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COOS BAY, OR 97420  
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www.hge1.com



**PROJECT #24.024.1**

## **PROJECT MANUAL**

**FOR**

# **MILLICOMA MARSH TRAIL IMPROVEMENTS**

**FOR**

## **COOS BAY SCHOOL DISTRICT #9**

*Funding for this project provided by:*  
OPRD Recreational Trails Program,  
Three Rivers Foundation, and MHS Zonta Club

**JULY 2025**

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SECTION 00-0101  
PROJECT TITLE PAGE

PROJECT MANUAL

FOR:

COOS BAY SCHOOL DISTRICT

**MILLICOMA MARSH**

**TRAIL IMPROVEMENTS**

4TH AVE, COOS BAY, OREGON 97420

JULY 2025

PROJECT #24.024.1

PREPARED BY:

**HGE ARCHITECTS, INC.**

333 SOUTH 4TH STREET

COOS BAY, OREGON 97420

(541) 269-1166

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ADVERTISEMENT FOR BIDS**

Sealed bids for **Coos Bay School District Millicoma Marsh Trail Improvements** will be received from qualified bidders until the bid closing time of **2:00 P.M. Pacific Time, Thursday, July 31, 2025.**

Bids shall be submitted to the Architect via electronically: [general@hge1.com](mailto:general@hge1.com), or mail/hand delivery: HGE Architects, Inc., 333 South 4th Street, Coos Bay, OR, 97420. Bids shall be identified as: BID for Millicoma Marsh Trail Improvements.

Bids will be publicly opened and read aloud following the bid closing time at 2:15 P.M. via remote phone-in conference call. Call-in information for bid opening:

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/976118173>

You can also dial in using your phone: +1 (571) 317-3122

Access Code: 976-118-173

**A Mandatory Pre-Bid Walkthrough will be held at the job site on Tuesday, July 22, 2025, at 11:00 A.M.** Bidders will meet in the parking lot of the project site, lower field at Millicoma School, Coos Bay, OR.

Work on the project includes rebuilding the Millicoma Marsh Trail, approximately 2,500 lineal feet, from existing gravel parking lot to shelter at turn-around.

Funding for this project has been made possible by contributions from: OPRD Recreational Trails Program, Three Rivers Foundation, and MHS Zonta Club.

Construction Documents for this work may be examined at the Office of the Architect, HGE Architects, Inc. 333 South 4th Street, Coos Bay, Oregon, phone: 541- 269-1166, email: [general@hge1.com](mailto:general@hge1.com), and at the following locations: Coos Bay District Office Building, various Plan Centers, and on the HGE website at <http://www.hge1.com/bidding-area/>. General Contractors are encouraged to contact HGE by phone or email and register their interest in submitting a bid and to be included on the plan holders' list.

One set of drawings, specifications and contract documents may be obtained by prime bidders from HGE ARCHITECTS, INC., upon deposit of \$50.

Owner reserves the right to reject any and all bids, and to waive any technicalities or informalities in connection with the bids. No Bidder may withdraw their bid until thirty (30) days after the bid opening.

By: Loma Laney, Facilities Manager  
Coos Bay School District

Published:

*Daily Journal of Commerce*, Portland, Oregon

Monday, July 7, 2025

*The World Newspaper*, Coos Bay, Oregon

Tuesday, July 8, 2025

**END OF SECTION**

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**SECTION 00-2113  
INSTRUCTIONS TO BIDDERS**

**SUMMARY**

- 1.01 SEE AIA A701, INSTRUCTIONS TO BIDDERS FOLLOWING THIS DOCUMENT.**
- 1.02 THE FOLLOWING SUPPLEMENTS SHALL MODIFY, CHANGE, DELETE FROM OR ADD TO THE AIA DOCUMENT A701-2018 INSTRUCTIONS TO BIDDERS. WHERE ANY ARTICLE OF THE INSTRUCTIONS TO BIDDERS IS MODIFIED OR ANY PARAGRAPH, SUBPARAGRAPH, OR CLAUSE THEREOF IS MODIFIED OR DELETED BY THESE SUPPLEMENTS, THE UNALTERED PROVISIONS OF THAT ARTICLE, PARAGRAPH, SUBPARAGRAPH, OR CLAUSE SHALL REMAIN IN EFFECT.**
- 1.03 RELATED DOCUMENTS**
- A. Document 01-1000 - Summary.
  - B. Document 00-1113 - Advertisement for Bids.
  - C. AIA Document A701 - 2018 INSTRUCTIONS TO BIDDERS
  - D. Document 00-4100 - Bid Form.
  - E. Document 00-7200 - General Conditions
  - F. Document 00-7300 - Supplementary Conditions:

**BID DOCUMENTS AND CONTRACT DOCUMENTS**

**2.01 ARTICLE 1 - DEFINITIONS**

- A. 1.1 Add: Bid Documents: Contract Documents supplemented with Invitation To Bid, Instructions to Bidders, Bid Form Supplements To Bid Forms and Appendices and Bid securities identified.
- B. Contract Documents: Defined in AIA A201 Article 1 including issued Addenda.

**2.02 ARTICLE 2 - BIDDER'S REPRESENTATIONS**

- A. General Contractors are required to examine the project site before submitting a bid.
- B. 2.1.4 Add PRE-BID MEETING:
  - 1. A mandatory pre-bid meeting is scheduled for 11:00 a.m. Tuesday, July 2, at the project site, lower field at Millicoma School, Coos Bay, Oregon. Bidders/Contractors shall meet at the project site to review project scope, bidding requirements, and other items. A tour and walk-through of the project site will immediately follow. The pre-bid meeting and walk-through are mandatory for general contractor bidders.
  - 2. All general contract and subcontract bidders and suppliers are invited.
  - 3. Contractors and sub-contractor attendees are encouraged to familiarize themselves with the bidding and contract documents prior to the walkthrough.
  - 4. Representatives of Architect and Project Manager will be in attendance.

5. Information relevant to the Bid Documents will be recorded in an Addendum, issued to Bid Document recipients.

## **2.03 ARTICLE 3 - BIDDING DOCUMENTS**

- A. 3.1.1 Add:
  1. Bid Documents may be obtained at the office of Architect which is located at 333 South 4th Street, Coos Bay, Oregon, 97420. Phone: 541-269-1166, fax 541-269-1833.
  2. General email address of Architect: [general@hge1.com](mailto:general@hge1.com)
  3. One set of Bid Documents can be obtained by general contract and subcontractor bidders upon receipt of a refundable deposit, by cash or check, in the amount of \$50 for one set.
  4. Architects website document access:
    - a. PDF digital copies of these documents are also available to Bidders via Architect's website at [www.hge1.com](http://www.hge1.com). Bidders must contact Architect's office for registration and access instruction.
    - b. General Contractors must contact the architect's office, by phone or email, and register in order to submit a bid and may be disqualified if they are not registered on the architect's plan holders list.
    - c. General Contractors are encouraged to contact HGE INC. office by phone or email, and register their interest in submitting a bid and to be included on the architect's plan holders list.
    - d. Such registration will assure the contractor that they will be notified during the bidding phase of addendums and other critical information.
  5. Bid Documents may be viewed at the office of Architect.
  6. Bid Documents may be viewed at [www.hge1.com/bidding-area/](http://www.hge1.com/bidding-area/).
- B. 3.1.2 Add:
  1. Deposit will be refunded if Bid Documents are returned complete, undamaged, unmarked and reusable, within 10 days of bid submission. Failure to comply will result in forfeiture of deposit.
- C. 3.1.4 Add:
  1. Upon receipt of Bid Documents verify that documents are complete. Notify Architect should the documents be incomplete.
  2. Immediately notify Architect upon finding discrepancies or omissions in the Bid Documents.
- D. 3.1.5 Add:
  1. Bid Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.
- E. 3.4 Addenda, Add:
  1. Direct questions to Architect's office, telephone 541-269-1166.
  2. Addenda may be issued during the bidding period. All Addenda become part of Contract Documents. Include resultant costs in the Bid Amount.
  3. Verbal answers are not binding on any party.
  4. Clarifications requested by bidders must be in writing not less than 7 days before date set for receipt of bids. The reply will be in the form of an Addendum, a copy of which will be forwarded to known recipients and all entities listed on Architects Plan Holder List.

## **2.04 INQUIRIES/ADDENDA**

- A. Direct questions to Architect's office, telephone 541-269-1166.

- B. Addenda may be issued during the bidding period. All Addenda become part of Contract Documents. Include resultant costs in the Bid Amount.
- C. Verbal answers are not binding on any party.
- D. Clarifications requested by bidders must be in writing not less than 7 days before date set for receipt of bids. The reply will be in the form of an Addendum, a copy of which will be forwarded to known recipients and all entities listed on Architects Plan Holder List.

## **BID SUBMISSION**

### **3.01 ARTICLE 4 - BIDDING PROCEDURES**

- A. Add to 4.1.1: Bidders shall be solely responsible for the delivery of their bids in the manner and time prescribed.
- B. Add to 4.1.1: Submit one copy of the executed offer on the Bid Forms provided, signed and sealed with the required security in a closed opaque envelope, clearly identified with bidder's name, project name and Owner's name on the outside.
- C. Add to 4.1.1: Electronically submitted documents to be PDF, clearly identified as BID for Millicoma Marsh Trail Improvements.
- D. Add to 4.2.1:
  - 1. Article 4 Bidding Procedure Subparagraph 4.2.1, add the following:
    - a. Bid security in the form of Bid Bond issued by a Bonding Company acceptable to the Owner, cashier's check or certified check in an amount equal to 10% of the total bid, made payable to the Owner shall be required.
- E. Add 4.2.5:
  - 1. All Bidders will leave their bids open for a period of thirty (30) days after the date of bid opening. No bid may be withdrawn during such period of time. Owner may accept any Bid in accordance with the Instructions to Bidders within such thirty (30) day period.
- F. Add to 4.3.1 Submission of Bid - Method of Delivery: Mail, hand delivery or email are acceptable methods of submission of bid. Submission via fax is not acceptable.
- G. Add to 4.3.5 Submission of Bid:
  - 1. Improperly completed information, irregularities in security deposit if required, may be cause not to open the Bid Form envelope and declare the bid invalid or informal.
  - 2. Bids that are unsigned, improperly signed or sealed, conditional, illegible, obscure, contain arithmetical errors, erasures, alterations, or irregularities of any kind, may at the discretion of the Owner, be declared unacceptable.
  - 3. Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of Owner, be declared unacceptable.
  - 4. Owner reserves the right to accept or reject any or all offers.
- H. Add 4.3.6: SUBMITTAL AND PREPARATION OF FIRST-TIER SUBCONTRACTOR DISCLOSURE
  - 1. Per ORS 279C.370 the Bidder shall submit First-Tier Subcontractor Disclosure Form not later than 2 hours following the Bid Closing, or the bid will be rejected.
  - 2. To determine disclosure requirements, the Agency recommends that you disclose subcontract information for any subcontractor and supplier as follows:
    - a. Determine the lowest possible contract price. That price will be the base bid amount less all alternate deductive bid amounts (exclusive of any options that can only be exercised after contract award).

- b. Provide the required disclosure information for any first-tier subcontractor whose potential contract services (i.e., subcontractor's base bid amount plus all alternate additive bid amounts, exclusive of any options that can only be exercised after contract award) are greater than or equal to: (i) 5% of that lowest contract price, but at least \$15,000, or (ii) \$350,000 regardless of the percentage. Total all possible work for each subcontractor in making this determination (e.g., if a subcontractor will provide \$15,000 worth of services on the base bid and \$40,000 on an additive alternate, then the potential amount of subcontractor's services is \$55,000. Assuming that \$55,000 exceeds 5% of the lowest contract price, provide the disclosure for both the \$15,000 services and the \$40,000 services).
  - c. Submission. A Bidder shall submit the disclosure form required by this rule within two (2) working hours of Bid Closing in the manner specified by the ITB.
  - d. Responsiveness. 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.
  - e. Substitution. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585. Agencies do not have a statutory role or duty to review, approve, or resolve disputes concerning such substitutions. However, Agencies are not precluded from making related inquiries or investigating complaints in order to enforce Contract provisions that require compliance generally with laws, rules and regulations.
  - f. Effective Date. This rule shall apply to Public Improvement Contract first advertised on or after August 1, 2003. The above instructions have been amended to include modifications approved by the 2005 legislature.
- I. An abstract summary of submitted bids will be made available to all bidders following bid opening.

## **OFFER ACCEPTANCE/REJECTION**

### **4.01 ARTICLE 5 CONSIDERATION OF BIDS**

- A. Add 5.3.3: If the Contractor is to be awarded, Owner will provide written Notice of Intent to Award to all Bidders of the Owner's intent to award the Contract. Owner's award shall not be final until the later of the following:
  - 1. Five (5) days after the date of the Notice of Intent; or
  - 2. The Owner provides a written response to all timely-filed protests that denies the protest and affirms the award.
- B. Add 5.3.4: Goods or services manufactured or produced in the State of Oregon to receive preference, all factors being equal.
- C. Owner reserves the right to accept or reject any or all offers.



## **PERFORMANCE ASSURANCE**

### **5.01 ARTICLE 7 TIME OF DELIVERY AND FORM OF BONDS**

- A. A Performance Bond and Labor and Material Payment Bond shall be required. Contractor shall provide separate Performance Bond and Labor and Material Payment Bond made payable to the Owner issued by a Corporation legally licensed to transact business in the State of Oregon. Corporation issuing such a bond must comply with applicable Oregon Statutes for public work and be satisfactory to the Owner. The bonds are to be in the amount of 100% of the contract sum to assure the Owner of full and prompt performance of the Contract.

## **OFFER ACCEPTANCE/REJECTION**

### **7.01 DURATION OF OFFER**

- A. Bids shall remain open to acceptance and shall be irrevocable for a period of thirty (30) days after the bid closing date.

### **7.02 ACCEPTANCE OF OFFER**

- A. Owner reserves the right to accept or reject any or all offers.

**END OF SECTION**

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# **AIA® Document A701® – 2018**

## ***Instructions to Bidders***

for the following Project:

*(Name, location, and detailed description)*

24.024.1 Millicoma Marsh Trail Improvement

260 2nd Ave

Coos Bay, OR 97420

Work on this project includes rebuilding the Millicoma Marsh Trail, approximately 2,5000 lineal feet.

### **THE OWNER:**

*(Name, legal status, address, and other information)*

Coos Bay School District

1255 Hemlock Avenue

Coos Bay, OR 97420

541.267.3104

### **THE ARCHITECT:**

*(Name, legal status, address, and other information)*

HGE Architects, Inc.

333 South 4th Street

Coos Bay, OR 97420

5412691166

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- 6 POST-BID INFORMATION**
- 7 PERFORMANCE BOND AND PAYMENT BOND**
- 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS**

### **ADDITIONS AND DELETIONS:**

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

FEDERAL, STATE, AND LOCAL LAWS MAY IMPOSE REQUIREMENTS ON PUBLIC PROCUREMENT CONTRACTS. CONSULT LOCAL AUTHORITIES OR AN ATTORNEY TO VERIFY REQUIREMENTS APPLICABLE TO THIS PROCUREMENT BEFORE COMPLETING THIS FORM.

It is intended that AIA Document G612™–2017, Owner's Instructions to the Architect, Parts A and B will be completed prior to using this document.

## **ARTICLE 1 DEFINITIONS**

§ 1.1 Bidding Documents include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid, Instructions to Bidders, supplementary instructions to bidders, the bid form, and any other bidding forms. The Proposed Contract Documents consist of the unexecuted form of Agreement between the Owner and Contractor and that Agreement's Exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda, and all other documents enumerated in Article 8 of these Instructions.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect, which, by additions, deletions, clarifications, or corrections, modify or interpret the Bidding Documents.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents, to which Work may be added or deleted by sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from, or that does not change, the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment, or labor for a portion of the Work.

## **ARTICLE 2 BIDDER'S REPRESENTATIONS**

§ 2.1 By submitting a Bid, the Bidder represents that:

- .1 the Bidder has read and understands the Bidding Documents;
- .2 the Bidder understands how the Bidding Documents relate to other portions of the Project, if any, being bid concurrently or presently under construction;
- .3 the Bid complies with the Bidding Documents;
- .4 the Bidder has visited the site, become familiar with local conditions under which the Work is to be performed, and has correlated the Bidder's observations with the requirements of the Proposed Contract Documents;
- .5 the Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception; and
- .6 the Bidder has read and understands the provisions for liquidated damages, if any, set forth in the form of Agreement between the Owner and Contractor.

## **ARTICLE 3 BIDDING DOCUMENTS**

### **§ 3.1 Distribution**

§ 3.1.1 Bidders shall obtain complete Bidding Documents, as indicated below, from the issuing office designated in the advertisement or invitation to bid, for the deposit sum, if any, stated therein.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall obtain Bidding Documents.)*

See Section 00-1113 Advertisement for Bids

§ 3.1.2 Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.



**§ 3.1.3** Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the advertisement or invitation to bid, or in supplementary instructions to bidders.

**§ 3.1.4** Bidders shall use complete Bidding Documents in preparing Bids. Neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete Bidding Documents.

**§ 3.1.5** The Bidding Documents will be available for the sole purpose of obtaining Bids on the Work. No license or grant of use is conferred by distribution of the Bidding Documents.

### **§ 3.2 Modification or Interpretation of Bidding Documents**

**§ 3.2.1** The Bidder shall carefully study the Bidding Documents, shall examine the site and local conditions, and shall notify the Architect of errors, inconsistencies, or ambiguities discovered and request clarification or interpretation pursuant to Section 3.2.2.

**§ 3.2.2** Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)*

See Section 00-2200 Supplementary Instructions to Bidders

**§ 3.2.3** Modifications and interpretations of the Bidding Documents shall be made by Addendum. Modifications and interpretations of the Bidding Documents made in any other manner shall not be binding, and Bidders shall not rely upon them.

### **§ 3.3 Substitutions**

**§ 3.3.1** The materials, products, and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitution.

#### **§ 3.3.2 Substitution Process**

**§ 3.3.2.1** Written requests for substitutions shall be received by the Architect at least ten days prior to the date for receipt of Bids. Requests shall be submitted in the same manner as that established for submitting clarifications and interpretations in Section 3.2.2.

**§ 3.3.2.2** Bidders shall submit substitution requests on a Substitution Request Form if one is provided in the Bidding Documents.

**§ 3.3.2.3** If a Substitution Request Form is not provided, requests shall include (1) the name of the material or equipment specified in the Bidding Documents; (2) the reason for the requested substitution; (3) a complete description of the proposed substitution including the name of the material or equipment proposed as the substitute, performance and test data, and relevant drawings; and (4) any other information necessary for an evaluation. The request shall include a statement setting forth changes in other materials, equipment, or other portions of the Work, including changes in the work of other contracts or the impact on any Project Certifications (such as LEED), that will result from incorporation of the proposed substitution.

**§ 3.3.3** The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

**§ 3.3.4** If the Architect approves a proposed substitution prior to receipt of Bids, such approval shall be set forth in an Addendum. Approvals made in any other manner shall not be binding, and Bidders shall not rely upon them.

**§ 3.3.5** No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

### **§ 3.4 Addenda**

**§ 3.4.1** Addenda will be transmitted to Bidders known by the issuing office to have received complete Bidding Documents.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Addenda will be transmitted.)*



Addenda will be issued by email to all listed on the Planholders List.

§ 3.4.2 Addenda will be available where Bidding Documents are on file.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

## **ARTICLE 4 BIDDING PROCEDURES**

### **§ 4.1 Preparation of Bids**

§ 4.1.1 Bids shall be submitted on the forms included with or identified in the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed. Paper bid forms shall be executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change" or as required by the bid form.

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall neither make additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name and legal status of the Bidder. As part of the documentation submitted with the Bid, the Bidder shall provide evidence of its legal authority to perform the Work in the jurisdiction where the Project is located. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further name the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached, certifying the agent's authority to bind the Bidder.

§ 4.1.8 A Bidder shall incur all costs associated with the preparation of its Bid.

### **§ 4.2 Bid Security**

§ 4.2.1 Each Bid shall be accompanied by the following bid security:

*(Insert the form and amount of bid security.)*

See Section 00-2200 Supplementary Instructions to Bidders

§ 4.2.2 The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and shall, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. In the event the Owner fails to comply with Section 6.2, the amount of the bid security shall not be forfeited to the Owner.

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until (a) the Contract has been executed and bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected. However, if no Contract has been awarded or a Bidder has not been notified of the acceptance of its Bid, a Bidder may, beginning 30 days after the opening of Bids, withdraw its Bid and



request the return of its bid security.

#### **§ 4.3 Submission of Bids**

**§ 4.3.1** A Bidder shall submit its Bid as indicated below:

*(Indicate how, such as by website, host site/platform, paper copy, or other method Bidders shall submit their Bid.)*

See Section 00-1113 Advertisement for Bids

**§ 4.3.2** Paper copies of the Bid, the bid security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address, and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

**§ 4.3.3** Bids shall be submitted by the date and time and at the place indicated in the invitation to bid. Bids submitted after the date and time for receipt of Bids, or at an incorrect place, will not be accepted.

**§ 4.3.4** The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

**§ 4.3.5** A Bid submitted by any method other than as provided in this Section 4.3 will not be accepted.

#### **§ 4.4 Modification or Withdrawal of Bid**

**§ 4.4.1** Prior to the date and time designated for receipt of Bids, a Bidder may submit a new Bid to replace a Bid previously submitted, or withdraw its Bid entirely, by notice to the party designated to receive the Bids. Such notice shall be received and duly recorded by the receiving party on or before the date and time set for receipt of Bids. The receiving party shall verify that replaced or withdrawn Bids are removed from the other submitted Bids and not considered. Notice of submission of a replacement Bid or withdrawal of a Bid shall be worded so as not to reveal the amount of the original Bid.

**§ 4.4.2** Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids in the same format as that established in Section 4.3, provided they fully conform with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

**§ 4.4.3** After the date and time designated for receipt of Bids, a Bidder who discovers that it made a clerical error in its Bid shall notify the Architect of such error within two days, or pursuant to a timeframe specified by the law of the jurisdiction where the Project is located, requesting withdrawal of its Bid. Upon providing evidence of such error to the reasonable satisfaction of the Architect, the Bid shall be withdrawn and not resubmitted. If a Bid is withdrawn pursuant to this Section 4.4.3, the bid security will be attended to as follows:

*(State the terms and conditions, such as Bid rank, for returning or retaining the bid security.)*

Bid security shall be retained until the Owner has awarded the contract or rejected all Bids.

### **ARTICLE 5 CONSIDERATION OF BIDS**

#### **§ 5.1 Opening of Bids**

If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders.

#### **§ 5.2 Rejection of Bids**

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids.

#### **§ 5.3 Acceptance of Bid (Award)**

**§ 5.3.1** It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. Unless otherwise prohibited by law, the Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

**§ 5.3.2** Unless otherwise prohibited by law, the Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest responsive



and responsible Bidder on the basis of the sum of the Base Bid and Alternates accepted.

## **ARTICLE 6 POST-BID INFORMATION**

### **§ 6.1 Contractor's Qualification Statement**

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request and within the timeframe specified by the Architect, a properly executed AIA Document A305™, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted for this Bid.

### **§ 6.2 Owner's Financial Capability**

A Bidder to whom award of a Contract is under consideration may request in writing, fourteen days prior to the expiration of the time for withdrawal of Bids, that the Owner furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. The Owner shall then furnish such reasonable evidence to the Bidder no later than seven days prior to the expiration of the time for withdrawal of Bids. Unless such reasonable evidence is furnished within the allotted time, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

### **§ 6.3 Submittals**

**§ 6.3.1** After notification of selection for the award of the Contract, the Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, submit in writing to the Owner through the Architect:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the principal products and systems proposed for the Work and the manufacturers and suppliers of each; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

**§ 6.3.2** The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

**§ 6.3.3** Prior to the execution of the Contract, the Architect will notify the Bidder if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, withdraw the Bid or submit an acceptable substitute person or entity. The Bidder may also submit any required adjustment in the Base Bid or Alternate Bid to account for the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

**§ 6.3.4** Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

## **ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND**

### **§ 7.1 Bond Requirements**

**§ 7.1.1** If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder.

**§ 7.1.2** If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

**§ 7.1.3** The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

**§ 7.1.4** Unless otherwise indicated below, the Penal Sum of the Payment and Performance Bonds shall be the amount of the Contract Sum.

*(If Payment or Performance Bonds are to be in an amount other than 100% of the Contract Sum, indicate the dollar amount or percentage of the Contract Sum.)*

### **§ 7.2 Time of Delivery and Form of Bonds**

**§ 7.2.1** The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution



of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

**§ 7.2.2** Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond.

**§ 7.2.3** The bonds shall be dated on or after the date of the Contract.

**§ 7.2.4** The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix to the bond a certified and current copy of the power of attorney.

**ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS**

**§ 8.1** Copies of the proposed Contract Documents have been made available to the Bidder and consist of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, unless otherwise stated below.  
*(Insert the complete AIA Document number, including year, and Document title.)*
  
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds, unless otherwise stated below.  
*(Insert the complete AIA Document number, including year, and Document title.)*
  
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, unless otherwise stated below.  
*(Insert the complete AIA Document number, including year, and Document title.)*
  
- .4 Building Information Modeling Exhibit, if completed:
  
- .5 Drawings  
Refer to Drawings dated June 2025 for complete Sheet Index.

| Number | Title | Date |
|--------|-------|------|
|--------|-------|------|
  
- .6 Specifications  
Refer to Project Manual dated June 2025 for complete Sheet Index.

| Section | Title | Date | Pages |
|---------|-------|------|-------|
|---------|-------|------|-------|
  
- .7 Addenda:

| Number | Date | Pages |
|--------|------|-------|
|--------|------|-------|
  
- .8 Other Exhibits:  
*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*
  - ☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017.)*

|                              |      |       |
|------------------------------|------|-------|
| [ ] The Sustainability Plan: |      |       |
| Title                        | Date | Pages |

[ ] Supplementary and other Conditions of the Contract:

| Document | Title | Date | Pages |
|----------|-------|------|-------|
|----------|-------|------|-------|

.9 Other documents listed below:

*(List here any additional documents that are intended to form part of the Proposed Contract Documents.)*

**SECTION 00-2210  
SUPPLEMENTARY INSTRUCTIONS TO BIDDERS**

**GENERAL**

**1.01 THE FOLLOWING SUPPLEMENTS SHALL MODIFY, CHANGE, DELETE FROM OR ADD TO THE AIA DOCUMENT A701-2018 INSTRUCTIONS TO BIDDERS. WHERE ANY ARTICLE OF THE INSTRUCTIONS TO BIDDERS IS MODIFIED OR ANY PARAGRAPH, SUBPARAGRAPH, OR CLAUSE THEREOF IS MODIFIED OR DELETED BY THESE SUPPLEMENTS, THE UNALTERED PROVISIONS OF THAT ARTICLE, PARAGRAPH, SUBPARAGRAPH, OR CLAUSE SHALL REMAIN IN EFFECT.**

- A. Article 1 Definitions add to as follows:
  - 1. The word Owner is COOS BAY SCHOOL DISTRICT.
  - 2. The word Architect is HGE Architects, Inc.
- B. Article 2 Bidders Representations Subparagraph 2.1.3, add the following: If a pre-bid walkthrough is held, contractors and sub-contractor attendees are encouraged to familiarize themselves with the bidding and contract documents prior to the walkthrough.
- C. Article 3 Bidding Documents Subparagraph 3.1.1, add the following:
  - 1. One set of drawings, specifications and contract documents may be obtained by prime bidders from HGE Architects, INC., upon refundable deposit of amount indicated on the advertisement for bids. Deposit made will be refunded upon return of the complete documents obtained upon return thereof in good condition within seven (7) days after opening of bids. Non-bidders deposit will be refunded if documents are returned in good condition no later than bid opening date. PDF digital copies of these documents are also available to Bidders via HGE's website. General Contractors are encouraged to contact HGE's office by phone or email, and register their interest in submitting a bid and to be included on the architect's plan holders list. Addendums and other critical information will be forwarded to all persons on the architect's plan holders list.
- D. Article 4 Bidding Procedure Subparagraph 4.1.1, add the following:
  - 1. One copy of the Bid Form and other required bidding documents shall be submitted with all blank spaces in the form fully filled.
  - 2. PREPARATION OF FIRST-TIER SUBCONTRACTOR DISCLOSURE
    - a. Per ORS 279C.370 the Bidder shall submit First-Tier Subcontractor Disclosure Form not later than 2 hours following the Bid Closing, or the bid will be rejected, as required by OAR 137-049-0360(3)(b) and OAR 137-049-0200(1)(a)(O).
    - b. To determine disclosure requirements, the Agency recommends that you disclose subcontract information for any subcontractor and supplier as follows:
      - 1) Determine the lowest possible contract price. That price will be the base bid amount less all alternate deductive bid amounts (exclusive of any options that can only be exercised after contract award).

- 2) Provide the required disclosure information for any first-tier subcontractor whose potential contract services (i.e., subcontractor's base bid amount plus all alternate additive bid amounts, exclusive of any options that can only be exercised after contract award) are greater than or equal to: (i) 5% of that lowest contract price, but at least \$15,000, or (ii) \$350,000 regardless of the percentage. Total all possible work for each subcontractor in making this determination (e.g., if a subcontractor will provide \$15,000 worth of services on the base bid and \$40,000 on an additive alternate, then the potential amount of subcontractor's services is \$55,000. Assuming that \$55,000 exceeds 5% of the lowest contract price, provide the disclosure for both the \$15,000 services and the \$40,000 services).
- 3) Submission. A Bidder shall submit the disclosure form required by this rule within two (2) working hours of Bid Closing in the manner specified by the ITB.
- 4) Responsiveness. 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.
- 5) Substitution. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585. Agencies do not have a statutory role or duty to review, approve, or resolve disputes concerning such substitutions. However, Agencies are not precluded from making related inquiries or investigating complaints in order to enforce Contract provisions that require compliance generally with laws, rules and regulations.
- 6) Effective Date. This rule shall apply to Public Improvement Contract first advertised on or after August 1, 2003. The above instructions have been amended to include modifications approved by the 2005 legislature.
- 7) Article 4 Bidding Procedure Subparagraph 4.2.2, add the following:

- E. Bid security in the form of Bid Bond issued by a Bonding Company acceptable to the Owner, cashier's check or certified check in an amount equal to 10% of the total bid, made payable to the Owner shall be required.

**1.02 ARTICLE 4 BIDDING PROCEDURE SUBPARAGRAPH 4.2.3, ADD THE FOLLOWING:**

- A. All Bidders will leave their bids open for a period of thirty (30) days after the date of bid opening. No bid may be withdrawn during such period of time. Owner may accept any Bid in accordance with the Instructions to Bidders within such thirty (30) day period.

**1.03 ARTICLE 5 CONSIDERATION OF BIDS ADD SUBPARAGRAPH 5.3.3:**

- A. If the Contractor is to be awarded, Owner will provide written Notice of Intent to Award to all Bidders of the Owner's intent to award the Contract. Owner's award shall not be final until the later of the following:
  1. Five (5) days after the date of the Notice of Intent; or
  2. The Owner provides a written response to all timely-filed protests that denies the protest and affirms the award.

**1.04 ARTICLE 5 CONSIDERATION OF BIDS ADD SUBPARAGRAPH 5.3.4:**

- A. Goods or services manufactured or produced in the State of Oregon to receive preference, all factors being equal.

**1.05 ARTICLE 6 POST BID INFORMATION DELETE SUBPARAGRAPH 6.1:**

- A. Contractor's Qualification Statement.

**1.06 ARTICLE 7 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND  
SUBPARAGRAPH 7.2.2:**

- A. A Performance Bond and Labor and Material Payment Bond shall be required. Contractor shall provide separate Performance Bond and Labor and Material Payment Bond made payable to the Owner issued by a Corporation legally licensed to transact business in the State of Oregon. Corporation issuing such a bond must comply with applicable Oregon Statutes for public work and be satisfactory to the Owner. The bonds are to be in the amount of 100% of the contract sum to assure the Owner of full and prompt performance of the Contract.

**1.07 ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR  
SUBPARAGRAPH 8.1.1 ADD THE FOLLOWING:**

- A. The Contractor shall within ten (10) days after notification in writing of the Owner's Notice to award a Contract, execute and return to the Owner the Form of Agreement, the Bonds and all applicable Certificates of Insurance.

**END OF SECTION**

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**SECTION 00-4000  
PROCUREMENT FORMS AND SUPPLEMENTS**

**PART 1 GENERAL**

**1.01 FORMS**

- A. Use the following forms for the specified purposes unless otherwise indicated elsewhere in the procurement requirements.
- B. Substitution Request Form (During Procurement): Used attached form or its equivalent..

**END OF SECTION**

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333 S. 4TH STREET  
COOS BAY, OREGON 97420  
P: 541.269.1166  
www.hge1.com

# SUBSTITUTION REQUEST

(During the Bidding Phase)

Project: \_\_\_\_\_ Substitution Request Number: \_\_\_\_\_  
\_\_\_\_\_  
From: \_\_\_\_\_  
To: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
A/E Project Number: \_\_\_\_\_  
Re: \_\_\_\_\_ Contract For: \_\_\_\_\_

Specification Title: \_\_\_\_\_ Description: \_\_\_\_\_  
Section: \_\_\_\_\_ Page: \_\_\_\_\_ Article/Paragraph: \_\_\_\_\_

Proposed Substitution: \_\_\_\_\_  
Manufacturer: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Trade Name: \_\_\_\_\_ Model No.: \_\_\_\_\_

Attached data includes product description, specifications, drawings, photographs, and performance and test data adequate for evaluation of the request; applicable portions of the data are clearly identified.

Attached data also includes a description of changes to the Contract Documents that the proposed substitution will require for its proper installation.

The Undersigned certifies:

- Proposed substitution has been fully investigated and determined to be equal or superior in all respects to specified product.
- Same warranty will be furnished for proposed substitution as for specified product.
- Same maintenance service and source of replacement parts, as applicable, is available.
- Proposed substitution will have no adverse effect on other trades and will not affect or delay progress schedule.
- Proposed substitution does not affect dimensions and functional clearances.
- Payment will be made for changes to building design, including A/E design, detailing, and construction costs caused by the substitution.

Submitted by: \_\_\_\_\_  
Signed by: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

## A/E's REVIEW AND ACTION

- ☐ Substitution approved - Make submittals in accordance with AIA Form 701-2018 Instructions to Bidders, Paragraph 3.3 Substitutions.
- ☐ Substitution approved as noted - Make submittals in accordance with AIA Form 701-2018 Instructions to Bidders, Paragraph 3.3 Substitutions.
- ☐ Substitution rejected - Use specified materials.
- ☐ Substitution Request received too late - Use specified materials.

Signed by: \_\_\_\_\_

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

Supporting Data Attached:

☐ Drawings ☐ Product Data ☐ Samples ☐ Tests ☐ Reports ☐ \_\_\_\_\_

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**SECTION 00-4100  
BID FORM**

**THE PROJECT AND THE PARTIES**

**1.01 TO:**

Owner: **COOS BAY SCHOOL DISTRICT**

**1.02 FOR: COOS BAY SCHOOL DISTRICT - MILLICOMA MARSH TRAIL IMPROVEMENTS**

**PROJECT LOCATION: LOWER FIELD AT MILLICOMA SCHOOL, COOS BAY**

**1.03 DATE: \_\_\_\_\_ (BIDDER TO ENTER DATE)**

**1.04 SUBMITTED BY:**

**NAME OF FIRM (PLEASE PRINT): \_\_\_\_\_**

**1.05 GENERAL**

- A. The Bidder declares that they have carefully examined the Contract Documents for the construction of the proposed improvements; that the Bidder has personally inspected the contemplated construction area, that the Bidder has satisfied themselves as to the quantities of materials, items of equipment, possible difficulties, and conditions of work involved.
- B. By signing this Proposal, the Bidder certifies that the provisions required by ORS 279C.800 to 279C.870 relating to prevailing wage rates shall be included in this Contract, are understood by the Bidder, and will be complied with during the Work.
- C. The bidder further declares that they are registered with the Construction Contractor's Board as required by ORS 701.35 to 701.55, and possess such additional licenses and certifications as required by law for the performance of the work proposed herein.
- D. The subcontractor(s) performing work as described in ORS 701.005(2) will be registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractor(s) commence work under the Contract.
- E. Pursuant to ORS 279A.120, Bidder hereby certifies the Bidder \_\_\_\_\_ is / \_\_\_\_\_ is not **(check one)** a Resident Bidder as defined by ORS 279.029.
- F. Bidder certifies that the provisions required by ORS 279C.836, unless exempt under Sections (4), (7), (8), or (9), before starting work on this Contract, or any subcontract hereunder, Contractor and all subcontractors shall have on file with the Construction Contractor's Board a public works bond with corporate surety authorized to do business in the State of Oregon in the amount of \$30,000.

- G. The Bidder agrees that if this Proposal is accepted, the Bidder will, within ten (10) calendar days after receiving contract forms, execute the Agreement between Owner and Contractor as specified, and deliver to the Owner the Performance and Labor and Payment Bonds required herein.

**1.06 BIDS:**

- A. The undersigned bidder, in submitting his bid, authorizes the Owner to evaluate the bid and make a single award on the basis of the bid.
- B. After having examined all of the contract documents as prepared by HGE ACHITECTS, Inc., 333 South 4th Street, Coos Bay, Oregon 97420, we do hereby propose to furnish labor and materials to complete the work required by said documents for the following fixed sum (*fill in lump sum amount for each bid unit, in written words in space provided, and in numerals within parenthesis*):

C. **BASIC BID:**

\_\_\_\_\_ Dollars

and \_\_\_\_\_ Cents (\$ \_\_\_\_\_) complete.

- D. Bidder further agrees to be bound by the entire Contract Documents, including:
- Advertisement for Bids
  - Issued Addenda
  - Instructions to Bidders - AIA A701 and Supplemental Instructions to Bidders
  - Bid Form (this document)
  - Subcontractor Disclosure Form
  - General Conditions - AIA 201 and Supplementary Conditions
  - Contract for Construction: Owner-Contractor Agreement - AIA 101
  - Performance and Payment Bonds
  - Technical Specifications
  - Plans/Drawings
  - Issued Change Orders and Architect's Supplemental Instructions
  - All Applicable State and Federal Laws

**1.07 BID SECURITY**

- A. Bid security in the form of a certified check of Bid Bond in the amount of 10% of the bid amount is enclosed per ORS 279C.385. The undersigned agrees that Bid Security will be left in escrow with the Owner and that the amount thereof is the measure of liquidated damages which Owner will sustain by failure of the undersigned to deliver and execute the Contract or provide Performance and Payment Bonds and may become the property of the Owner at Owner's option. If this bid is not accepted within thirty (30) days of the time set for the opening of bids or if the undersigned executes and timely delivers said contract and the Performance and Payment Bonds, the Bid Security will be returned.

### 1.08 COMPLETION DATE

- A. It is understood that time is of the essence in the execution of this Contract in order to avoid undue hardship upon the Owner. It is the desire of the Owner to issue a Notice to Proceed upon successful review of the lowest qualified bidder and have the project substantially complete within **THIRTY (30)** calendar days after Notice to Proceed.
1. The Undersigned agrees that he will have the work Substantially Complete within \_\_\_\_\_ calendar days after Notice to Proceed (Contractor to fill in the NUMBER OF CALENDAR DAYS he/she will require to substantially complete the Work and this will be the agreed upon construction time period).
- B. The Contractor agrees that said Work shall be prosecuted regularly, diligently, at such rate of progress as will insure Substantial Completion thereof within the time specified. It is expressly understood and agreed, by the Contractor and the Owner, that the time for the completion of the Work described herein is reasonable taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

### 1.09 OWNER RIGHTS

- A. The Owner reserves the right to reject any or all bids and to waive all informalities.

### 1.10 ADDENDA

- A. The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

1. Addendum # \_\_\_\_\_ Dated \_\_\_\_\_.
2. Addendum # \_\_\_\_\_ Dated \_\_\_\_\_.
3. Addendum # \_\_\_\_\_ Dated \_\_\_\_\_.

### 1.11 BIDDER DATA AND SIGNATURE(S)

- A. Name of Firm (*please print*): \_\_\_\_\_
- B. Mailing Address: \_\_\_\_\_
- C. Physical Address (*if different*): \_\_\_\_\_
- D. Construction Contractor Board Registration Number: \_\_\_\_\_
- E. Telephone Number: \_\_\_\_\_

F. Fax  
Number: \_\_\_\_\_

G. Email Address: \_\_\_\_\_

H. Signature (*if bid is by a partnership, one of the partners must sign*):

\_\_\_\_\_

I. Name and Official Capacity of Signatory (*please print*):

\_\_\_\_\_

J. If Corporation, Attest (*Secretary of Corporation*):

\_\_\_\_\_

K. SEAL (if Corporation):

**END OF SECTION**

## FIRST-TIER SUBCONTRACTOR DISCLOSURE



PROJECT NAME: \_\_\_\_\_

BID #: \_\_\_\_\_

BID CLOSING: Date: \_\_\_\_\_ Time: \_\_\_\_\_

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.)

| NAME | DOLLAR VALUE | CATEGORY OF WORK |
|------|--------------|------------------|
| (1)  | \$           |                  |
| (2)  | \$           |                  |
| (3)  | \$           |                  |
| (4)  | \$           |                  |
| (5)  | \$           |                  |
| (6)  | \$           |                  |
| (7)  | \$           |                  |
| (8)  | \$           |                  |
| (9)  | \$           |                  |

Failure to submit this form by the disclosure deadline will result in a non-responsive bid. A non-responsive bid will not be considered for award.

Form submitted by (bidder name): \_\_\_\_\_

Contact name: \_\_\_\_\_ Phone no.: (    ) \_\_\_\_\_

**ORS 279C.370 First-tier subcontractor disclosure.** (1)(a) Within two working hours after the date and time of the deadline when bids are due to a contracting agency for a public improvement contract, a bidder shall submit to the contracting agency a disclosure of the first-tier subcontractors that:

- (A) Will be furnishing labor or will be furnishing labor and materials in connection with the public improvement contract; and
- (B) Will have a contract value that is equal to or greater than five percent of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.
  - (b) For each contract to which this subsection applies, the contracting agency shall designate a deadline for submission of bids that has a date on a Tuesday, Wednesday or Thursday and a time between 2 p.m. and 5 p.m., except that this paragraph does not apply to public contracts for maintenance or construction of highways, bridges or other transportation facilities.
  - (c) This subsection applies only to public improvement contracts ("**projects**") with a value, estimated by the contracting agency, of more than **\$100,000**.
  - (d) This subsection does not apply to public improvement contracts that have been exempted from competitive bidding requirements under ORS 279C.335 (2).
- (2) The disclosure of first-tier subcontractors under subsection (1) of this section must include the name of each subcontractor, the category of work that each subcontractor will perform and the dollar value of each subcontract. The information shall be disclosed in substantially the following [above] form:
- (3) A contracting agency shall accept the subcontractor disclosure. The contracting agency shall consider the bid of any contractor that does not submit a subcontractor disclosure to the contracting agency to be a non-responsive bid and may not award the contract to the contractor. A contracting agency is not required to determine the accuracy or the completeness of the subcontractor disclosure.
- (4) After the bids are opened, the subcontractor disclosures must be made available for public inspection.
- (5) A contractor may substitute a first-tier subcontractor under the provisions of ORS 279C.585.
- (6) A subcontractor may file a complaint under ORS 279C.590 based on the disclosure requirements of subsection (1) of this section.

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**SECTION 00-7200  
GENERAL CONDITIONS**

**FORM OF GENERAL CONDITIONS**

**1.01 THE GENERAL CONDITIONS APPLICABLE TO THIS CONTRACT IS ATTACHED FOLLOWING THIS PAGE.**

A. AIA Document A201-2017, General Conditions of the Contract for Construction.

**RELATED REQUIREMENTS**

**2.01 SECTION 00-7300 - SUPPLEMENTARY CONDITIONS.**

**SUPPLEMENTARY CONDITIONS**

**3.01 REFER TO DOCUMENT 00-7300 - SUPPLEMENTARY CONDITIONS FOR AMENDMENTS TO THESE GENERAL CONDITIONS.**

**END OF SECTION**

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## ***General Conditions of the Contract for Construction***

### **for the following PROJECT:**

*(Name and location or address)*

24.024.1 Millicoma Marsh Trail Improvement  
260 2nd Ave  
Coos Bay, OR 97420

### **THE OWNER:**

*(Name, legal status and address)*

Coos Bay School District  
1255 Hemlock Avenue  
Coos Bay, OR 97420

### **THE ARCHITECT:**

*(Name, legal status and address)*

HGE Architects, Inc.  
333 South 4th Street  
Coos Bay, OR 97420

### **TABLE OF ARTICLES**

- 1 GENERAL PROVISIONS**
- 2 OWNER**
- 3 CONTRACTOR**
- 4 ARCHITECT**
- 5 SUBCONTRACTORS**
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**
- 7 CHANGES IN THE WORK**
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**14    TERMINATION OR SUSPENSION OF THE CONTRACT**

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## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 Basic Definitions**

#### **§ 1.1.1 The Contract Documents**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### **§ 1.1.2 The Contract**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### **§ 1.1.3 The Work**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### **§ 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 and by Separate Contractors.

#### **§ 1.1.5 The 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 The Specifications**

The Specifications are 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.

#### **§ 1.1.7 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### **§ 1.1.8 Initial Decision Maker**

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

### **§ 1.2 Correlation and Intent of the Contract Documents**

**§ 1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.



**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of 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** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### **§ 1.3 Capitalization**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

### **§ 1.4 Interpretation**

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### **§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service**

**§ 1.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal 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 Architect's or Architect's consultants' reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### **§ 1.6 Notice**

**§ 1.6.1** Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

**§ 1.6.2** Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### **§ 1.7 Digital Data Use and Transmission**

The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.

### **§ 1.8 Building Information Models Use and Reliance**

Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.



## **ARTICLE 2 OWNER**

### **§ 2.1 General**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### **§ 2.2 Evidence of the Owner's Financial Arrangements**

**§ 2.2.1** Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

**§ 2.2.2** Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

**§ 2.2.3** After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.4** Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

### **§ 2.3 Information and Services Required of the Owner**

**§ 2.3.1** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.3.2** The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**§ 2.3.3** If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.



**§ 2.3.4** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 2.3.5** The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

**§ 2.3.6** Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

#### **§ 2.4 Owner's Right to Stop the Work**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

#### **§ 2.5 Owner's Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### **ARTICLE 3 CONTRACTOR**

#### **§ 3.1 General**

**§ 3.1.1** The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

**§ 3.1.2** The Contractor shall perform the Work in accordance with the Contract Documents.

**§ 3.1.3** The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

#### **§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the



purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### **§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### **§ 3.4 Labor and Materials**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**§ 3.4.2** Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.



### **§ 3.5 Warranty**

**§ 3.5.1** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

**§ 3.5.2** All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

### **§ 3.6 Taxes**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

**§ 3.7.3** If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### **§ 3.7.4 Concealed or Unknown Conditions**

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

### **§ 3.8 Allowances**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct,



but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

**§ 3.8.3** Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

**§ 3.9 Superintendent**

**§ 3.9.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

**§ 3.9.3** 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.

**§ 3.10 Contractor's Construction and Submittal Schedules**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

**§ 3.10.2** The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

**§ 3.10.3** The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

**§ 3.11 Documents and Samples at the Site**

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as



constructed.

**§ 3.12 Shop Drawings, Product Data and Samples**

**§ 3.12.1** Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

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

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

**§ 3.12.4** Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The



Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

### **§ 3.13 Use of Site**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### **§ 3.15 Cleaning Up**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

### **§ 3.16 Access to Work**

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### **§ 3.17 Royalties, Patents and Copyrights**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

### **§ 3.18 Indemnification**

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the



Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 General**

**§ 4.1.1** The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

**§ 4.1.2** Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### **§ 4.2 Administration of the Contract**

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### **§ 4.2.4 Communications**

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

**§ 4.2.5** Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.



**§ 4.2.6** The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 4.2.7** The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 4.2.8** The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

**§ 4.2.9** The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

**§ 4.2.10** If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

**§ 4.2.11** The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

**§ 4.2.13** The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

**§ 4.2.14** The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 Definitions**

**§ 5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.



**§ 5.1.2** A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion 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 an authorized representative of the Sub-subcontractor.

## **§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work**

**§ 5.2.1** Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

**§ 5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**§ 5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**§ 5.2.4** The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

## **§ 5.3 Subcontractual Relations**

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

## **§ 5.4 Contingent Assignment of Subcontracts**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.



§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

### **§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts**

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

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

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

### **§ 6.2 Mutual Responsibility**

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.



### **§ 6.3 Owner's Right to Clean Up**

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## **ARTICLE 7 CHANGES IN THE WORK**

### **§ 7.1 General**

**§ 7.1.1** Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

**§ 7.1.2** A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

**§ 7.1.3** Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

### **§ 7.2 Change Orders**

**§ 7.2.1** A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

### **§ 7.3 Construction Change Directives**

**§ 7.3.1** A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

**§ 7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

**§ 7.3.4** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;



- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.5** If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

**§ 7.3.6** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.7** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

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

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

**§ 7.3.10** When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### **§ 7.4 Minor Changes in the Work**

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

### **ARTICLE 8 TIME**

#### **§ 8.1 Definitions**

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

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement.

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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



## **§ 8.2 Progress and Completion**

**§ 8.2.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

## **§ 8.3 Delays and Extensions of Time**

**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15.

**§ 8.3.3** This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 Contract Sum**

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

**§ 9.1.2** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### **§ 9.2 Schedule of Values**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### **§ 9.3 Applications for Payment**

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others



whom the Contractor intends to pay.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

#### **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 Decisions to Withhold Certification**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers 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 a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;



- or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

**§ 9.5.2** When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

**§ 9.5.3** When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.4** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

## **§ 9.6 Progress Payments**

**§ 9.6.1** After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

**§ 9.6.2** The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

**§ 9.6.3** The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

**§ 9.6.4** The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

**§ 9.6.5** The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

**§ 9.6.6** A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

**§ 9.6.7** Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

**§ 9.6.8** Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.



### **§ 9.7 Failure of Payment**

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

### **§ 9.8 Substantial Completion**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### **§ 9.9 Partial Occupancy or Use**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.



### **§ 9.10 Final Completion and Final Payment**

**§ 9.10.1** Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1 Safety Precautions and Programs**

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

### **§ 10.2 Safety of Persons and Property**

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

- .1 employees on the Work and other persons who may be affected thereby;



- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

**§ 10.2.2** The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

**§ 10.2.3** The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

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

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either 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 the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

**§ 10.2.7** The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### **§ 10.2.8 Injury or Damage to Person or Property**

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### **§ 10.3 Hazardous Materials and Substances**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed



by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

#### **§ 10.4 Emergencies**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

### **ARTICLE 11 INSURANCE AND BONDS**

#### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

**§ 11.1.2** The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

**§ 11.1.3** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

**§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve



the Contractor of any contractual obligation to provide any required coverage.

## **§ 11.2 Owner's Insurance**

**§ 11.2.1** The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

**§ 11.2.2 Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

**§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

## **§ 11.3 Waivers of Subrogation**

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

## **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to



fire or other hazards however caused.

### **§11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

### **§ 12.2 Correction of Work**

#### **§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.



**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### **§ 12.3 Acceptance of Nonconforming Work**

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

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **§ 13.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### **§ 13.2 Successors and Assigns**

**§ 13.2.1** The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 13.2.2** The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### **§ 13.3 Rights and Remedies**

**§ 13.3.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

**§ 13.3.2** No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### **§ 13.4 Tests and Inspections**

**§ 13.4.1** Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or



approvals where building codes or applicable laws or regulations so require.

**§ 13.4.2** If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

**§ 13.4.3** If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

**§ 13.4.4** Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

**§ 13.4.5** If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

**§ 13.4.6** Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

#### **§ 13.5 Interest**

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

### **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

#### **§ 14.1 Termination by the Contractor**

**§ 14.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

**§ 14.1.2** The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

**§ 14.1.3** If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

**§ 14.1.4** If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in



**§ 14.2 Termination by the Owner for Cause**

**§ 14.2.1** The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

**§ 14.2.2** When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

**§ 14.2.3** When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**§ 14.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

**§ 14.3 Suspension by the Owner for Convenience**

**§ 14.3.1** The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

**§ 14.3.2** The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

**§ 14.4 Termination by the Owner for Convenience**

**§ 14.4.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

**§ 14.4.2** Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.



**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

## **ARTICLE 15 CLAIMS AND DISPUTES**

### **§ 15.1 Claims**

#### **§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

#### **§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

#### **§ 15.1.3 Notice of Claims**

**§ 15.1.3.1** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

**§ 15.1.3.2** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

#### **§ 15.1.4 Continuing Contract Performance**

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 15.1.4.2** The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

#### **§ 15.1.5 Claims for Additional Cost**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

#### **§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

#### **§ 15.1.7 Waiver of Claims for Consequential Damages**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes



- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

## **§ 15.2 Initial Decision**

**§ 15.2.1** Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

**§ 15.2.3** In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 15.2.4** If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

**§ 15.2.6** Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner



may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### **§ 15.3 Mediation**

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

### **§ 15.4 Arbitration**

**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, 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 the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. 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.

**§ 15.4.1.1** 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.

**§ 15.4.2** 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.

**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

### **§ 15.4.4 Consolidation or Joinder**

**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially



similar procedural rules and methods for selecting arbitrator(s).

**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

**SECTION 00-7300  
SUPPLEMENTARY CONDITIONS**

**PART 1 GENERAL**

**1.01 SUMMARY**

- A. These Supplementary Conditions amend and supplement the General Conditions, AIA Document A201-2017 General Conditions of the Contract for Construction defined in Document 00 7200 and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.
- B. The terms used in these Supplementary Conditions that are defined in the General Conditions have the meanings assigned to them in the General Conditions.

**1.02 MODIFICATIONS TO GENERAL CONDITIONS**

A. ARTICLE 1. GENERAL PROVISIONS

- 1. 1.1.1: Revise the first sentence as set forth below:
  - a. The Contract Documents consist of the Conditions of the Contract (General, Supplementary and other Conditions), Contract Forms as bound or referenced, the Drawings, the Specifications, the Details, all Addenda issued prior to execution of the contract and all modifications issued after execution of the Contract.
- 2. 1.2 CORRELATIONS AND INTENT OF THE CONTRACT DOCUMENTS
  - a. 1.2.1 Add the following:
    - 1) If work is required in a manner to make it impossible to produce first class work, or should discrepancies appear among contract documents, request interpretation before proceeding with work. If Contractor fails to make such request, no excuse will thereafter be entertained for failure to carry out work in satisfactory manner.
  - b. 1.2.3: Add the following:
    - 1) Reference to technical society, organization, or body is made in specifications in accordance with the following abbreviations:
      - a) ACI American Concrete Institute
      - b) AIA American Institute of Architects
      - c) AIEE American Institute of Electrical Engineers
      - d) AISC American Institute of Steel Construction
      - e) ASA American Standard Association
      - f) APA American Plywood Association
      - g) ASTM American Society of Testing Materials
      - h) ASME American Society of Mechanical Engineers
      - i) AWI Architectural Woodwork Institute
      - j) AWS American Welding Society Code
      - k) CS Commercial Standard
      - l) FS Federal Specifications
      - m) IBC International Building Code
      - n) MIL Military Specifications
      - o) NBFU National Board of Fire Underwriters
      - p) NBS National Board of Standards
      - q) NEC National Electric Code
      - r) NEMA National Electrical Manufacturer's Assn.

- s) NFPA National Fire Protection Association
- t) OSHA Occupational Safety and Health Act
- u) UBC Uniform Building Code
- v) UL Underwriters Laboratory
- w) WCLIB West Coast Lumber Inspection Bureau

B. ARTICLE 2 OWNER

1. 2.1.1 Add the following:
  - a. The Owner is defined as COOS BAY SCHOOL DISTRICT.
2. 2.3.6 Substitute the following:
  - a. The Owner through the Architect will furnish to the Contractor Four (4) complete sets of drawings and specifications without charge for use on project. These include sets submitted to Agency having jurisdiction for plans review and building permit. Additional copies may be purchased by Contractor at cost of reproduction.

C. ARTICLE 3 CONTRACTOR

1. 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES
  - a. 3.3.1 Add the following:
    - 1) The Contractor will supervise and direct the work and will review with all subcontractors methods and materials to be used to verify their compliance with all safety standards and laws and be responsible for compliance with same, to insure safe, hazard free conditions for all persons visiting or working on the entire project.
2. 3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS
  - a. 3.7.1 Add:
    - 1) The Owner shall pay for the Building Permit Plan Review and Building Permit fees only. The Contractor shall pay all other permit and plan review fees related to his work and his subcontractors, i.e., plumbing, mechanical and electrical. Owner shall pay any system development fees required.
3. 3.11 DOCUMENTS AND SAMPLES AT THE SITE, Add the following:
  - a. Upon completion of the project transfer all information from the record set of drawings to a clean set of prints and deliver to the Architect. Drawing additions are to be added in contrasting ink and are to be accurate, neat and finished in appearance and show accurate horizontal and vertical dimensions for location of underground work. Drawings must be acceptable to Architect before certification of final payment will be made.
4. 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES
  - a. 3.12.5 Add the following:
    - 1) See Section 01-3000 - Administrative Requirements for submittal information, requirements, and procedures.
5. 3.15 CLEANING UP
  - a. 3.15.1 Add the following:
    - 1) Upon completion of any portion of the work, promptly remove temporary facilities generated by that portion of the work, including surplus materials, equipment, and machinery if so directed by the Architect or the Owner. Upon completion of the Work, completely remove temporary facilities. Remove stains, spots and smears from all surfaces. Remove all labels. Leave the premises in a "broom clean" condition.

D. ARTICLE 4 ARCHITECT

1. 4.1.1 Add the following:
  - a. The Architect is defined as HGE ARCHITECTS, Inc.

E. ARTICLE 5 SUBCONTRACTORS



1. 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK
  - a. 5.2.1 Add the following:
    - 1) The list of subcontractors shall be submitted no later than five (5) days after the bid opening.

F. ARTICLE 7 CHANGES IN THE WORK

1. 7.2 CHANGE ORDERS
  - a. 7.2.2 Add the following:
    - 1) The cost to the Owner resulting from extra work shall be determined by an agreed price which shall include a percentage for overhead and profit as listed below; or shall be the actual cost of the additional direct labor, materials, and subcontract work involved, plus a percentage for overhead and profit as listed below.
      - a) The percentage shall not exceed 10% to cover both profit and overhead.
    - 2) The credit to the Owner resulting from a deduction of work shall be determined by an agreed price, or the actual cost of direct labor, materials, and subcontract work involved.
    - 3) Cost and credits shall be submitted by the Contractor to the Architect in a complete breakdown form, showing cost, overhead and profit.
    - 4) Cost shall be limited to the following: Cost of products, including taxes and cost of delivery; cost of labor, including social security, old age, and unemployment insurance, and fringe benefits under collective bargaining agreements; Workmen's Compensation Insurance; bond premiums; and rental value of power tools and equipment. Overhead shall include the following: Supervision, superintendence, wages of time keepers, watchmen, and clerks, hand tools, incidentals, general office expense, and all other proven expenses not included in "cost".

G. ARTICLE 8 TIME

1. 8.2 PROGRESS AND COMPLETION
  - a. 8.2.4 Add the following:
    - 1) The Contractor agrees:
    - 2) To proceed upon receipt of the executed Contract and the Notice to Proceed.
    - 3) It is hereby understood and mutually agreed, by and between the contractor and the Owner, that the date of beginning and the time for completion of each phase of the work to be done are ESSENTIAL CONDITIONS of this contract.
    - 4) The Contractor agrees that said work shall be prosecuted regularly, diligently, at such rate of progress as will insure substantial completion thereof within the time specified. It is expressly understood and agree, by and between the Contractor and the Owner that the time for the completion of the work described herein is reasonable taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
    - 5) The said amount is fixed and agreed upon by; and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain.

H. ARTICLE 9 PAYMENTS AND COMPLETION

1. APPLICATIONS FOR PAYMENT

- a. 9.3.1 Add the following:
      - 1) Payment request form shall be submitted on AIA G702 Application for Payment supplemented with AIA G703 Continuation Sheet. Forms will be furnished by Architect if requested by Contractor. Contractor may use their own spreadsheet type format, however line items must exactly match AIA line items.
  - 2. PROGRESS PAYMENTS
    - a. 9.6.1 Amend as follows:
      - 1) After the Architect has issued a certificate for payment the Owner will pay the Contractor ninety-five (95%) percent of the value of material and labor worked into the building or stored on the site before the first day of the month less the aggregate of previous payments.
      - 2) Payment will be made on or before the fifteenth (15th) day of the month following the date of the application for payment.
      - 3) Upon Substantial Completion of the contract the sum sufficient to increase total payment to ninety-five (95%) percent of the contract amount is due. Thirty (30) days thereafter, provided the work then be fully completed and accepted by the Architect, balance under the contract is due.
- I. ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY
  - 1. 10.2 SAFETY OF PERSONS AND PROPERTY
    - a. 10.2.2 Add the following:
      - 1) Contractors shall comply with all provisions of OAR 437 Division 155 (Hazard Communication). Contractor shall provide Owner, through the Architect, a copy of MSDS (Material Safety Data Sheets) for all chemicals brought onto the site, and shall maintain an inventory on the job site of such chemicals. Such inventory shall be accessible to those who desire access.
- J. ARTICLE 11 INSURANCE AND BONDS
  - 1. 11.1 CONTRACTOR'S INSURANCE AND BONDS
    - a. 11.1.1 Add the following:
      - 1) The Contractor's comprehensive general liability insurance and automobile liability insurance shall not be less than the amount shown below:
      - 2) Worker's Compensation as required by law.
      - 3) Bodily Injury Liability - Automobile:
        - a) Each person \$ 500,000
        - b) Each occurrence \$1,000,000
      - 4) Bodily Injury Liability - Except Automobile
        - a) Each person \$1,000,000
        - b) Each occurrence \$1,000,000
      - 5) Property Damage Liability - Automobile:
        - a) Each occurrence \$ 500,000
      - 6) Property Damage Liability - Except Automobile:
        - a) Each occurrence \$ 500,000
        - b) Aggregate occurrence \$1,000,000
      - 7) The Contractor will either (1) require each of his subcontractors to procure and maintain during the life of his subcontract, subcontractor's comprehensive general liability, automobile liability, and property damage liability insurance of the type and in the same amounts as specified in this subparagraph; or (2) insure the activity of his subcontractors.

- 8) The Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.
  2. 11.1.2 Substitute the following:
    - a. The Contractor shall furnish a Performance Bond in an amount equal to one hundred (100%) percent of the contract sum as security for the faithful performance of this contract and also a Labor and Material Payment Bond in an amount not less than one hundred (100%) percent of the contract sum as security for the payment of all persons performing labor on the project under this contract. Bond shall be written by a company licensed in the State of Oregon and satisfactory to the Owner.
- K. ARTICLE 13 MISCELLANEOUS PROVISIONS
  1. 13.1 GOVERNING LAW, Add the following:
    - a. General Contractor and each subcontractor to comply with all Federal, State laws pertaining to Social Security, Unemployment Insurance, Tax Regulations. Make prompt payment to designated agencies.
    - b. Contractor agrees to abide by all Federal and State regulations pertaining to the employment of minority and ethnic groups including all required affirmative action, and further agrees to hold owner harmless on account of all duties and responsibilities imposed on Contractor by the terms of any State or Federal Statute, regulation, or other governmental directive.
  2. 13.6 Add the following:
    - a. All labor subject to the provisions of ORS 279C.520 and 279C.830 which is performed under this contract shall be paid not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed.
- L. Add ARTICLE 16 - ORS 279C Requirements for Public Works
  1. See document following this Section.

## **PART 2 PRODUCTS - NOT USED**

## **PART 3 EXECUTION - NOT USED**

### **END OF SECTION**



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**SECTION 00-7346  
PREVAILING WAGE RATES**

**PART 1 GENERAL**

**1.01 REQUIREMENTS:**

- A. The "Prevailing Wage Rates for Public Works Contracts in Oregon" dated July 5, 2025, including any issued corrections or amendments that follow are herein added to the Contract Documents by reference.
- B. BOLI Prevailing Wage Rate information is available upon request, or electronically at [www.oregon.gov/boli](http://www.oregon.gov/boli).
- C. Work under this Contract will be subject to the provisions of ORS 279C.800 to 279C.870, relating to BOLI Prevailing Wage Rates in effect at the time the project was advertised for bids.
- D. Provisions described in this Section or in Exhibit A of the Public Contracting Code Requirement for Public Improvements Contracts over \$50,000, located at the end of the Supplemental General Conditions, will apply regardless of the price of any individual Contract, so long as the combined price of all Contracts award on the project is \$50,000 or more.
- E. If total Contract amount does not exceed \$50,000, Contractor is not required to pay prevailing wage rates.

**PART 2 PRODUCTS - NOT USED**

**PART 3 EXECUTION - NOT USED**

**END OF SECTION**

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## **SECTION 01-1000 SUMMARY**

### **PART 1 GENERAL**

#### **1.01 PROJECT**

- A. Project Name: 24.024.1 CBSD Millicoma Marsh Trail Improvements

Work on the project includes rebuilding the Millicoma Marsh Trail, approximately 2,500 lineal feet, from existing gravel parking lot to shelter at turn-around.

- B. Architect's Name: HGE Architects, Inc.

#### **1.02 CONTRACT DESCRIPTION**

- A. Contract Type: A single prime contract based on a Stipulated Price.

#### **1.03 OWNER OCCUPANCY**

- A. Cooperate with Owner to minimize conflict and to facilitate Owner's operations.  
B. Schedule the Work to accommodate Owner occupancy.

#### **1.04 CONTRACTOR USE OF SITE AND PREMISES**

- A. Construction Operations: Limited to areas noted on Drawings.  
B. Arrange use of site and premises to allow:  
1. Work by Others.  
2. Work by Owner.  
C. Provide access to and from site as required by law and by Owner:  
1. Do not obstruct roadways, sidewalks, or other public ways without permit.  
D. Time Restrictions:  
1. Limit conduct of especially noisy exterior work to the hours of 7:30 a.m. to 5:30 pm.

#### **1.05 SPECIFICATION SECTIONS APPLICABLE TO ALL CONTRACTS**

- A. Unless otherwise noted, all provisions of the sections listed below apply to all contracts. Specific items of work listed under individual contract descriptions constitute exceptions.

### **PART 2 PRODUCTS - NOT USED**

### **PART 3 EXECUTION - NOT USED**

**END OF SECTION**

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**SECTION 01-3000  
ADMINISTRATIVE REQUIREMENTS**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

- A. Preconstruction meeting.
- B. Progress meetings.
- C. Construction progress schedule.
- D. Submittals for review, information, and project closeout.
- E. Number of copies of submittals.
- F. Submittal procedures.

**1.02 RELATED REQUIREMENTS**

- A. Section 01-7000 - Execution and Closeout Requirements: Additional coordination requirements.

**PART 2 PRODUCTS - NOT USED**

**PART 3 EXECUTION**

**3.01 PRECONSTRUCTION MEETING**

- A. Attendance Required:
  - 1. Owner.
  - 2. Architect.
  - 3. General Contractor, contractor's superintendent(s) and major subcontractors.
- B. Agenda:
  - 1. Distribution of Contract Documents.
  - 2. Designation of personnel representing the parties to Contract Owner and .
  - 3. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders, and Contract closeout procedures.
  - 4. Scheduling.
- C. Record minutes and distribute copies within two days after meeting to participants, with two copies to Architect, Owner, participants, and those affected by decisions made.

**3.02 PROGRESS MEETINGS**

- A. Schedule and administer meetings throughout progress of the work at maximum bi-weekly intervals.
- B. Architect will make arrangements for meetings, prepare agenda with copies for participants, preside at meetings.



- C. Attendance Required:
  - 1. Contractor.
  - 2. Owner.
  - 3. Architect.
  - 4. Contractor's superintendent.
  - 5. Major subcontractors.
- D. Agenda:
  - 1. Review minutes of previous meetings.
  - 2. Review of work progress.
  - 3. Field observations, problems, and decisions.
  - 4. Identification of problems that impede, or will impede, planned progress.
  - 5. Review of submittals schedule and status of submittals.
  - 6. Maintenance of progress schedule.
  - 7. Corrective measures to regain projected schedules.
  - 8. Planned progress during succeeding work period.
  - 9. Maintenance of quality and work standards.
  - 10. Effect of proposed changes on progress schedule and coordination.
  - 11. Other business relating to work.
- E. Record minutes and distribute copies within three days after meeting to participants, with copies to Architect, Owner, participants, and those affected by decisions made.

### **3.03 CONSTRUCTION PROGRESS SCHEDULE**

- A. Submit updated schedule at each construction progress meeting.

**END OF SECTION**

**SECTION 01-4000  
QUALITY REQUIREMENTS**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

- A. References and standards.
- B. Control of installation.
- C. Control of installation.
- D. Defect Assessment.

**1.02 RELATED REQUIREMENTS**

- A. Section 01-3000 - Administrative Requirements: Submittal procedures.

**1.03 REFERENCE STANDARDS**

- A. ASTM E329 - Standard Specification for Agencies Engaged in Construction Inspection, Testing, or Special Inspection; 2021.

**PART 2 PRODUCTS - NOT USED**

**PART 3 EXECUTION**

**3.01 CONTROL OF INSTALLATION**

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce work of specified quality.
- B. Comply with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Architect before proceeding.
- D. Comply with specified standards as minimum quality for the work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Have work performed by persons qualified to produce required and specified quality.
- F. Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
- G. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, and disfigurement.

**3.02 DEFECT ASSESSMENT**

- A. Replace Work or portions of the Work not complying with specified requirements.

**END OF SECTION**



**SECTION 01-7000  
EXECUTION AND CLOSEOUT REQUIREMENTS**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

- A. Examination, preparation, and general installation procedures.
- B. Cutting and patching.
- C. Surveying for laying out the work.
- D. Cleaning and protection.
- E. Closeout procedures, including Contractor's Correction Punch List, except payment procedures.
- F. General requirements for maintenance service.

**1.02 RELATED REQUIREMENTS**

- A. Section 01-1000 - Summary: Limitations on working in existing building; continued occupancy; work sequence; identification of salvaged and relocated materials.
- B. Section 01-3000 - Administrative Requirements: Submittals procedures, Electronic document submittal service.
- C. Section 01-4000 - Quality Requirements: Testing and inspection procedures.
- D. Section 01-7800 - Closeout Submittals: Project record documents, operation and maintenance data, warranties, and bonds.

**1.03 REFERENCE STANDARDS**

- A. NFPA 241 - Standard for Safeguarding Construction, Alteration, and Demolition Operations; 2013.

**1.04 SUBMITTALS**

- A. See Section 01-3000 - Administrative Requirements, for submittal procedures.

**1.05 COORDINATION**

- A. Coordinate scheduling, submittals, and work of the various sections of the Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements.
- B. Notify affected utility companies and comply with their requirements.
- C. Verify that utility requirements and characteristics of new operating equipment are compatible with building utilities. Coordinate work of various sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.

- D. Coordinate space requirements, supports, and installation of mechanical and electrical work that are indicated diagrammatically on drawings. Follow routing indicated for pipes, ducts, and conduit, as closely as practicable; place runs parallel with lines of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- E. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.
- F. Coordinate completion and clean-up of work of separate sections.
- G. After Owner occupancy of premises, coordinate access to site for correction of defective work and work not in accordance with Contract Documents, to minimize disruption of Owner's activities.

## **PART 2 PRODUCTS - NOT USED**

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

- A. Verify that existing site conditions and substrate surfaces are acceptable for subsequent work. Start of work means acceptance of existing conditions.
- B. Verify that existing substrate is capable of structural support or attachment of new work being applied or attached.
- C. Examine and verify specific conditions described in individual specification sections.
- D. Take field measurements before confirming product orders or beginning fabrication, to minimize waste due to over-ordering or misfabrication.
- E. Verify that utility services are available, of the correct characteristics, and in the correct locations.
- F. Prior to Cutting: Examine existing conditions prior to commencing work, including elements subject to damage or movement during cutting and patching. After uncovering existing work, assess conditions affecting performance of work. Beginning of cutting or patching means acceptance of existing conditions.

### **3.02 LAYING OUT THE WORK**

- A. Verify locations of survey control points prior to starting work.
- B. Promptly notify Architect of any discrepancies discovered.
- C. Contractor shall locate and protect survey control and reference points.
- D. Protect survey control points prior to starting site work; preserve permanent reference points during construction.
- E. Promptly report to Architect the loss or destruction of any reference point or relocation required because of changes in grades or other reasons.
- F. Replace dislocated survey control points based on original survey control. Make no changes without prior written notice to Architect.

- G. Utilize recognized engineering survey practices.
- H. Establish a minimum of two permanent bench marks on site, referenced to established control points. Record locations, with horizontal and vertical data, on project record documents.
- I. Establish elevations, lines and levels. Locate and lay out by instrumentation and similar appropriate means:
  - 1. Site improvements including pavements; stakes for grading, fill and topsoil placement; utility locations, slopes, and invert elevations.
  - 2. Grid or axis for structures.
  - 3. Building foundation, column locations, ground floor elevations.
- J. Periodically verify layouts by same means.
- K. Maintain a complete and accurate log of control and survey work as it progresses.

### **3.03 GENERAL INSTALLATION REQUIREMENTS**

- A. Install products as specified in individual sections, in accordance with manufacturer's instructions and recommendations, and so as to avoid waste due to necessity for replacement.
- B. Make vertical elements plumb and horizontal elements level, unless otherwise indicated.
- C. Install equipment and fittings plumb and level, neatly aligned with adjacent vertical and horizontal lines, unless otherwise indicated.
- D. Make consistent texture on surfaces, with seamless transitions, unless otherwise indicated.
- E. Make neat transitions between different surfaces, maintaining texture and appearance.

### **3.04 CUTTING AND PATCHING**

- A. Whenever possible, execute the work by methods that avoid cutting or patching.
- B. Perform whatever cutting and patching is necessary to:
  - 1. Complete the work.
  - 2. Fit products together to integrate with other work.
  - 3. Provide openings for penetration of mechanical, electrical, and other services.
  - 4. Match work that has been cut to adjacent work.
  - 5. Repair areas adjacent to cuts to required condition.
  - 6. Repair new work damaged by subsequent work.
  - 7. Remove samples of installed work for testing when requested.
  - 8. Remove and replace defective and non-complying work.
- C. Execute work by methods that avoid damage to other work and that will provide appropriate surfaces to receive patching and finishing.
- D. Employ skilled and experienced installer to perform cutting for weather exposed and moisture resistant elements, and sight exposed surfaces.
- E. Cut rigid materials using masonry saw or core drill. Pneumatic tools not allowed without prior approval.
- F. Restore work with new products in accordance with requirements of Contract Documents.
- G. Fit work air tight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces.



- H. At penetrations of fire rated walls, partitions, ceiling, or floor construction, completely seal voids with fire rated material , to full thickness of the penetrated element.
- I. Patching:
  - 1. Finish patched surfaces to match finish that existed prior to patching. On continuous surfaces, refinish to nearest intersection or natural break. For an assembly, refinish entire unit.
  - 2. Match color, texture, and appearance.
  - 3. Repair patched surfaces that are damaged, lifted, discolored, or showing other imperfections due to patching work. If defects are due to condition of substrate, repair substrate prior to repairing finish.

### **3.05 PROGRESS CLEANING**

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
- B. Collect and remove waste materials, debris, and trash/rubbish from site periodically and dispose off-site; do not burn or bury.

### **3.06 PROTECTION OF INSTALLED WORK**

- A. Protect installed work from damage by construction operations.
- B. Provide special protection where specified in individual specification sections.
- C. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.
- D. Provide protective coverings at walls, projections, jambs, sills, and soffits of openings.
- E. Prohibit traffic from landscaped areas.
- F. Remove protective coverings when no longer needed; reuse or recycle coverings if possible.

### **3.07 ADJUSTING**

- A. Adjust operating products and equipment to ensure smooth and unhindered operation.

### **3.08 FINAL CLEANING**

- A. Clean site; sweep paved areas, rake clean landscaped surfaces.
- B. Remove waste, surplus materials, trash/rubbish, and construction facilities from the site; dispose of in legal manner; do not burn or bury.

### **3.09 CLOSEOUT PROCEDURES**

- A. Make submittals that are required by governing or other authorities.
- B. Accompany Project Coordinator on preliminary inspection to determine items to be listed for completion or correction in the Contractor's Correction Punch List for Contractor's Notice of Substantial Completion.

- C. Notify Architect when work is considered ready for Architect's Substantial Completion inspection.
- D. Submit written certification containing Contractor's Correction Punch List, that Contract Documents have been reviewed, work has been inspected, and that work is complete in accordance with Contract Documents and ready for Architect's Substantial Completion inspection.
- E. Conduct Substantial Completion inspection and create Final Correction Punch List containing Architect's and Contractor's comprehensive list of items identified to be completed or corrected and submit to Architect.
- F. Correct items of work listed in Final Correction Punch List and comply with requirements for access to Owner-occupied areas.
- G. Notify Architect when work is considered finally complete and ready for Architect's Substantial Completion final inspection.
- H. Complete items of work determined by Architect listed in executed Certificate of Substantial Completion.

**END OF SECTION**

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**SECTION 01-7800  
CLOSEOUT SUBMITTALS**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

- A. Project Record Documents.
- B. Operation and Maintenance Data.
- C. Warranties and bonds.
- D. Evidence of Payments and Release of Liens.

**1.02 RELATED REQUIREMENTS**

- A. Section 00-7200 - General Conditions: Performance bond and labor and material payment bonds, warranty, and correction of work.
- B. Section 01-3000 - Administrative Requirements: Submittals procedures, shop drawings, product data, and samples.
- C. Section 01-7000 - Execution and Closeout Requirements: Contract closeout procedures.
- D. Individual Product Sections and Drawings: Specific requirements for operation and maintenance data.
- E. Individual Product Sections and Drawings: Warranties required for specific products or Work.

**1.03 SUBMITTALS**

- A. Project Record Documents: Submit documents to Architect with claim for final Application for Payment.

**PART 2 PRODUCTS - NOT USED**

**PART 3 EXECUTION**

**3.01 PROJECT RECORD DOCUMENTS**

- A. Maintain on site one set of the following record documents; record actual revisions to the Work:
  - 1. Drawings.
  - 2. Specifications.
  - 3. Addenda.
  - 4. Change Orders and other modifications to the Contract.
  - 5. Reviewed shop drawings, product data, and samples.
  - 6. Manufacturer's instruction for assembly, installation, and adjusting.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.

- D. Record information concurrent with construction progress.
- E. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:
  - 1. Manufacturer's name and product model and number.
  - 2. Product substitutions or alternates utilized.
  - 3. Changes made by Addenda and modifications.
- F. Record Drawings and Shop Drawings: Legibly mark each item to record actual construction including:
  - 1. Field changes of dimension and detail.
  - 2. Details not on original Contract drawings.

### **3.02 OPERATION AND MAINTENANCE DATA**

- A. Source Data: For each product or system, list names, addresses and telephone numbers of Subcontractors and suppliers, including local source of supplies and replacement parts.
- B. Product Data: Mark each sheet to clearly identify specific products and component parts, and data applicable to installation. Delete inapplicable information.
- C. Drawings: Supplement product data to illustrate relations of component parts of equipment and systems, to show control and flow diagrams. Do not use Project Record Documents as maintenance drawings.
- D. Typed Text: As required to supplement product data. Provide logical sequence of instructions for each procedure, incorporating manufacturer's instructions.

### **3.03 WARRANTIES AND BONDS**

- A. Obtain warranties and bonds, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, within 10 days after completion of the applicable item of work. Except for items put into use with Owner's permission, leave date of beginning of time of warranty until Date of Substantial completion is determined.
  - 1. General Warranties:
    - a. Provide one-year warranty as described in the General Conditions, Article 3.5. Warranty period shall commence on the date of the fully executed Certificate of Substantial Completion.
  - 2. Warranty Period shall begin upon Substantial Completion, or if a Certificate of Substantial Completion is not issued or if Work which is to be covered by warranty is not then complete, Warranty Period shall begin upon the date of Final Acceptance or on the date appearing on the final Certificate for Payment to the Contractor, whichever is earlier.
- B. Verify that documents are in proper form, contain full information, and are notarized.
- C. Co-execute submittals when required.
- D. Retain warranties and bonds until time specified for submittal.

### **3.04 EVIDENCE OF PAYMENTS AND RELEASE OF LIENS**

- A. Submit with Final Application for Payment the following:
  - 1. Contractor's Affidavit of Payment of Debts and Claims: AIA G706.
  - 2. Contractor's Affidavit of Release of Liens: AIA G706A, with
    - a. Consent of Surety to Final Payment: AIA G707.

- b. Contractor's release or waiver of liens.
- c. Separarate releases or waivers of liens for subcontractors, suppliers, and others with lien rights against property of Owner.

**END OF SECTION**



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**SECTION 31-1000  
SITE CLEARING**

**PART 2 PRODUCTS -- NOT USED**

**PART 3 EXECUTION**

**2.01 SITE CLEARING**

- A. Comply with other requirements specified in Section 01-7000.
- B. Minimize production of dust due to clearing operations; do not use water if that will result in ice, flooding, sedimentation of public waterways or storm sewers, or other pollution.

**2.02 VEGETATION**

- A. Do not remove or damage vegetation beyond the limits indicated on drawings.
- B. Install substantial, highly visible fences at least 3 feet high to prevent inadvertent damage to vegetation to remain:
  - 1. At vegetation removal limits.
- C. In areas where vegetation must be removed but no construction will occur other than previous paving, remove vegetation with minimum disturbance of the subsoil.
- D. Vegetation Removed: Do not burn, bury, landfill, or leave on site, except as indicated.
  - 1. Chip, grind, crush, or shred vegetation for mulching, composting, or other purposes; preference should be given to on-site uses.
  - 2. Trees: Sell if marketable; if not, treat as specified for other vegetation removed; remove stumps and roots to depth of 18 inches.
  - 3. Sod: Re-use on site if possible; otherwise sell if marketable, and if not, treat as specified for other vegetation removed.
- E. Restoration: If vegetation outside removal limits or within specified protective fences is damaged or destroyed due to subsequent construction operations, replace at no cost to Owner.

**2.03 DEBRIS**

- A. Remove debris, junk, and trash from site.
- B. Leave site in clean condition, ready for subsequent work.
- C. Clean up spillage and wind-blown debris from public and private lands.

**END OF SECTION**

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## **SECTION 31-2200 GRADING**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Removal of topsoil.

#### **1.02 RELATED REQUIREMENTS**

- A. Section 31-2323 - Fill: Filling and compaction.

#### **1.03 SUBMITTALS**

- A. Project Record Documents: Accurately record actual locations of utilities remaining by horizontal dimensions, elevations or inverts, and slope gradients.

### **PART 2 PRODUCTS**

#### **2.01 MATERIALS**

- A. Other Fill Materials: See Section 31-2323.

### **PART 3 EXECUTION**

#### **3.01 EXAMINATION**

- A. Verify that survey bench mark and intended elevations for the Work are as indicated.
- B. Verify the absence of standing or ponding water.

#### **3.02 PREPARATION**

- A. Identify required lines, levels, contours, and datum.
- B. Stake and flag locations of known utilities.
- C. Locate, identify, and protect from damage above- and below-grade utilities to remain.
- D. Notify utility company to remove and relocate utilities.
- E. Provide temporary means and methods to remove all standing or ponding water from areas prior to grading.
- F. Protect site features to remain, including but not limited to bench marks, survey control points, existing structures, fences, sidewalks, paving, and curbs, from damage by grading equipment and vehicular traffic.
- G. Protect trees to remain by providing substantial fencing around entire tree at the outer tips of its branches; no grading is to be performed inside this line.

- H. Protect plants, lawns, rock outcroppings, and other features to remain as a portion of final landscaping.

### **3.03 ROUGH GRADING**

- A. Remove topsoil from areas to be further excavated, re-landscaped, or re-graded, without mixing with foreign materials.
- B. Do not remove topsoil when wet.
- C. Remove subsoil from areas to be further excavated, re-landscaped, or re-graded.
- D. Strip the pavement areas as required to remove existing vegetation and roots. Stripping depths are generally expected to be 12" or less. Dispose of all strippings outside of construction areas. Refer to Geotechnical Report.
- E. Excavate as required to accommodate the minimum pavement section in areas requiring cuts. Overexcavate any soft subgrade and replace it with compacted Select Fill or Granular Site Fill. Compact the subgrade during dry weather as specified above.
- F. Do not remove wet subsoil , unless it is subsequently processed to obtain optimum moisture content.
- G. When excavating through roots, perform work by hand and cut roots with sharp axe.
- H. See Section 31-2323 for filling procedures.
- I. Stability: Replace damaged or displaced subsoil to same requirements as for specified fill.
- J. Remove and replace soils deemed unsuitable by classification and which are excessively moist due to lack of surface water control.

### **3.04 FINISH GRADING**

- A. Before Finish Grading:
  - 1. Verify building and trench backfilling have been inspected.
  - 2. Verify subgrade has been contoured and compacted.
- B. Remove debris, roots, branches, stones, in excess of 1/2 inch in size. Remove soil contaminated with petroleum products.
- C. Where topsoil is to be placed, scarify surface to depth of 6 inches.
- D. In areas where vehicles or equipment have compacted soil, scarify surface to depth of 6 inches.
- E. Place topsoil in areas where seeding, sodding, and planting are indicated.
- F. Place topsoil where required to level finish grade.
- G. Place topsoil to the following uncompacted thicknesses:
  - 1. Areas to be Seeded with Grass: 6 inches.
  - 2. Areas to be Sodded: 4 inches.
  - 3. Shrub Beds: 18 inches.
  - 4. Other areas not noted; 4 inches.
  - 5. Biofiltration Swale: 18 inches.
- H. Place topsoil during dry weather.

- I. Remove roots, weeds, rocks, and foreign material while spreading.
- J. Near plants spread topsoil manually to prevent damage.
- K. Fine grade topsoil to eliminate uneven areas and low spots. Maintain profiles and contour of subgrade.
- L. Roll placed topsoil.
- M. Maintain stability of topsoil during inclement weather. Replace topsoil in areas where surface water has eroded thickness below specifications.

### **3.05 TOLERANCES**

- A. Top Surface of Subgrade: Plus or minus 0.10 foot (1-3/16 inches) from required elevation.
- B. Top Surface of Finish Grade: Plus or minus 0.04 foot (1/2 inch).
- C. Top Surface of Subgrade: Plus or minus 1/10 foot from required elevation.
- D. Top Surface of Finish Grade: Plus or minus 1/2 inch.

### **3.06 REPAIR AND RESTORATION**

- A. Existing Facilities, Utilities, and Site Features to Remain: If damaged due to this work, repair or replace to original condition.
- B. Trees to Remain: If damaged due to this work, trim broken branches and repair bark wounds; if root damage has occurred, obtain instructions from Architect as to remedy.
- C. Other Existing Vegetation to Remain: If damaged due to this work, replace with vegetation of equivalent species and size.

### **3.07 FIELD QUALITY CONTROL**

- A. See Section 31-2323 for compaction density testing.

### **3.08 CLEANING**

- A. Remove unused stockpiled topsoil. Grade stockpile area to prevent standing water.
- B. Leave site clean and raked, ready to receive landscaping.

## **END OF SECTION**



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**SECTION 31-2323  
FILL**

**PART 1        GENERAL**

**1.01        SECTION INCLUDES**

- A.     Filling, compacting for trails.

**1.02        RELATED REQUIREMENTS**

- A.     Section 31-2200 - Grading: Site grading.

**1.03        DEFINITIONS**

- A.     Finish Grade Elevations: Indicated on drawings.

**1.04        REFERENCE STANDARDS**

- A.     ASTM D1556/D1556M - Standard Test Method for Density and Unit Weight of Soil in Place by Sand-Cone Method; 2015, with Editorial Revision (2016).
- B.     ASTM D1557 - Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft<sup>3</sup> (2,700 kN-m/m<sup>3</sup>)); 2012 (Reapproved 2021).
- C.     ASTM D2167 - Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method; 2015.
- D.     ASTM D6938 - Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth); 2010.
- E.     ASTM D6938 - Standard Test Methods for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth); 2023.
- F.     Oregon Standard Specifications (OSS) - The Oregon Department of Transportation, ODOT/APWA Oregon Chapter Standard Specifications for Construction; 2021 Edition.

**1.05        SUBMITTALS**

- A.     See Section 01 7000 - Shop Drawings, Product Data, Samples for submittal procedures.
- B.     Materials Sources: Submit name of imported materials source.
- C.     Fill Composition Test Reports: Results of laboratory tests on proposed and actual materials used, including manufactured fill.
- D.     Compaction Density Test Reports.

**1.06        DELIVERY, STORAGE, AND HANDLING**

- A.     When necessary, store materials on site in advance of need.
- B.     When fill materials need to be stored on site, locate stockpiles where indicated.

1. Separate differing materials with dividers or stockpile separately to prevent intermixing.
2. Prevent contamination.
3. Protect stockpiles from erosion and deterioration of materials.

## **PART 2 PRODUCTS**

### **2.01 FILL MATERIALS**

- A. Granular Fill - Fill Type Class B: Use high quality, dense-grade, 1"-0 crushed rock, with less than 5 percent passing the U.S. Standard No. 200 sieve, compact to at least 98 percent of the maximum dry density, as determined by ASTM D698.
  1. Provide 3/4"-0 at surface course of all trails, typical. All other requirements above same.

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

- A. Verify that survey bench marks and intended elevations for the Work are as indicated.
- B. Identify required lines, levels, contours, and datum locations.
- C. Verify areas to be filled are not compromised with surface or ground water.

### **3.02 PREPARATION**

- A. Scarify, compact and proof roll subgrade surface to a depth of 6 inches to identify soft spots.
- B. Cut out soft areas of subgrade not capable of compaction in place. Backfill with Fill Type B.
- C. Compact subgrade to density equal to or greater than requirements for subsequent fill material.
- D. Until ready to fill, place 4 inches of compacted granular structural backfill over footing subgrades to protect the footing subgrades from foot traffic and the elements. Maintain excavations and prevent loose soil from falling into excavation.

### **3.03 FILLING**

- A. Fill to contours and elevations indicated using unfrozen materials.
- B. Employ a placement method that does not disturb or damage other work.
- C. Systematically fill to allow maximum time for natural settlement. Do not fill over porous, wet, frozen or spongy subgrade surfaces.
- D. Maintain optimum moisture content of fill materials to attain required compaction density.
- E. Granular Fill: Place and compact materials in equal continuous layers not exceeding 8 inches compacted depth.
- F. Correct areas that are over-excavated.
  1. Use Fill Type B, flush to required elevation, compacted to minimum 98 percent of maximum dry density.
- G. Reshape and re-compact fills subjected to vehicular traffic.

- H. Maintain temporary means and methods, as required, to remove all water while fill is being placed as required, or until directed by the Architect. Remove and replace soils deemed unsuitable by classification and which are excessively moist due to lack of dewatering or surface water control.

### **3.04 FILL AT SPECIFIC LOCATIONS**

- A. Use **general granular Fill (Type B)** unless otherwise specified or indicated.
- B. Millicoma Marsh Trail:
  - 1. Base course, use Fill Type Class B. 1-1/2"-minus typical.
    - a. Fill up to subgrade elevations.
    - b. Maximum depth per lift: 6 inches, compacted.
    - c. Minimum thickness: 4 inches.
  - 2. Surface course, use Fill Type Class B, 3/4" - 0.
    - a. Fill up to finish grade elevations.
    - b. Maximum depth per lift: 8 inches, compacted.
    - c. Minimum thickness: 2 inches.
    - d. Compact to minimum 100 percent of maximum dry density per ASTM D1557.
  - 3. Total trail section minimum thickness = 6 inches (4 plus 2).

### **3.05 TOLERANCES**

- A. Top Surface of General Filling: Plus or minus 1/2 inch from required elevations.

### **3.06 FIELD QUALITY CONTROL**

- A. See Section 01 4500 - Quality Control, for general requirements for field inspection and testing.
- B. Perform compaction density testing on compacted fill in accordance with ASTM D1556, ASTM D2167, or ASTM D6938.
- C. When using the nuclear method of ASTM D6938, the gauge shall be field calibrated according to ASTM standards.
- D. If tests indicate work does not meet specified requirements, remove work, replace and retest.

### **3.07 CLEANING**

- A. See Section 01-7400 - Cleaning for construction waste management and disposal, for additional requirements.
- B. Remove unused stockpiled materials, leave area in a clean and neat condition. Grade stockpile area to prevent standing surface water.

**END OF SECTION**