279C.510(2)]
- (8) If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or Subcontractor by any person in connection with the agreement as the claim becomes due, the proper office or officers representing the state or county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this agreement. [ORS 279C.515(1)]
- (9) If Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor materials in connection with the public improvement agreement within 30 days after receipt of payment from the contracting agency or a contractor, the Contractor or Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived. [ORS 279C.515(2)]
- (10) If Contractor or Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the agreement, 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. The payment of a claim in the manner authorized in this section does not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims. [ORS 279C.515(3, 4)]
- (11) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of agreements for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay:

## SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

- (a)(i) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
  - (a)(ii) For all overtime in excess of 10 hours in any one day or 40 hours in one week when the work week is four consecutive days, Monday through Friday; and
  - (b) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.  
[ORS 279C.520 (1)]
- (12) Employer must give notice in writing to employees either at the time of hire or before commencement of work on the agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. [ORS 279C.520 (2)]
- (13) Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums that the Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any agreement for the purpose of providing or paying for the services. [ORS 279C.530 (1)]
- (14) 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. [ORS 279C.530 (2)]
- (15) The specifications contain the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 276a) that must be paid to workers in each trade or occupation required for the public works employed in the performance of the agreement either by the Contractor or Subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by this agreement. [ORS 279C.830 (1)(a)]
- (16) Workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. Current prevailing wage rates can be viewed at [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx) [ORS 279C.830(1)(c)]
- (17) The Contractor and every Subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (7) or (8).
- (a) Contractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8), or (9).
  - (b) Contractor must require each Subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (7) or (8).  
[ORS 279C.830 (2)]
- (18) Contractor must include in each subcontract for property or services the Contractor enters into with a first-tier subcontractor, including a material supplier:
- (a) A payment clause that obligates the Contractor to pay the first-tier subcontractor for satisfactory performance under the subcontract within 10 days out of amounts the District pays to the Contractor under the contract.
  - (b) A clause that requires the Contractor to provide a first-tier subcontractor with a standard form that the first-tier subcontractor may use as an application for payment or as another method by which the subcontractor may claim a payment due from the Contractor.
  - (c) A clause that requires the Contractor, except as otherwise provided in this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. A Contractor may change the form or the regular administrative procedures the Contractor uses for processing payments if the Contractor:
    - (A) Notifies the subcontractor in writing at least 45 days before the date on which the Contractor makes the change; and
    - (B) Includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.
  - (d) An interest penalty clause that obligates the Contractor, if the Contractor does not pay the first-tier subcontractor within 30 days after receiving payment from the District, to pay the first-tier subcontractor an

interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract as required above.

(e) A clause that requires the first-tier subcontractor to include, in all of the first-tier subcontractor's subcontracts with each lower-tier subcontractor or supplier, payment and interest penalty clauses that conform to the standards of paragraphs (a)-(d) of this Section (18). [ORS 279C.580(3)]

(19) Contractor, or a first-tier subcontractor, is not obligated to pay an interest penalty if the only reason that Contractor or the first-tier subcontractor did not make payment when payment was due is that Contractor or the first-tier subcontractor did not receive payment from the District or Contractor, as applicable, when payment was due. The interest penalty:

(a) 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

(b) Is computed at the rate of nine percent per annum. [ORS 279C.580(3)]

(20) A person claiming to have supplied labor or materials for the performance of the work under this contract has a right of action on Contractor's payment bond only if the person gives written notice of the claim to Contractor and the District as provided in ORS 279C.605. [ORS 279C.605]

#### LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

In accordance with ORS 279C.525, the following is a list 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 Work.

- 1 Federal Agencies
  - Agriculture, Department of
    - Forest Service
    - Soil Conservation Service
  - 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 Reclamation
    - Geological Survey
    - 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
    - Coast Guard
- 2 State Agencies
  - Agriculture, Department of
    - Soil and Water Conservation Districts
  - Energy, Department of
  - Environmental Quality, Department of
  - Fish and Wildlife, Department of

Forestry, Department of  
Geology and Mineral Industries, Department of  
Human Services, Department of  
Insurance Division (Department of Consumer and Business Services)  
Land Conservation and Development Commission  
Parks and Recreation, Department of  
State Engineer  
State Lands, Department of  
Water Resources Department

- 3     Local Agencies  
          City Councils  
          County Courts  
          County Commissioners, Board of  
          Design Commissions  
          Historical Preservation Commission  
          Planning Commissions

END OF SECTION

PART 1 GENERAL

1.01 ALTERNATIVE BID ITEMS

- A. Alternates are described throughout the Contract Documents (Drawings and Specifications). Procedures for recording and noting alternate bid items are indicated in Sections 00 2113 and 00 4100 of the General Conditions. Contractor shall note description of alternate bid items and provide an individual separate price, which includes all costs necessary to add or deduct the cost of said bid item from the Base Bid price. Both additive and deductive bid alternates are indicated on the Drawings and Specifications.
- B. The Owner reserves the right to accept any one, all, or none of the alternate bid items. The determination of the lowest bonafide bid will include an evaluation of alternates to be accepted by the Owner.
- C. In preparing his price for each alternate bid item, the Contractor shall include all costs necessary to provide and install complete and in operating order in accordance with Contract Documents, and as indicated in the General Requirements and General Conditions, all component parts necessary to add or deduct each alternate bid item individually.
- D. Bidding Requirements:
  - 1. Refer to the Bid Form (Section 00 4100) to list all appropriate costs attributed to the alternates described in this section.
  - 2. The alternate bid items are clearly described in the Contract Documents. It is the responsibility of the bidding Contractor to realize that described or inferred adjustments may be necessary due to the acceptance or rejection of alternate bid items. All alternate bids are to be complete bids.
  - 3. Additive alternates are all inclusive of the additional work described.
  - 4. Deductive alternates include all work necessary to provide and install materials necessary to finish the affected system or area.
- E. Following are the descriptions of the alternate bid items. The Contractor shall note on the Bid Form clearly whether each individual item is additive or deductive in the space provided:

1.02 DESCRIPTION OF ALTERNATES

- A. ALTERNATE NO. 1 -
- B. ALTERNATE NO. 2 -
- C. ALTERNATE NO. 3 -

1.03 DESCRIPTION OF UNIT PRICES

Not Used

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

PART 1 - GENERAL

1.01 RELATED REQUIREMENTS SPECIFIED ELSEWHERE

- A. Substitutions During Bidding: Instructions to Bidders.
- B. Shop Drawings, Product Data, Samples: General Conditions and Section 01 3300.

1.02 CONTRACTOR'S OPTIONS

- A. For products specified only by reference standards, select any product meeting standards, by any manufacturer.
- B. For products specified by naming several products or manufacturers, select any product and manufacturer named.
- C. For products specified "Basis of Design," use the product specified or follow the procedure outlined below for approval of different products.
- D. If products or manufacturers are not named in the specified sections, contractors shall follow the procedure outlined below for approval.

1.03 SUBSTITUTIONS

- A. During bidding, the Architect will consider requests for substitutions only when received on the form provided as pages 01 2500-3 & 4. No request will be considered unless received seven (7) days prior to the time and date set for the receipt of bids. Requests for substitutions after the bid date will be only considered if in conformance to specified section 01 2500-1.06. All Substitution Requests shall be submitted electronically.
- B. In connection with the use of any substitute item approved by the Architect it shall be in the Contractor's responsibility to see that such items meet all space requirements, and that any alterations to connecting items necessitated by use of the alternate items are properly made, at no increase in cost to the Owner.
- C. Specific reference in the specifications to any article, device, product, materials, form or type of construction, etc., by name, make or catalog number, shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition.
- D. In making request for substitution, Bidder/Contractor represents:
  - 1. They have personally investigated proposed product or method, and determined that it is equal or superior in all respects to that specified.
  - 2. They will provide the same guarantee for substitution as for product or method specified.
  - 3. They will coordinate installation of accepted substitution into Work, making such changes as may be required for Work to be complete in all respects at no additional cost to Owner.
  - 4. They waive all claims for additional costs or time extensions related to substitution which consequently becomes apparent.
  - 5. They will reimburse Owner for review or redesign services associated with re-approval by authorities.
- E. In order to allow the fullest competition, consistent with the Owner's interests, the Architect will give consideration, prior to submission of proposals, to requests for approval of products and materials competitive with and similar to those specified by proprietary name.
- F. To be considered and in order to facilitate review of requests for approval of substitutions for specified products or materials, all such requests shall be made in writing on the form included as a part of this section.
- G. Should any proposed product substitution require any redesign work to accommodate the substitute product, costs for such re-design work shall be included in the Bid amount and shall be paid to the Owner in the required re-design work.

1.04 ARCHITECT'S OPTIONS

- A. Architect will be sole judge of acceptability of any proposed substitution – unless products have been specifically designated as non-substitutable by the Owner.
- B. Only listed products in this Project Manual or approved substitutions may be used on Contract Work.
- C. Each request for substitution approval shall include:
  - 1. Identity of product for which substitution is requested; include specification page and paragraph number.
  - 2. Identity of substitution; include complete product description, drawings, photographs performance and test data, and any other information necessary for evaluation.
  - 3. Quality comparison of proposed substitution with specified product.
  - 4. Changes required in other work because of substitution.
  - 5. Effect on construction progress schedule.
  - 6. Cost comparison of proposed substitution with specified product.
  - 7. Any required license fees or royalties.
  - 8. Availability of local maintenance service.
  - 9. Source of replacement materials.

1.05 DURING BIDDING PERIOD

- A. No request for substitution approval will be considered unless a written request in triplicate has been submitted on Standard Form bound hereinafter, and has been received by Architect seven (7) days prior to the time and date set for receipt of bids.
- B. Request submitted without self-addressed and stamped envelope- will not be individually acknowledged.

1.06 AFTER CONTRACT AWARD

- A. Approval will be granted by the Owner only when:
  - 1. Specified product cannot be delivered without project delay, or
  - 2. Specified product has been discontinued, or
  - 3. Specified product has been replaced by superior product, or
  - 4. Specified product cannot be guaranteed as specified, or
  - 5. Product will not perform properly, or
  - 6. Specified product will not fit within designated space, or
  - 7. Specified product does not comply with governing codes or regulations, or
  - 8. Substitution determined by the Owner to be in his best interest.



TO: **ColeBreit Engineering, LLC**  
**721 SW Industrial Way**  
**Bend, OR 97702**

**PROJECT NAME: Card Access Control System**

We hereby submit for consideration, the following product instead of specified item for above project:

Section: \_\_\_\_\_ Paragraph: \_\_\_\_\_

Specified Item \_\_\_\_\_

Proposed Substitution: \_\_\_\_\_

Attach complete dimensional information and technical data including laboratory tests, if applicable.

Include complete information on changes to Drawings and/or specifications, which proposed substitution will require for its proper installation.

Submit with request all necessary samples and substantiating data to provide equal quality, performance, and appearance to that which is specified. Clearly mark manufacturer's literature to indicate equality in performance. Differences in quality of materials and construction shall be indicated.

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

1. The proposed substitutions do not affect dimensions shown on drawings.
2. The undersigned will pay for changes to the building design, including engineering design, detailing and construction costs caused by the requested substitution.
3. The proposed substitution will have no adverse affect on other trades, the construction schedule, or specified warranty requirements.
4. Maintenance and service parts will be locally available for the proposed substitution.
5. The proposed substitution will have no affect on applicable codes.
6. The manufacturer's guarantee or warranties of proposed product is equivalent to; or exceeds that of the specified product.
7. Proposed substituted item will match all sizes, profiles, specifications and colors of item originally specified.

List of names and location of three similar projects on which product was used, date of installation, and Architect's name and phone number.

Project No. 1: \_\_\_\_\_

SECTION 01 2500  
SUBSTITUTIONS

01 2500-4

Project No. 2: \_\_\_\_\_

Project No. 3: \_\_\_\_\_

**CERTIFICATION OF EQUAL  
PERFORMANCE AND  
ASSUMPTION OF LIABILITY  
FOR EQUAL PERFORMANCE**

UNDERSIGNED ATTESTS THAT  
  
FUNCTION AND QUALITY ARE  
  
EQUAL TO OR SUPERIOR TO  
SPECIFIED ITEMS.

**FOR USE BY ARCHITECT:**

\_\_\_\_\_ Accepted \_\_\_\_\_ Accepted as Noted  
\_\_\_\_\_ Not Accepted \_\_\_\_\_ Received Too Late

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

Date: \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

Firm: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Date : \_\_\_\_\_  
\_\_\_\_\_

Above signature must be by person having authority to  
legally bind his firm to the above  
terms. \_\_\_\_\_

---

END OF SECTION

01-2900  
APPLICATIONS FOR PAYMENT

PART 1 - GENERAL

1.01 RELATED SECTIONS

- A. Section 00 7000: General Conditions
- B. Section 00 7300: Supplementary Conditions
- C. Section 01 1000: Summary of Work
- D. Section 01 2973: Schedule of Values
- E. Section 01 3100: Electronic Management Procedures
- F. Section 01 7800: Contract Closeout

1.02 ANTICIPATED PAYMENT AMOUNTS

- A. To assist Owner in establishing his Construction Financing and budget cash flows, the Contractor, prior to submitting his first Application for Payment, shall deliver to Architect a schedule of anticipated payment amount to be requested with each subsequent application.

1.03 FORMAT AND DATA REQUIRED

- A. Submit itemized applications typed on AIA Document G702, Application and Certificate for Payment, together with Continuation Sheets AIA Document G703 or similar form approved by the Architect.

1.04 PREPARATION OF APPLICATION FOR EACH PROGRESS PAYMENT

- A. Application Form:
  - 1. Fill in required information.
  - 2. Fill in summary of dollar values to agree with respective totals indicated on Continuation Sheets.
  - 3. Execute certification with signature of responsible officer of Contracting Firm.
- B. Continuation Sheets:
  - 1. Identify each major item of Work by number and title matching those listed in Table of Contents of this Project Manual.
  - 2. Fill in scheduled Dollar Value for each Item.
  - 3. Fill in Dollar Value in each Column for each scheduled Line Item when Work has been performed or Products stored.
  - 4. Round off Values to nearest dollar.
  - 5. List each Change Order, executed prior to date of submission, at end of Continuation Sheets. Include Change Order Number and brief description.

1.05 SUBSTANTIATING DATA

- A. Submit, when requested by Architect, to justify Line Item amounts.

1.06 APPLICATION SCHEDULE

- A. Refer to the General Conditions for schedule.

1.07 SUBMITTAL PROCEDURE

- A. Submit Applications for Payment to Architect at times stipulated.
- B. Submit Application electronically.
- C. When Architect finds Application properly completed and correct, he will transmit Certificate for Payment to Owner, with copy to Contractor.

01-2900  
APPLICATIONS FOR PAYMENT

PART 2 – PRODUCTS

Not Used.

PART 3 – EXECUTION

Not Used.

END OF SECTION

PART 1 - GENERAL

1.1 RELATED SECTIONS

- A. Change Order Procedures: Section 01 2663.

1.2 SCHEDULE FORMAT

- A. Type Schedule on AIA Document G-703, Application for Payment, Continuation Sheet or similar form approved by the Architect.
- B. Forms can be obtained from:
  - 1. AIA Service Corp., Publications Div., 1735 New York Avenue, Washington D. C. 20006.
  - 2. Portland Chapter AIA Office, 403 NW 11<sup>th</sup> Avenue, Portland, Oregon 97209 (503-223-8757).

1.3 SCHEDULE HEADINGS

- A. Identify each major Work Item by number and title.
- B. Coordinate Headings with Construction Progress Schedule.

1.4 CONTENT

- A. As basis for computing Progress Payment values, separately list installed value of each of the following:
  - 1. Each major Work Item.
  - 2. Each Subcontracted Work Item. For each major Subcontractor, list products and operations of that Subcontract as separate Line Items.
  - 3. Any Products to be stored, for which separate payments will be requested.
- B. Include directly proportional amount of Contractor's Overhead and Profit in each Component Listing.
- C. Round off Values to nearest Dollar.
- D. Sum of Values listed shall equal total Contract Sum.

1.5 SUBMITTAL REQUIREMENTS

- A. Submit 3 copies of Schedule at least 5 days prior to first Application for Payment.
- B. Form and content shall be acceptable to Architect.

1.6 SUBSTANTIATING DATA

- A. When requested by Architect, submit justifying Substantiating Data on Line Item Amounts in question.

END OF SECTION



PART 1 - GENERAL

1.01 GENERAL REQUIREMENTS

- A. The work under this Contract will be planned, scheduled, executed and reported pursuant to the provisions of Article 4.10 of the General Conditions CONTRACTOR'S CONSTRUCTION SCHEDULE, and Article 4 of the Owner-Contractor Agreement ("Time and Commencement and Substantial Completion").
- B. If the Contractor should desire or intend to complete the Work earlier than any required Milestone or Completion date, the Owner or Architect not be liable to the Contractor for any costs or other damages should the Contractor be unable to complete the Work before this earlier date. The duties, obligations and warranties of the Owner to the Contractor shall be consistent with and applicable only to the completion of the Work on the Milestone and Completion dates required in the Owner-Contractor Agreement, unless Owner and the Contractor otherwise agree in writing.

1.02 CONSTRUCTION SCHEDULE - BAR CHART

- A. The Construction Schedule shall be in the form of a bar chart and shall consist of horizontal lines, or bars, plotted along a daily time scale. The time-scale shall indicate all required Milestone and Completion dates as set forth in the Owner-Contractor Agreement. The horizontal bar(s) shall indicate the start and finish dates as well as the total time period of performance for each activity. The Contractor shall arrange the chart so as to show the activities which are necessary to fulfill each and every Milestone and Completion date requirement.

1.03 POST AWARD ACTIVITIES

- A. The Contractor shall perform the following immediately after receipt of the Notice to Proceed:
  - 1. Prepare a detailed Construction Schedule that represents the Contractor's best judgment on how he shall prosecute and complete the Work in compliance with the Contract Milestone Dates and any Specific Dates stipulated in the Supplementary Conditions.
- B. Within (10) calendar days following Notice to Proceed, submit to the Owner and Architect a draft of the Construction Schedule for review and comment. Before the first Application for Payment, the Contractor shall submit to the Owner and Architect a Schedule of Values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner and Architect may require. This schedule, unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.
- C. The Construction Schedule shall indicate completion date for the project that is not later than the project's required completion date. All activity durations shall be given in calendar days.
- D. It is to be understood and agreed by the Contractor is an estimate to be revised from time to time as progress proceeds, and that the Owner does not guarantee that Contractor can start work activities on the start dates or complete work activities on the finish date shown in the schedule, or as same may be updated or revised; nor does the Owner guarantee that Contractor can proceed at all times in the sequence established by said schedule.
- E. The Owner and Architect will review the Contractor's Schedule. If required, a meeting will be held between the Owner and the Contractor to resolve any conflicts between the Contractor's schedule and the overall Project Construction. The Contractor shall revise his schedule as required by the Owner to support the Project Construction and shall submit his revised schedule to the Owner and Architect within five (5) days for final review and approval.
- F. The Contractor is required to adhere to the Milestone Dates as set forth in the Bid Form.

1.04 RECOVERY SCHEDULE

- A. Should any conditions exist, such that certain activities shown on the Contractor's Detailed Construction Schedule fall behind schedule to the extent that any of the mandatory Milestone Dates or Completion Dates are in jeopardy, the Contractor shall be required to, at no cost to the Owner, prepare and submit to the Owner and Architect, a supplementary Recovery Schedule, in a form and detail appropriate to the need, to explain and display how he intends to reschedule those activities to regain compliance with the Detailed Construction Schedule during the immediate subsequent pay period.
- B. The Contractor, Owner and Architect shall do the following after determination of the requirement for a Recovery Schedule:
  - 1. Within three (3) calendar days, the Contractor shall present to Owner and Architect the Recovery Schedule. The Recovery Schedule shall represent the Contractor's best judgment as to how he shall reorganize his work so that he may return to the approved Construction Schedule within the immediate subsequent pay period. The Recovery Schedule shall be prepared to a similar level of detail as the Construction Schedule.
- C. Five (5) calendar days prior to the expiration of the Recovery Schedule, the Owner, Architect and the Contractor will meet at the job site to determine whether the Contractor has regained compliance with the Construction Schedule. At the direction of the Owner, one of the following will happen:
  - 1. If, in the opinion of the Owner, the Contractor is still behind schedule, the Contractor in conjunction with the Owner and Architect will prepare another Recovery Schedule, at the Contractor's expense, pursuant with 2.02 (B) of this Section, to take effect during the immediate subsequent pay period.
  - 2. If, in the opinion of the Owner, the Contractor has sufficiently regained compliance with the Construction Schedule, the use of the Construction Schedule will be resumed.

1.05 FLOAT TIME

- A. Float or slack time is not for the exclusive use or benefit of either the Contractor or the Owner. Contractor's work shall proceed according to start dates, and the Owner shall have the right to reserve and apportion float time according to the needs of the project. The Contractor acknowledges and agrees that actual delays, effecting paths of activities containing float time, will not have any affect upon Contract Completion times, providing that the actual delay does not exceed the float time associated with those activities.
- B. Extensions of time will be granted only to the extent that the activity or activities affected exceed the total float or slack along the path of activities affected at the time of Notice to Proceed of a Change Order or the commencement of any delay or condition for which an adjustment is warranted under the Contract Documents.

1.06 COORDINATION

- A. The Contractor shall coordinate his work with activities of the Owner and shall cooperate fully with the Owner in maintaining orderly progress toward completion of the work as scheduled. The Owner's decisions regarding priority between the Contractor's work and the activities of the Owner at the site shall be final and shall not be cause for extra compensation or extensions of time, except where extensions of time is granted because of delay for which Contractor is otherwise entitled to an extension of time under the Contract Documents.

SECTION 01 3200  
SCHEDULES & REPORTS

01 3200-3

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

Not Used.

END OF SECTION

PART 1 – GENERAL

1.01 DESCRIPTION

- A. Submit to the Architect shop drawings, product data and samples required by Specifications Sections or as specifically requested by Owner or Architect.
- B. The Contractor shall prepare and submit with the Construction Schedule, an incorporated schedule listing dates for submission and approval times allowed for all required shop drawings, product data and samples, tied into Construction Schedule with appropriate logic.

1.02 RELATED SECTIONS

- A. Section 01 3000: Electronic Management Procedures
- B. Section 01 3200: Schedule and Reports
- C. Section 01 7800: Contract Closeout: Record Documents

1.03 SHOP DRAWINGS

- A. Original drawings, prepared by Contractor, subcontractor, manufacturer, supplier or distributor, which illustrate some portion of the Work showing fabrication, layout, setting or erection details.
- B. Shop drawings shall be prepared for this particular project. Drawings prepared specifically for other projects and revised for this project will be rejected.
- C. When necessary, base shop and setting drawings upon actual measurements taken at site and other job conditions. Show any variations and revisions to Contract Documents that are necessary for proper installation of work. Fabrication or installation of work shall not be started until shop or setting drawings have been checked and returned with "furnish as submitted" or "furnish as corrected" indicated by Architect.
- D. Identify details by reference to sheet and detail numbers shown on Contract Drawings.
- E. Submit shop drawings, required by Contract Documents for execution of the Work, to the Architect no later than 15 days prior to contemplated or actual need in shop or at site, and earlier where more time may be required for review and/or procurement by Contractor.
- F. Provide shop drawings with cross-reference to drawing and detail numbers on Contract Drawings to facilitate review.
- G. Provide shop drawings which demonstrate to Architect that:
  - 1. Contractor understands design concept of certain portions of Work.
  - 2. Equipment and material to be provided meet design and technical requirements of Contract Documents.
  - 3. Methods of fabrication and installation.
- H. After review, reproduce and distribute in accordance with Article on Procedures above and for Record Documents described in Section 01 7839.

1.04 PRODUCT DATA

- A. Manufacturer's standard schematic drawings:
  - 1. Modify drawings to delete information, which is not applicable to project.
  - 2. Supplement standard information to provide additional information applicable to project.
- B. Manufacturer's catalog sheets, brochures, diagrams, schedules, performance chart, illustrations and other standard descriptive data.
  - 1. Clearly mark each copy and identify pertinent materials, products or models.
  - 2. Show dimensions and clearances required.

3. Show performance characteristics and capacities.
4. Show wiring diagrams and controls.
- C. Submit product data required by Contract Documents for execution of the Work, to the Architect no later than 15 days prior to contemplated or actual need in shop or at site, and earlier where more time may be required for review.
- D. Provide product data with cross-reference to Specifications Section of Project Manual to facilitate review.
- E. Provide PDFs of product data to Architect/Engineer via electronic management procedures.
- F. After review, distribute in accordance with Article on Procedures above and provide copies for Record Documents described in Section 01 7839 - Record Documents.

1.05 SAMPLES

- A. Physical examples to illustrate materials, equipment or workmanship and to establish standards by which completed work is judged.
- B. Office Samples: Of sufficient size and quantity to clearly illustrate:
  1. Functional characteristics of product or material, with integrally related parts and attachment devices.
  2. Full range of color samples.
  3. Include identification on each sample, with full Project information.
  4. Submit samples in ample time for review or selection, as applicable, so as to not delay Work.
  5. Take into account delivery time of all manufactured items when submitting samples.
- C. Submit samples of size and quantity specified, or, if not specified, of sufficient size and quantity to illustrate functional and aesthetic characteristics of Product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
- D. Submit samples of finishes from full range of manufacturers' standard colors or in specified custom colors, textures and patterns for Architect's selection.
- E. Field Samples:
  1. Construct each sample complete, including work of all trades required in finished work.
  2. A copy of each sample shall stay onsite for review by the Architect and Owner.

1.06 MANUFACTURER'S INSTRUCTIONS

- A. When specified in individual specification Sections, submit manufacturers' printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, for Product Data.
- B. Identify conflicts between manufacturers' instructions and Contract Documents.

1.07 MANUFACTURER'S CERTIFICATES

- A. When specified in individual specification Sections, submit manufacturers' certificate to Architect/Engineer for review, specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or Product, but must be acceptable to Architect/Engineer.

1.08 REQUIRED SUBMITTAL QUANTITIES TO ARCHITECT AND OWNER

- A. Construction Schedule – Provide bond copies on paper no larger than 11x17". Provide one paper copy each to Owner and Architect plus electronic version.
- B. Shop Drawings – Provide drawings electronically unless specifically required by Mechanical and Electrical Sections. Submit Shop Drawings in accordance with Section 01 3000 Electronic Management Procedures.
- C. Product Data – Submit Product Data in accordance with Section 01 3000 Electronic Management Procedures.
- D. Office Samples – See specific section covering product or material.
- E. Field Samples – See section covering specific system.

1.09 CONTRACTOR RESPONSIBILITIES

- A. Review shop drawings, product data and samples prior to submission. Contractor shall review and verify shop drawings, product data and samples prior to submission to Architect. Submittals will not be reviewed if Contractor has not reviewed and stamped the data for approval.
- B. Verify:
  - 1. Field measurements.
  - 2. Field Construction criteria.
  - 3. Catalog numbers and similar data.
- C. Coordinate each submittal with requirements of Work and Contract Documents.
- D. Contractor's responsibility for errors and omissions in submittals is not relieved by Architect's review.
- E. Contractor's responsibility for deviations in submittals from requirements of Contract Documents is not relieved by Architect's review of submittals.
- F. Notify the Owner and Architect, in writing at time of submission, of deviations in submittals from requirements of Contract Documents.
- G. Begin no work which requires submittals until return of submittals with Architect's stamp and initials or signature indicating review.
- H. After Architect's review, distribute copies.

1.10 SUBMITTAL REQUIREMENTS

- A. Make all submittals far enough in advance of scheduled dates for installation to provide all required time for review, for securing necessary approvals, for possible revision and resubmittals and for placing orders and securing delivery. Submission of all shop drawings shall be through the Contractor.
- B. Unless otherwise specifically permitted by the Architect, make all submittals in groups containing all associated items. Partial submittals will be rejected, unless prior accommodations have been made.
- C. Accompany submittals with transmittal letter, in duplicate, containing:
  - 1. Date
  - 2. Project title and number
  - 3. Contractor's name and address
  - 4. The specification section number of each shop drawing, product data and sample submitted.
  - 5. Notification of deviations from Contract Documents.
- D. Submittals shall include a separate cover sheet attached to each copy containing the following information:

1. Date and revision dates
2. Project title and number
3. The name of:
  - a. Architect
  - b. Contractor
  - c. Subcontractor
  - d. Supplier
  - e. Manufacturer
  - f. Separate detailer when pertinent
4. Identification of product or material
5. Relation to adjacent structure or materials
6. Field dimensions, clearly identified as such
7. Specifications section number
8. Applicable standards, such as ASTM number or Federal Specification
9. A blank space, for Architect review stamp
10. Identification of deviations from Contract Documents
11. Contractor's stamp, initialed or signed, certifying to review of submittal, verification of field measurements and compliance with Contract Documents.

1.11 RESUBMITTAL REQUIREMENTS

- A. Shop Drawings:
1. Revise initial drawings as required and resubmit as specified for initial submittal.
  2. Indicate on drawings any changes which have been made other than those requested by Architect.
  3. Product data and samples: Submit new data and samples as required for initial submittal.

1.12 ARCHITECT'S DUTIES

- A. Review submittals with reasonable promptness as mutually agreeable among the various parties.
- B. Review for:
1. Design concept of project.
  2. Information given in Contract Documents.
- C. Review of separate item does not constitute review of an assembly in which item functions.
- D. Affix stamp and initials or signatures certifying the review of submittal.
- E. Return submittals to Contractor for distribution.
- F. Send copy of reviewed item, to the Owner
- G. The Architect or Owner may immediately reject any item without further review if it is not:
1. Accompanied by a transmittal letter containing the required information.
  2. Stamped "approved" by the Contractor.
- H. The review will be for conformance to the design concept and compliance with information given in the Contract Documents. The Architect will make notations directly on the electronic submittal.
- I. The review is intended to foresee unacceptable products and to avoid the possibility of their rejection at the site. The review shall not be construed as:
1. Permitting a departure from the Contract Documents, unless specifically so noted.
  2. Relieving the Contractor of the responsibility for errors or omissions.
  3. Acceptance of an assembly in which an approved item is a part.
  4. Approval of variations from previously approved items.
  5. Approval of dimensions.

- J. The Architect will review all samples. Such review will be for appearance only. Compliance with all other requirements is the responsibility of the Contractor.
- K. Where the Contract Documents require the design of structural, mechanical or electrical systems or components of systems by a supplier, or where a Contractor initiates a change in the design of a system or component thereof, such systems or components shall be designed by a registered professional engineer and all calculations submitted to the Architect for his records, prior to starting fabrication or installation of the Work. The Architect will not be responsible for the designs of such other professional engineers.

1.13 VARIATIONS FROM CONTRACT DOCUMENTS

- A. If the Architect determines a variation from the Contract Documents is in the best interest of the Owner, and it does not involve change in the Contract price or item, the Architect with the Owner's concurrence, may permit such variation.
- B. Unless the Architect receives immediate written notification, he will assume the Contractor approves any variation shown.
- C. If the Contractor fails to mention variations from the Contract Documents, he will not be relieved of the responsibility for executing the Work in accordance with the Contract Documents.
- D. When a variation from the Contract Documents is permitted and such variation involves corresponding adjustment in an adjacent or related item, the responsibility for making and paying all costs for such adjustment rests with the Contractor requesting the original variation.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION