

# BIDDING DOCUMENTS

FOR THE

ALAMEDA ELEMENTARY - KITCHEN REMODEL



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Prepared By:  
**Engineering Northwest, LLC**  
11 NW 9th Street  
Ontario, Oregon 97914

## **DIVISION 0-PROCUREMENT & CONTRACTING REQUIREMENTS**

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## **Advertisement for Bids**

The Ontario School District No. 8C, is requesting bids for the following project:

Kitchen Remodel  
Alameda Elementary School  
1252 Alameda Drive, Ontario, OR 97914

Work for this project includes but is not limited to providing and installing a new roof top HVAC unit, a new roof top make-up air unit, ducting, grills, exhaust fans, Type I hoods, a new serving line counter with coil door, new counters and flooring.

A Bid Bond (5% of the total bid price), Performance Bond & Payment Bond is required for this project.

Sealed bids for furnishing all materials, equipment, labor and services of all kinds will be received at:

Ontario School District Office  
195 SW 3rd Avenue  
Ontario, Oregon 97914

**Until 2:00 PM (MST) on February 8, 2023**

Bids received after the time fixed for receiving bids will not be considered.

Bids will be publicly opened at 2:05 p.m. (MST) on the same day at the same location. Bidders and other properly interested persons are invited to be present at the bid opening.

**A Pre-bid meeting will be held at the Alameda Elementary Kitchen, located at 1252 Alameda Drive, on Thursday January 23, 2023 at 3:00pm Mountain Standard Time. Attendance by bidders is strongly recommended. Failure to account for all subjects observed and discussed at the Pre-bid meeting will not be a cause for a change order.**

Plans and Specifications may be obtained at the following locations:

1. Ontario School District 8C: 541-889-5374  
195 SW 3rd Avenue  
Ontario, Oregon 97914
2. Idaho Association of General Contractors:  
1649 W. Shoreline, Ste 100  
Boise, ID 83702.
3. Hermiston Plan Center: 541-564-0420  
1565 North 1<sup>st</sup> Street #8a  
Hermiston, Oregon 97838
4. Contractor Plan Center: 503-650-0148  
5468 S.E. International Way  
Milwaukie, Oregon 97222

Electronic Documents are available upon request at the District office, attention Pam Suyematsu: [psuyematsu@ontario.k12.or.us](mailto:psuyematsu@ontario.k12.or.us)

Bidders may obtain a hard copy of the Documents from the District office with 48 hours notice and \$100.00 deposit by check. Bidders deposit shall only be refunded, provided the Documents are returned in good condition to the District within (30) days after the Bids are opened.

Bids must be submitted on the attached "Bid Proposal" forms and included with the entire Contract Documents furnished to the bidders. Bids shall be submitted in a sealed envelope plainly marked "Alameda Kitchen Remodel," and show the name and business address of the bidder. The name on the Bid Form must match the name on the CCB license.

All Bidders must submit, as a part of their proposal the following:

- A. Bid Form (Use Attached Form)
- B. A statement indicating whether the bidder is a "resident bidder" as defined in ORS 279.029 (Use Attached Statement Form). In determining the lowest responsive Bidder for this project, a percentage shall be added to the bid of a non-resident bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides.



- C. Cash, Cashiers Check or Bid Bond in the amount of Five (5) percent of the total Bid Price payable to the Ontario School District 8C, as a Guarantee that the Bidder, if His/Her bid is accepted, will promptly execute the contract, secure payment of Workman's Compensation Insurance and furnish a Satisfactory Performance Bond and Payment Bond in the amount of One-Hundred (100) percent of the total price.
- D. First-Tier Subcontractor Disclosure Form (Use Attached Form)
- E. A Certificate of Non-Discrimination (Use Attached Form)
- F. A statement indicating that the bidder has an employee drug testing program as required by ORS279.312 Section 2, (Use Attached Statement Form).

All Prospective Bidders and their Sub-Contractors shall be licensed in the State of Oregon in accordance with the provisions of the Oregon Construction Contractors Board.

This project is subject to the applicable provisions of ORS 279.348 through ORS 279.380, the Oregon Prevailing Wage Law. The BOLI Wage requirements for Region 14 (Harney & Malheur Counties) are attached in Division 0 of the Project Manual.

Any/all questions related to the bid documents must be submitted in writing to Mr. Pat Woodcock, Engineering Northwest, LLC., 11 NW 9th Street, Ontario, Oregon 97914, patwoodcockpe@gmail.com They must be received no later than five (5) working days before the bid closing date.

## INSTRUCTIONS TO BIDDERS

### 1.0 INTRODUCTION

Definitions:

Owner – Ontario School District 8C  
Project Engineer - Engineering Northwest, LLC.  
Contract Administrator – Ontario School District 8C  
Contractor - Used interchangeably with bidder.

Project Name: Kitchen Remodel for Alameda Elementary School

Project Location: Alameda Elementary School, 1252 Alameda Drive, Ontario, Oregon

Scope of Work: A general description of work to be performed is contained in the "Advertisement for Bids". Contractor shall furnish all labor, materials, tools, equipment and incidentals necessary to the prosecution of the work unless otherwise specified. Where plans are included with the contract documents they are to be considered a part of the contract documents and the scope may be indicated on the plans as specified.

### 2.0 CONTRACT DOCUMENTS

The Contract Documents under which it is proposed to execute the work consist of the material bound herewith, together with any materials referred to by reference herein, including the "Construction Specifications," and accompanying Plans. These contract documents are intended to be mutually complementary and to provide all details reasonably required for the execution of the proposed work. Any person contemplating the submission of a proposal and being in doubt as to the meaning or intent of said contract documents shall notify, at once, in writing, the contact list in the "Advertisement for Bids." To be considered, the request for clarification must be received by the deadline specified in the "Advertisement for Bids". Any interpretation or change will be mailed or delivered to each person/company that attends the Pre-bid Meeting. The Owner and Project Engineer will not be responsible for any other explanation or interpretation of said documents.

### 3.0 FORM OF BID

All bids must be submitted on the enclosed bid proposal form. Any bid submitted that is not on the enclosed bid proposal form will be considered NON-RESPONSNE and will not be considered for contract award. Payment to the Contractor will be made on the measurement of the work actually performed by the contractor as specified in the construction specifications. The Owner reserves the right to increase or diminish the amount of any class of work as may be deemed necessary.

The Contractor will be allowed no claims for anticipated profits, loss of profits or for any damages of any sort because of any difference between the estimated and the actual quantities of work done, except specifically noted in these contract documents.

#### **4.0 PREPARATION OF BID**

It is mandatory that all **lump sum blank spaces being bid** are filled in with legible figures. Figures must be in ink and bidders are encouraged to use mechanical devices for printing their bid figures. Further, bidders are required, to write the lump sum prices in words in the "Bid Schedule," in the appropriate blank space(s). If the bidders' figures are not legible and the bidder fails to provide bid amounts in words, the bid will be considered NON-RESPONSIVE and will not be considered for contract award. Bid amounts in words shall prevail in cases of discrepancy between the amounts stated in words and the amounts stated in figures.

Bids may be deemed irregular which contain omissions, alterations, or additions of any kind, or prices uncalled for, or in which any of the prices are obviously unbalanced, or which in any manner shall fail to conform to the conditions of the published "Advertisement for Bids", at the discretion of the Owner and Project Engineer.

The bidder shall sign his/her proposal in the blank space provided therefore. Bids made by corporations or partnerships shall contain the names and addresses of the principal officers or partners. If the proposal is made by a corporation, it must be signed by one of the principal officers. If made by a partnership, it must be signed by one of the partners, clearly indicating that he/she is signing as a partner of the firm. In the case of a bid being submitted by a joint venture, each of the joint ventures must sign the proposal in his/her personal capacity.

#### **5.0 MANDATORY PRE-BID MEETING**

A Pre-bid meeting is scheduled at the time and location stated in the "Advertisement for Bids." The Pre-bid meeting is not Mandatory but is **Strongly recommended**.

#### **6.0 SUBMISSION OF BIDS**

All bids must be submitted at the time and place and in the manner prescribed in the "Advertisement for Bids". Bids must be made on the prescribed bid forms furnished to the bidder. Each bid must be submitted in a sealed envelope, so marked as to indicate its contents without being opened.

#### **7.0 MODIFICATION OR WITHDRAWAL OF PROPOSAL**

Any bidder may modify their bid by written or electronic communication at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the Owner prior to the closing time, and provided further that a written confirmation of the electronic modification over the signature of the bidder was mailed prior to closing time. If written confirmation of an electronic communication is not received within at least two days of the closing time, no consideration will be given to the modification. The written or electronic communication should not reveal the bid price but should state the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened.

Bids may be withdrawn prior to the scheduled time for closing of the proposals either by electronic or written request, or in person.

## **8.0 CONDITIONS OF WORK**

Each bidder must inform themselves of the conditions relating to the execution of the work, and it is assumed that he/she will inspect the site and make themselves thoroughly familiar with all the contract documents. Failure to do so will not relieve the successful bidder of their obligations to enter into a contract and complete the contemplated work in strict accordance with the contract documents.

## **9.0 AWARD OF CONTRACT**

It is the intent of the Owner to award a single contract to the lowest responsible, responsive bidder. The owner reserves the right to accept or reject any or all bids, and to waive any informalities and irregularities. The Owner reserves the right to modify the Contract Documents and re-bid or cancel the project, if necessary, to meet Owner's budgetary requirements.

A period of not more than thirty (30) calendar days will elapse between the bid due date and the submission to the lowest responsive bidder, written notice that their bid has been rejected or a written contract for execution.

## **10.0 FAILURE TO EXECUTE CONTRACT**

The Owner will notify the successful bidder that the contract documents are ready for execution. Upon failure by the successful bidder to enter into the contract and furnish the necessary insurance and/or bond requirements within ten (10) calendar days from that date of notification, the award will be withdrawn. The award may then be made to another bidder, or all bids rejected and work re-advertised.

## **11.0 DISCLAIMER OF RESPONSIBILITY**

Memoranda, reports, and other information available to the Owner regarding anticipated soil, sub-surface, topographical and other physical conditions which might be encountered on the site will be made available to prospective bidders. Data contained in such reports or information is for general information of bidders only, and the Owner will not be responsible for the actual physical conditions which the Contractor may encounter.

Sole and exclusive responsibility for interpretation of such information is on the bidder, and such reports, logs, memoranda and other information shall not be construed as a complete statement of the existing conditions nor as a warranty, expressed or implied, as to conditions which may actually be encountered in prosecution of the work.

The Owner will not be responsible for oral interpretations. Should a bidder find discrepancies in, or omissions from the Drawings, Specifications, or other bid documents, or be in doubt as to their meaning, he/she shall notify the Project Engineer at least five (5) working days prior to the bid closing date. Any and all such interpretations or approval of manufacturer's materials to be substituted will be made only in the form of written addenda to the Specifications, which, if issued, will be emailed with return receipt requested, or sent by facsimile to all prospective bidders attending the Pre-bid Meeting, not later than five (5) working days prior to the date fixed for the closing of bids. All addenda so issued are to be covered in the bid for such Addenda to become part of the contract documents.

## **12.0 PRE-BID INQUIRIES**

Bidders with pre-bid inquiries should contact the designated contact person by using the designated telephone number indicated in the "Advertisement for Bids".

## **13.0 PERMITS AND LICENSES**

The successful bidder shall be required to have or to obtain, at his/her expense, any and all licenses and/or permits required by the City of Ontario, Malheur County, and the State of Oregon pertaining to the service he/she proposes to furnish. Building, plumbing, electrical, mechanical, street, sewer, etc. permits required by the City of Ontario, Malheur County, and the State of Oregon shall be furnished by the Contractor.

## **14.0 FEDERAL OR STATE FUNDING - SEE OWNER**

## **15.0 MINIMUM REQUIREMENTS OF BID**

The following are the minimum requirements as to the form and manner of submitting bids and must be strictly observed; variances from these requirements will result in rejection of the bid as NON- RESPONSIVE.

- A. Bids must be submitted on forms furnished by the Owner.
- B. Bids must be signed by the Bidder.
- C. Each blank for a unit price or lump sum quotation must be filled in unless an alternative is provided. Each separate item must be bid on unless the proposal form clearly indicates otherwise.
- D. Bids must be submitted in sealed envelopes, plainly marked according to the instructions in the "Advertisement for Bids" and must be received at the time and place specified for the bid closing.
- E. Bids containing modifications, deletions, exceptions, or reservations which in any way conflict with or purport to alter any substantive provision contained in the bid documents will not be considered.
- F. Conditional bids will not be considered.
- G. Addenda, if issued, shall be signed and submitted with the bid.

## **16.0 BID SECURITY**

A Bid Bond, in the amount of 5% of the Contractor's Lump Sum Cost shall accompany each bid. The Owner reserves the right to retain the bid security of the three (3) lowest bidders until the successful bidder has signed and delivered the contract and furnished a one hundred percent (100%) Performance Bond, and one hundred percent (100%) Payment Bond.

## **17.0 PERFORMANCE SECURITY**

The successful bidder shall file with the Owner at the time of execution of the Contract, a Performance Bond on the form furnished by the Owner upon request. The surety company furnishing this bond shall have a sound financial standing and a record of service satisfactory to the Owner, and shall be authorized to do business in the State of Oregon. In lieu of a performance bond, the Contractor may file a Certified or Cashier's check made payable to the **Ontario School District 8C**. This check will be held by the Owner conditioned on and subject to the same provisions as set forth in the attached performance bond. This means that if you choose to provide a Cashier's or Certified check as a performance security that it will be held by the Owner for a period of one year just as a Performance Bond would be valid for a period of one year. After completion and final acceptance of the work required by the contract, a Warranty Bond, in the form and amount approved by the Owner's Attorney, may be provided as a replacement for the Cashier's or Certified check.

On each such bond the rate of premium shall be stated together with the total amount of the premium charged. The current power of attorney for the person who signs for any surety company shall be attached to such bond.

## **18.0 PAYMENT SECURITY**

The successful bidder shall furnish to the Owner, at the time of execution of the Contract, a Payment Bond to guarantee payment to all persons supplying labor or materials in the performance of the contract. Such security will be on the form furnished by the Owner upon request. The surety company furnishing this bond shall have a sound financial standing and record of service satisfactory to the Owner, and shall be authorized to do business in the State of Oregon. In lieu of a payment bond, the Contractor may file a Certified or Cashier's check made payable to the **Ontario School District 8C**. This check will be held by the Owner conditioned on and subject to the same provisions as set forth in the attached Performance Bond. The penal sum of the Payment Bond shall be one hundred percent (100%) of the contract price.

## **19.0 VALUE ENGINEERING CHANGE PROPOSAL**

The successful bidder is encouraged to submit suggestions for contract changes which result in equal or superior functional performance and/or project quality at less cost. The "Value Engineering Change Proposal" process is provided for this purpose. A VECP form is to be submitted to the Project Engineer whenever a Contractor can identify an area of the project that he/she believes can be improved. These forms are not to be included with the Bidder's Proposal. They are to be submitted by the successful bidder after the execution of the contract.

## **20.0 SUBSTITUTIONS**

- A. Each bidder represents that his/her bid is based upon the materials and equipment described in the bidding documents.
- B. No substitutions will be considered unless written request has been received by the Project Engineer for approval at least five (5) calendar days prior to the date for receipt of bids. Each such request shall include a complete description of the proposed substitute; drawings, cuts, performance, and test data; additions to, deductions from, or revisions in other's work necessitated by the use of proposed product; and any other data or information necessary for a complete evaluation.

- C. "Or approved Equal" as denoted in the specifications shall mean the same as an approved substitution.
- D. If the Project Engineer approves any proposed substitution, such approval will be set forth in Addenda listing manufacturer's materials and equipment approved for substitution.

## **21.0 INSURANCE**

The Contractor shall maintain \$2,000,000.00 each occurrence and \$3,000,000.00 aggregate Commercial General Liability Insurance, \$1,000,000.00 combined single limit each accident on automobile and Worker Compensation Insurance as required by law. Insurance requirements shall be in force covering all work performed by the Contractor and his/her agents, including all warranty work.

Furthermore, the Contractor shall maintain in force with respect to the Improvements a policy of multiple peril (all-risk) builder's risk and/or course of construction insurance that has been written by an insurer reasonably satisfactory to the **Ontario School District 8C** on a completed value basis in an amount equal to the full replacement cost of the Improvements and that contains no exclusions from coverage that the **Ontario School District** determines to be objectionable. That policy must name the **Ontario School District 8C** as additional insured and must assure the Owner that its coverage will continue for the **Ontario School District 8C's** benefit notwithstanding any act or omission on the Contractor's part. That policy must provide that no cancellation, surrender or material change will become effective unless the **Ontario School District** receives written notice at least 30 days in advance of the time at which that cancellation, surrender or material change becomes effective. The form of that policy must otherwise be reasonably satisfactory to the **Ontario School District 8C**.

## **22.0 CONTRACTOR QUALIFICATIONS**

All prospective bidders shall have a State Bidder's Construction Contractors Board Registration Number.

## **23.0 LITIGATION/ARBITRATION**

All claims, disputes, and other matters in question arising out of, or relating to, the Contract Documents or the breach thereof, except for claims which have otherwise been waived or by the making and acceptance of final payment as provided by Section 24, shall be decided by a court of competent jurisdiction located in the County in which the work is performed.

Should the parties mutually agree, the claims, disputes, and other matters in question may be decided by arbitration in accordance with the Oregon Uniform Trial Court Rules (UTCRC).

In any arbitration suit or action between Owner and Contractor arising out of this contract, including any appeals, the prevailing party shall be entitled to his/her reasonable attorney's fees together with costs of the suit.

The Contractor shall carry on the work and adhere to the progress schedule during all disputes or disagreements with the Owner. No work shall be delayed or postponed pending resolution of any disputes or disagreements unless the Contractor and Owner may otherwise agree in writing

## **24.0 RETAINED AMOUNTS**

The amount to be retained from any given partial payment will be such that when added to the sum of amounts previously retained will bring the total of the amounts retained to an amount equal to *five* percent (5%) of the value of the completed work until such time as the work is accepted by the Owner. Upon acceptance of the work by the Owner, any amount retained may be paid to the Contractor.

## **25.0 ACCEPTANCE OF FINAL PAYMENT AS RELEASE**

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner and its agents of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically accepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and its agents and others relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or his/her sureties from any obligations under the Contract Documents or the Performance and Payment Bonds.

## **26.0 WORK AREA**

The Kitchen is located on the East side of the School. The contractor shall use care as to not damage said property or dispose of hazardous or deleterious materials on site.

## **27.0 INTERPRETATION OF CONTRACT, SPECIFICATIONS AND PLANS**

In cases of conflict in the requirements and provisions as set out by the contract, the specifications, or the plans, such conflict shall be reconciled by the acceptance of the following order of precedence for the various contract documents:

- A. The contract document bearing the signature of the Owner and the Contractor;
- B. The written Bid of the Contractor;
- C. Construction Specifications;
- D. The Plans, including notes written thereon;
- E. Instructions to Bidders; and
- F. General Provisions.

## **28.0 SCHEDULE**

- A. The Contractor shall, within ten (10) days after a Notice to Proceed is issued, submit to the Owner and Project Engineer, for approval, a construction schedule. The schedule shall show the order in which the Contractor proposes to carry out the work, the dates on which he/she will start, and the contemplated completion date for each feature of work, including procurement of materials and equipment. The Kitchen will not be available for the Contractor to begin Construction until June 19, 2023 and the project shall be fully completed by August 11, 2023.
- B. If the Contractor falls behind the progress schedule, he/she shall take such steps as may be necessary to ensure completion as specified, without additional cost to the Owner.



## **29.0 SAFETY STANDARDS AND ACCIDENT PREVENTION**

The Contractor shall at all times during construction comply with the United States Department of Labor Safety and Health Regulations for Construction.

The Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

The required and/or implied duty of the Project Engineer to conduct construction review of the Contractor's performance does not and is not intended to include review of the adequacy of the Contractor's safety measures in, on or near the construction site.

The Contractor shall comply with the safety standards provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General contractors of America. The Contractor shall exercise every precaution at all times for the prevention of accidents and the protection of person (including employees) and property.

The Contractor shall maintain at a well known place on the job site all articles necessary for giving first aid to the injured and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the job site.

## BID PROPOSAL

1. Submit bids in compliance with the "Instructions to Bidders".
2. Fill in all blanks. The Owner reserves the right to reject incomplete bid forms.

To furnish all labor, tools, equipment, materials, and services required to provide and install new HVAC and Hoods, flooring, counters, sinks and all utility services and/or extensions in accordance with the plans and specifications therefore.

SUBMITTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

- A. The Bidder has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance and furnishing of the work.
- B. All of the specifications and the drawings which are listed therein have been examined by the undersigned and their terms and conditions are hereby accepted.
- C. It is understood that the contract documents may be supplemented by additional drawings and specifications in explanation and elaboration of the contract Drawings, and it is agreed that such supplemental documents when not in conflict with those referred to in Paragraph B, above, will have the same force and effect as if completed and attached hereto, and that when received, they will be considered a part of the contract documents.
- D. The Bidder agrees, if awarded the contract, to execute an agreement to perform the work for the amount stated below within ten (10) days after the award and to deliver to the Owner within said ten (10) days, the specified bonds and insurance policies on the forms furnished.
- E. The Bidder further agrees, if awarded the Contract, to perform any additions to the plans and specifications as may be ordered by the Owner and/or Engineer.
- F. All construction shall be completed by August 11, 2023 and ready for occupancy.
- G. The Bidder has examined and carefully studied the following addenda:

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

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

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

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

**Base Bid:** This Contractor hereby proposes to furnish all labor, material, equipment, tools, and transportation to complete all Construction described in the Contract Documents, for a Total Lump Sum (Not to Exceed) price of:

\_\_\_\_\_ Dollars

(Amount shall be shown in written form.)

\$ \_\_\_\_\_  
(Amount shall be shown in numeric form.) The Owner reserves the right to reject any or all bids, or to waive any informality or irregularity that is deemed in the best interest of the Owner.

**Add Alternate #1: \$** \_\_\_\_\_

**Add Alternate #2: \$** \_\_\_\_\_

**Add Alternate #3: \$** \_\_\_\_\_

**Add Alternate #4: \$** \_\_\_\_\_

Respectfully submitted,

If Bidder is:

**AN INDIVIDUAL**

By: \_\_\_\_\_  
Print name (Signature)

(SEAL)

Doing Business As: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

**A PARTNERSHIP**

By: \_\_\_\_\_  
(Firm Name)

(SEAL)

Signature of General Partner: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

**A CORPORATION**

By: \_\_\_\_\_  
(Corporation Name)

\_\_\_\_\_  
(State of Corporation)

(SEAL)

(CORPORATE SEAL)

By: \_\_\_\_\_  
(Signature of Person Authorized to sign)

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

Attest: \_\_\_\_\_  
(Secretary)

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

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

Phone Number: \_\_\_\_\_

Date of Qualification to do Business: \_\_\_\_\_

**A JOINT VENTURE** By: \_\_\_\_\_

(SEAL)

Print name

(Signature)

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

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

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

(SEAL)

Print name

(Signature)

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

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Phone Number and address for Receipt of Official Communications:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Each joint venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above).

Submitted on: \_\_\_\_\_ 2016

# AIA<sup>®</sup> Document A101<sup>™</sup> – 2007

## *Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum*

AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_  
in the year \_\_\_\_\_  
(In words, indicate day, month and year.)

BETWEEN the Owner:  
(Name, legal status, address and other information)

and the Contractor:  
(Name, legal status, address and other information)

for the following Project:  
(Name, location and detailed description)

The Architect:  
(Name, legal status, address and other information)

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

AIA Document A201<sup>™</sup>–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

Init.

AIA Document A101<sup>™</sup> – 2007. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA<sup>®</sup> Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA<sup>®</sup> Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. Purchasers are permitted to reproduce ten (10) copies of this document when completed. To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects' legal counsel, [copyright@aia.org](mailto:copyright@aia.org).

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10	INSURANCE AND BONDS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ( ) days from the date of commencement, or as follows:  
*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)*

Portion of the Work	Substantial Completion Date
---------------------	-----------------------------

, subject to adjustments of this Contract Time as provided in the Contract Documents.  
*(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)*

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Dollars (\$ ), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:  
*(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

§ 4.3 Unit prices, if any:  
*(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4 Allowances included in the Contract Sum, if any:  
*(Identify allowance and state exclusions, if any, from the allowance price.)*

Item	Price (\$0.00)
------	----------------



## ARTICLE 5 PAYMENTS

### § 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( ) days after the Architect receives the Application for Payment.  
*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent ( %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent ( %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
*(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

### § 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)*

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2007
- ☐ Litigation in a court of competent jurisdiction
- ☐ Other: *(Specify)*

## ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.  
(Insert rate of interest agreed upon, if any.)

§ 8.3 The Owner's representative:  
(Name, address and other information)

§ 8.4 The Contractor's representative:  
(Name, address and other information)

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

## ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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**§ 9.1.4 The Specifications:**

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Date	Pages
---------	-------	------	-------

**§ 9.1.5 The Drawings:**

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number	Title	Date
--------	-------	------

**§ 9.1.6 The Addenda, if any:**

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

**§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:**

.1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

**ARTICLE 10 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)*

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
---------------------------	--

Init.

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

# AIA<sup>®</sup> Document A201<sup>™</sup> – 2007

## General Conditions of the Contract for Construction

for the following PROJECT:

*(Name and location or address)*

THE OWNER:

*(Name, legal status and address)*

THE ARCHITECT:

*(Name, legal status and address)*

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

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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 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 and certify termination of the Agreement under Section 14.2.2.

### **§ 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.

§ 1.2.2 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 will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment 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 this 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 material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them 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 material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

### § 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

## 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 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 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.

§ 2.2.3 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.

§ 2.2.4 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.

§ 2.2.5 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.

### § 2.3 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.

### § 2.4 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 written 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 deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor 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. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

## 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 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 2.2.3, 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 make 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 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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 authorized by the Architect in accordance with Sections 3.12.8 or 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**

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.

### **§ 3.6 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 21 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 an equitable adjustment 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 in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed 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 furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply 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 SCHEDULES**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

**§ 3.10.2** The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be 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, 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 maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be 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 the way by which 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 requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing 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 written 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. 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 cause such services or certifications to be provided by a properly 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, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, 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. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

### **§ 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, and 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 and patching shall be restored to the condition existing prior to the cutting, fitting and 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 such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's 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 or 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 Owner shall be entitled to reimbursement from the Contractor.

### **§ 3.16 ACCESS TO WORK**

The Contractor shall provide the Owner and Architect 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 such 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 the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such 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 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.

**§ 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.

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

### **§ 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, except as provided in Section 3.3.1.

**§ 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) 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 FACILITATING CONTRACT ADMINISTRATION**

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

**§ 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 13.5.2 and 13.5.3, whether or not such 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, material and equipment 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, unless otherwise specifically stated by the Architect, 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 authorize 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 duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 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 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 or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

## § 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor 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, which the Contractor, by these 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 in writing; 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 such 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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 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 other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the 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, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report 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, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors 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, and the Contractor shall proceed promptly, 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 7.3.7.

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

§ 7.3.5 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.

§ 7.3.6 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.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and 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 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .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 related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 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 has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

### 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, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be

furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

**§ 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 an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order 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**

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.

### **§ 9.2 SCHEDULE OF VALUES**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material 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 material 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, material suppliers, or other persons or entities making a claim by reason of having 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 issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part 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 comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. 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. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. 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 material 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 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 the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.3** 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 material or equipment suppliers 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 Architect will reflect such payment on the next Certificate 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 material and equipment 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 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, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment 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 and 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, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

#### § 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' written 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 shut-down, 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall 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 such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such 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 as required under Section 11.3.1.5 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 written 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 and, 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 terms and conditions of 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 and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.



§ 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 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 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; or
- .3 terms of special warranties required by the Contract Documents.

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

## 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 or the Contractor's Subcontractors or Sub-subcontractors; 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 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 owners and users of adjacent sites and utilities.

§ 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, except damage or loss 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, written notice of such 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

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. 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 report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written 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 such material or substance or who are to perform the task of removal or safe containment of such 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 in the amount of the Contractor's reasonable additional costs of shut-down, 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 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 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance 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 indemnify 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 LIABILITY INSURANCE**

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

### **§ 11.2 OWNER'S LIABILITY INSURANCE**

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

### **§ 11.3 PROPERTY INSURANCE**

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's

risk “all-risk” or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect’s and Contractor’s services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

### § 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

### § 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner’s option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner’s property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner’s property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 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, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

#### § 11.3.7 WAIVERS OF SUBROGATION

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, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, 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 covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance 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 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

#### § 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 11.4.2 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.

### 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, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

## § 12.2 CORRECTION OF WORK

### § 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after 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 an 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 written 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 2.4.

§ 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, whether completed or partially completed, of the Owner or separate contractors 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 except that, 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 such 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 such assignment.

### § 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

### § 13.4 RIGHTS AND REMEDIES

§ 13.4.1 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.

§ 13.4.2 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 there under, except as may be specifically agreed in writing.

### § 13.5 TESTS AND INSPECTIONS

§ 13.5.1 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 (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 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 13.5.1, 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 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 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.

§ 13.5.4 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.

§ 13.5.5 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.

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

#### § 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may 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.

#### § 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time 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 13.7.

### 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 or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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 promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor 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' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

#### § 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 for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .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 above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, 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' written 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 as described in 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 written 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 Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

### 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, 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.

##### § 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written 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 must 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 CONTINUING CONTRACT PERFORMANCE**

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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

### **§ 15.1.4 CLAIMS FOR ADDITIONAL COST**

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

### **§ 15.1.5 CLAIMS FOR ADDITIONAL TIME**

**§ 15.1.5.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein 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.

**§ 15.1.5.2** 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.

### **§ 15.1.6 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 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

### **§ 15.2 INITIAL DECISION**

**§ 15.2.1** Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, 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 arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no 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 such 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 an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, 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 15.1.6 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 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. 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 Either party, at its sole discretion, 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 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. 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 the Owner and Contractor under this Agreement.

## **BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_ as Principal  
(Contractor)

and \_\_\_\_\_ as Surety, are  
(Surety)

hereby held and firmly bound unto the **ONTARIO SCHOOL DISTRICT 8C** (hereinafter referred to as Owner) in the penal sum of five percent (5%) of the total amount of the bid for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns. The Condition of the above-obligation is such that whereas the Principal has submitted to the Owner a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the construction of the I and associated site work.

NOW THEREFORE,

- A. If said Bid shall be rejected, or in the alternate,
- B. If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract Agreement attached hereto (properly completed in accordance with said Bid) and shall furnish bonds for his/her faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, on this \_\_\_\_ day of \_\_\_\_\_, 2023.

(SEAL)

BY \_\_\_\_\_  
(Principal)  
\_\_\_\_\_  
(Title)

Attest \_\_\_\_\_

\_\_\_\_\_  
(Surety)

BY \_\_\_\_\_  
Attorney-In-Fact

Attest \_\_\_\_\_

**IMPORTANT:** Surety agent's must file with each bid bond a certified and effectively dated copy of their Power of Attorney.

## **OREGON BUSINESS REGISTRATION**

To transact business in the State of Oregon, a Bidder must be registered with the State of Oregon Corporations Division. Please indicate your business's current registration type by checking one of the boxes:

☐ Corporate Registration:

☐ Assumed Business Name Registration

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

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

Print Name: \_\_\_\_\_

## **OREGON RESIDENT BIDDER STATEMENT**

The Bidder submitting this bid shall indicate below if the bidder is a resident or nonresident bidder as defined by ORS 279.029. A resident bidder is defined as a bidder that has paid unemployment taxes or income taxes in Oregon during the twelve (12) calendar months immediately preceding submission of this bid and has a business address in Oregon.

☐ Resident Bidder

☐ Non-Resident Bidder

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

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

Print Name: \_\_\_\_\_

## **Contractor Qualifications**

Each contractor proposing work included in these Contract Documents shall prepare and submit the data requested in the following schedule of information.

This data sheet must be included in and made a part of each proposal.

1. Name of Contractor: \_\_\_\_\_.
2. Business Address: \_\_\_\_\_.  
\_\_\_\_\_.
3. How many years have you been engaged in the contracting business under the present firm name?: \_\_\_\_\_.
4. Bonding company: \_\_\_\_\_.
5. Experience in construction work similar in importance to this project.
6. Will you upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? \_\_\_\_\_.

## **NON-DISCRIMINATION AFFIDAVIT**

\_\_\_\_\_(Name of Contractor)

Acknowledges that in ORS 279A.110, a Bidder that competes for or is awarded a public contract may not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055. Accordingly, the undersigned Bidder hereby certifies that as part of its bid submission that it has not discriminated and will not discriminate against a disadvantaged business enterprise, a minority-owned business, a woman owned business, a business that a service-disabled veteran owns or an emerging small business in awarding a subcontract for this Project.



# **EMPLOYEE DRUG TESTING PROGRAM STATEMENT**

\_\_\_\_\_(Name of Contractor)

Acknowledges that pursuant to ORS 279.312 Section 2, CONTRACTOR has an employee drug testing program in place.

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

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

Print Name: \_\_\_\_\_

## NOTICE OF AWARD

Project: Alameda Elementary Kitchen Remodel  
Owner: Ontario School District 8C  
Owners Contract Number: \_\_\_\_\_  
Bidder: \_\_\_\_\_  
Bidder's Address: \_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that your Bid dated \_\_\_\_\_ for the above contract has been considered. You are the Successful Bidder and will be awarded a contract to: Install the "New Kitchen HVAC & Hoods" including all work listed in the contract documents and addenda.

The fixed fee contract amount is as follows:

\$ \_\_\_\_\_ Dollars

\_\_\_\_\_ Copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Intent to Award.

\_\_\_\_\_ Sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within ten (10) days of the date you receive a Notice of Award.

- A. Deliver to the Ontario School District 8C the fully executed counterparts of the Contract Documents.
- B. Deliver with the executed Contract Documents the Contract security (Bonds) as specified in the Instructions to Bidders.
- C. Other Conditions precedent:

Failure to comply with these conditions within the time specified will entitle the Owner to consider you in default, annul this Notice of Award and declare your Bid Security forfeited.

Within fifteen (15) days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

Owner or Authorized agent:

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

Copy to Project Engineer

END OF DOCUMENT

## **NOTICE TO PROCEED**

Project: Alameda Elementary Kitchen Remodel

Owner: Ontario School District 8C

Owners Contract Number: \_\_\_\_\_

Bidder: \_\_\_\_\_

Bidder's Address: \_\_\_\_\_

\_\_\_\_\_  
(send Certified Mail Return Receipt Requested)

You are notified that the contract Times under the above contract will commence to run on \_\_\_\_\_, 2023.

On or before that date, you are to start performing your obligations under the Contract Documents. The date of Substantial Completion is: August 11, 2023, and the date of readiness for final payment is \_\_\_\_\_, 2023

Before you may start any Work at the Site, you and Owner must each deliver to the other (with copies to the Project Engineer and other identified additional insured's) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must (add other requirements):

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Owner or Authorized agent:

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

Copy to Engineer

END OF DOCUMENT

## Performance Bond

Know all men by these presents, that we \_\_\_\_\_, of

As Principal, and \_\_\_\_\_, (name and address) as Surety, a corporation, duly authorized to do business in the State of Oregon as Surety are jointly and severally held and bind ourselves, our heirs, executors, administrators, and assigns, and successors unto the **Ontario School District 8C, 195 SW 3rd Avenue, Ontario, Oregon 97914** as Obligee, hereinafter called the owner, in the sum of : \_\_\_\_\_ dollars (\$\_\_\_\_\_)

The condition of this bond is such that whereas, on the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_ the said \_\_\_\_\_, Principal, herein, executed a certain contract with the **Ontario School District 8C** by the terms, conditions, and provisions of which the contract said, Principal, herein, agree to furnish all material and do certain work, to wit: That will undertake and complete the “**KITCHEN REMODEL for ALAMEDA ELEMENTARY SCHOOL**”, as per the drawings and specifications made a part of said contract, which contract as so executed, is hereunto attached, is now referred to and by reference is incorporated herein and made a part hereof as fully for all purposes as if here set forth at length.

Now therefore, if the Principal herein shall faithfully and truly observe and comply with the terms, conditions, and provisions of said contract in all respects, and shall well and truly and fully do and perform all matters undertaken to be performed under said contract upon the terms proposed therein, and with the time prescribed therein, and until the same is accepted, and shall pay all laborers, mechanics, subcontractors, and material men, and all persons who shall supply such Contractor or subcontractor with provisions and supplies for carrying out of such work, and shall in all respects faithfully perform said contract according to law, then this obligation to be void, otherwise to remain in full force and effect. This bond shall remain in effect during the one year project guarantee period specified in the project specifications.

PROVIDED, HOWEVER, that this Bond is subject to the following further conditions:

All material men and persons who shall supply such laborers, mechanics or subcontractors with materials, supplies, or provisions for carrying on such work, shall have a direct right of action against the Principal and Surety on this Bond, second only to the right of the Obligee under this Bond, which right of action shall be asserted in proceedings instituted in the appropriate court of the State of Oregon, and insofar as permitted by the law of Oregon, such right of action shall be asserted in a proceeding instituted in the name of the Obligee to the use and benefit of the person, firm or corporation instituting such action and of all persons, firm, or corporation having a claim hereunder shall have the right to be made a party to such proceeding (but not later than six months after the complete performance of said Contract and final settlement and judgment rendered thereon).

In no event shall the Surety be liable for a greater sum than the penalty of this Bond, or subject to any suit, action, or proceeding thereon that is instituted later than the period of time allowed by the applicable State or Federal regulation after the complete performance of said Contract and final settlement thereof:

## **Performance Bond**

Said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder of the specifications accompanying the same shall in any way affect its obligations on the Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the specifications.

ATTEST:

\_\_\_\_\_  
Principal Secretary

\_\_\_\_\_  
Principal

By \_\_\_\_\_

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

\_\_\_\_\_  
Witness as to Principal

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

ATTEST:

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-fact

\_\_\_\_\_  
(Address)

\_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_

Notes:

1. Date of Bond must not be prior to date of Contract
2. If Contractor is a partnership, all partners should execute this BOND.
3. Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended), and be authorized to transact business in the State where the project is located.

## Payment Bond

Know all men by these presents:

That we \_\_\_\_\_, of \_\_\_\_\_, (name of contractor)  
As Principal, and \_\_\_\_\_, (name and address)  
as Surety, a corporation, duly authorized to do business in the State of Oregon as Surety are jointly and severally held and bind ourselves, our heirs, executors, administrators, and assigns, and successors unto the **Ontario School District 8C, 195 SW 3rd Avenue, Ontario, Oregon 97914** as Obligee, hereinafter called the owner, in the sum of : \_\_\_\_\_ dollars (\$ \_\_\_\_\_) (Basic Contract Price) Dollars (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well ;and truly to be made, we bind ourselves, our heirs, executors, administrators and successors and assigns jointly and severally, firmly by these present.

The Condition Of This Obligation is such that whereas, on the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20 \_\_\_\_ the said \_\_\_\_\_, Principal, herein, executed a certain contract with the **Ontario School District 8C** for the installation of New HVAC, Hoods, Flooring, Counters, Sinks, etc. for the Alameda Elementary School in accordance with the drawings and specifications for the said project, which contract is by reference made part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, IF THE Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for the value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder of the specifications accompanying the same shall in any wise affects its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract to the work or to the specifications.

## Payment Bond

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

WITNESS WHEREOF, this instrument is executed this the \_\_\_\_\_ day of \_\_\_\_\_  
2020.

ATTEST:

\_\_\_\_\_  
Principal Secretary

\_\_\_\_\_  
Principal

By \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-fact

\_\_\_\_\_  
(Address)

\_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_

Notes:

1. Date of Bond must not be prior to date of Contract
2. If Contractor is a partnership, all partners should execute this BOND.
3. Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended), and be authorized to transact business in the State where the project is located.

## **Certificate of Insurance**

Bidder hereby certifies that they have the following insurance coverage for the:

**“New HVAC, HOOD, FLOORING, etc. for the ALAMEDA ELEMENTARY SCHOOL KITCHEN Remodel ”**

**Type:** Commercial General Liability:

Bodily Injury (Including Death) Liability \_\_\_\_\_

Company/policy#/contact person/phone# \_\_\_\_\_

<b>Limits</b>	<b>Description</b>
<b>A. \$1,000,000</b>	Coverage, Bodily Injury One person each occurrence
<b>C. \$10,000</b>	Medical Expense (Any one person)
<b>D. \$100,000</b>	Personal, Advertising and Adverse Injury
<b>E. \$2,000,000</b>	General Aggregate
<b>F. \$3,000,000</b>	Products (Completed/Operations Aggregate)
<b>G \$1,000,000</b>	Each Occurrence including Fire under item “E”

**Type:** Automobile/Vehicle:

Bodily Injury (Including Death) Liability \_\_\_\_\_

\_\_\_\_\_  
Company/policy#/contact person/phone#

<b>A. \$1,000,000</b>	Combined single limit each accident
<b>B. \$1,000,000</b>	Bodily Injury (Per person)
<b>C. \$1,000,000</b>	Bodily Injury (Per accident)
<b>D. \$500,000</b>	Property Damage (Per accident)

**Type:** Excess Liability:

\_\_\_\_\_  
Company/policy#/contact person/phone#

<b>A. _____</b>	Each Occurrence
<b>B. _____</b>	Aggregate

**Type:** Workmen’s Compensation Insurance:

\_\_\_\_\_  
Company/policy#/contact person/phone#

**Description of Operations/Locations/Vehicles/Exclusions added by endorsement/special provisions:** (Describe project, contact people etc.

1. Ontario School District 8C
2. 195 SW 3rd Avenue, Ontario Oregon 97914
3. Alameda Elementary School



## **Certificate of Insurance**

**Cancellation:** Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail 45 days written notice to all of the additional named insured and the bidder.

---

Bidder

---

Address

### **Definitions:**

1. General Commercial Liability: Insurance protecting the person or organizations from liability exposure.
2. Limits: The amount of insurance covered the insured (bidder) has purchased in dollars.
3. General Aggregate: This amount is the most the insurance policy will pay during the policy regardless of the number of claims.
4. Products (Completed operation Aggregate): This is the most the insurance policy will pay for liabilities arising out of the Products completed operations exposure. This provides for products or business operations conducted away from your premises once the project/event is completed or abandoned.
5. Each Occurrence: The most the insurance policy will pay for one occurrence.
6. Fire Damage: The most the insurance policy will pay for a fire that you (bidder) are responsible for in the premises that are in your care, custody or control.
7. Medical Expenses (Any one person): This no-fault medical expense insurance provided to other parties injured during the event/project on the property. This is required for all projects conducted on any of the premises that you (bidder) are involved during the course of this project.
8. Personal and Advertising Injury: Coverage for personal injury (not bodily injury) including slander, libel, false arrest, malicious prosecution, invasion of privacy and advertising liability for exposure of any advertising activities.
9. Automobile Liability: This coverage insures against liability claims arising out of the use of a covered automobile or any vehicle used on the premises.
10. Combined Single Limit: This is the most the insurance policy will pay for bodily injury and property damage combined for each accident. This area coverage includes both the Bodily injury and the Property.
11. Bodily injury (per person): This is what the insurance policy would pay for bodily injury to one person from the accident. (This is not needed if combined single limit is in effect.
12. Bodily injury (per accident): This is what the insurance company would pay for bodily injury from each accident, regardless of the number of persons injured. Not needed if Combined Single Limit is in effect.
13. Property Damage: This is what the insurance policy would pay for third party property damage resulting from one accident during your project.

# **Certificate of Insurance**

## **EXHIBIT I**

### **I. INSURANCE & INDEMNITY REQUIREMENTS FOR CONSTRUCTION AND SERVICE CONTRACTS**

#### **A. Indemnification / Hold Harmless**

The Contractor shall defend, indemnify and hold the Ontario School District 8C, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Ontario School District 8C.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Ontario School District 8C, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

#### **Insurance**

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors.

**No Limitation.** Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Ontario School District 8C's recourse to any remedy available at law or in equity.

### **II. Minimum Scope of Insurance**

Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

## **Certificate of Insurance**

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General liability insurance for liability arising from explosion, collapse or underground property damage. The Ontario School District 8C shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

### **III. Minimum Amounts of Insurance**

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

### **IV. Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. The Contractor's insurance coverage shall be the primary insurance with respect to the Ontario School District 8C. Any Insurance, self-insurance, or insurance pool coverage maintained by the Ontario School District 8C shall be in excess of the Contractor's insurance and shall not contribute with it.
2. The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Ontario School District 8C.

## **Certificate of Insurance**

### **D. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

### **E. Verification of Coverage**

Contractor shall furnish the Ontario School District 8C with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

### **F. Subcontractors**

Contractor shall ensure that each subcontractor of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor. Upon request of the Ontario School District 8C, the Contractor shall provide evidence of such insurance.

## **Affidavit of Release of Liens**

TO: Ontario School District 8C

The undersigned, being first duly sworn, deposes and says: That he is the party to that certain contract dated \_\_\_\_\_, 20 \_\_\_\_, covering the construction of

Contract: **New HVAC, HOODS, FLOORING, COUNTERS, etc. for the ALAMEDA ELEMENTARY SCHOOL Kitchen**

**Ontario School District 8C**

195 SW 3rd Avenue

Ontario, Oregon 97914

That he has performed the work thereunder and completed the same, that all just debts due all laborers, mechanics, material people and all persons who supplied them with materials or goods of any kind for this work, and that all premiums earned on Workman's Compensation Insurance for labor performed on the above stated work, have been duly and fully paid or reimbursed.

:

---

Contractor or Subcontractor

Address

---

Company Name

Subscribed and sworn to before me

By: \_\_\_\_\_ This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.  
Authorized Representative

---

Notary public in and for the **State of Oregon**, residing in Oregon at

Approved by:

---

Surety

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

## **MANDATORY BACKGROUND CHECK**

\_\_\_\_\_ (Name of Contractor)

Acknowledges that the Ontario School District 8C requires any personnel, sub-contractors, suppliers, etc. that will be working on this project, and on the School Districts property, to complete a criminal background check. The Bidder is responsible for any/all costs associated with the background check.

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

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

Print Name: \_\_\_\_\_

## MANDATORY BACKGROUND CHECK

# FINGERPRINT INFORMATION

### ONTARIO FIELDPRINT OFFICE

Smith's Pack & Ship

251 W Idaho Avenue

Hours: 9 AM - 6 PM, Monday - Friday

Phone: 541-889-7690

Cost: \$59.00 + \$12.50 (due at the time appointment is scheduled online)

Fee may be paid with credit card or electronic check by providing routing and account information. NOTE: If you do not show for your scheduled appointment, or you cancel or reschedule your appointment within 24 hours of the appointment, you will be charged another \$12.50.

To schedule a fingerprinting appointment, please follow these instructions. If you need access to a computer, please contact the Personnel Department at 541-889-5374, ext 3237.

1. Visit [www.FieldprintOregon.com](http://www.FieldprintOregon.com)
2. Click on the "Schedule an Appointment" button.
3. Enter an email address under "New Users/Sign Up" and click the "Sign Up" button. Follow the instructions for creating a Password and Security Question and then click "Sign Up and Continue."
4. Enter the Fieldprint Code: **FPOntarioSD8**
5. Enter the contact and demographic information required by the FBI and schedule a fingerprint appointment at the location of your choosing.
6. At the end of the process, print the Confirmation Page. **Take the Confirmation Page and two forms of identification with you to your fingerprint appointment.**
7. If you have any questions or problems, you may contact the Fieldprint customer service team.  
PHONE: 877-614-4364 EMAIL: [customerservice@fieldprint.com](mailto:customerservice@fieldprint.com)

Once you register online and have your confirmation number, you may go to Smith's Pack & Ship to be fingerprinted ANY TIME during normal business hours of 9 AM to 6 PM, Monday through Friday. You do not have to wait for your scheduled appointment time.

# FINGERPRINT INFORMATION

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PHONE: 877-614-4364 EMAIL: [customerservice@fieldprint.com](mailto:customerservice@fieldprint.com)

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Oregon Bureau of Labor and Industries

# **Prevailing Wage Rates for Public Works Contracts**

Christina E. Stephenson  
Labor Commissioner  
Rates Effective January 5, 2023





CHRISTINA E. STEPHENSON  
Labor Commissioner

In this rate book are the new prevailing wage rates for Oregon non-residential public works projects, effective January 5, 2023.

Prevailing wage rates are the minimum hourly wages that must be paid to all workers employed on all public works projects. Thank you for your engagement in the process and commitment to Oregon law.

Our team is ready to help support you with any questions you have. We also offer regular, free, informational seminars and webinars for contractors and public agencies. Contact us at [PWR.Email@boli.oregon.gov](mailto:PWR.Email@boli.oregon.gov) or (971) 353-2416.

A handwritten signature in blue ink, appearing to read "C. Stephenson".

Christina E. Stephenson  
Labor Commissioner

### More information about prevailing wage rates:

The Oregon Bureau of Labor & Industries publishes the prevailing wage rates (PWR) that are required to be paid to workers on non-residential public works projects in Oregon.

A separate document, [Definitions of Covered Occupations for Public Works Contracts in Oregon](#), provides occupational definitions used to classify the duties performed on public works projects. These definitions are used to find the correct prevailing wage rate.

The rate book and definition publications are available online at <https://www.oregon.gov/boli>, as well as additional information, supporting documents, and forms.

Please contact us at [PWR.Email@boli.oregon.gov](mailto:PWR.Email@boli.oregon.gov) or (971) 353-2416, for additional information such as:

- Applicable prevailing wage rates for projects (Generally, the rates in effect at the time the bid specifications are first advertised are those that apply for the duration of the project.)
- Federal Davis-Bacon rates (In cases where projects are subject to both state PWR and federal Davis-Bacon rates, the higher wage must be paid.)
- Required PWR provisions for specifications and contracts
- Apprentice rates



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Forms necessary to comply with ORS 279C.800 through ORS 279C.870 can be found on our website at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage.aspx>. Contractors are encouraged to use and keep on file the forms provided as master copies for use on future prevailing wage rate projects.

**All of the information in this booklet can be accessed and printed from the Internet at: [www.oregon.gov/BOLI](http://www.oregon.gov/BOLI)**

Pursuant to ORS 279C.800 to ORS 279C.870, the prevailing wage rates contained in this booklet have been adopted for use on public works contracts in Oregon.

## **Required Postings for Prevailing Wage Contractors and Subcontractors**

### **PREVAILING WAGE RATES**

Every contractor and subcontractor engaged in work on a public works must post the applicable prevailing wage rates for that project in an obvious place on the worksite so workers have ready access to the information.

### **DETAILS OF FRINGE BENEFIT PROGRAMS**

When a contractor or subcontractor provides or contributes to a health and welfare plan or a pension plan, or both, for employees who are working on a public works project, the details of all fringe benefit plans or programs must be posted on the worksite.

The posting must include a description of the plan or plans, information about how and where claims can be made and where to obtain more information. The notice must be posted in an obvious place on the work site in the same location as the prevailing wage rates.

### **WORK SCHEDULE**

Contractors and subcontractors must give workers the regular work schedule (days of the week and number of hours per day) in writing before beginning work on the project.

Contractors and subcontractors may provide the schedule at the time of hire, prior to starting work on the contract, or by posting the schedule in a location frequented by employees, along with the prevailing wage rate information and any fringe benefit information.

If an employer fails to give written notice of the worker's schedule, the work schedule will be presumed to be a five-day schedule. The schedule may only be changed if the change is intended to be permanent and is not designed to evade the PWR overtime requirements.

*ORS 279C.840(4); OAR 839-025-0033(1). ORS 279C.840(5); OAR 839-025-0033(2).  
ORS 279C.540(2); OAR 839-025-0034.*

## **PUBLIC WORKS BONDS**

**Every** contractor and subcontractor who works on public works projects subject to the prevailing wage rate (PWR) law is required to file a \$30,000 **"PUBLIC WORKS BOND"** with the Construction Contractors' Board (CCB). This includes flagging and landscaping companies, temporary employment agencies, and sometimes sole proprietors.

The key elements of ORS 279C.830(2) and ORS 279C.836 specify that:

- Specifications for every contract for public works must contain language stating that the contractor and every subcontractor must have a public works bond filed with the CCB before starting work on the project, unless otherwise exempt.
- Every contract awarded by a contracting agency must contain language requiring the contractor:
  - To have a public works bond filed with the CCB before starting work on the project, unless otherwise exempt; and
  - To include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the CCB before starting work on the project unless otherwise exempt
- Every subcontract that a contractor or subcontractor awards in connection with a public works contract between a contractor and a public agency must require any subcontractor to have a public works bond filed with the CCB before starting work on the public works project, unless otherwise exempt.
- Before permitting a subcontractor to start work on a public works project, contractors must first verify their subcontractors either have filed the bond, or have elected not to file a public works bond due to a bona fide exemption.
- The PWR bond is to be used exclusively for unpaid wages determined to be due by the Bureau of Labor & Industries.
- The bond is in effect continuously (you do not have to have one per project).
- A public works bond is in addition to any other required bond the contractor or subcontractor is required to obtain.

### **Exemptions:**

- Allowed for a disadvantaged business enterprise, a minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business certified under ORS 200.055, for the first FOUR years of certification;
  - Exempt contractor must still file written verification of certification with the CCB, and give the CCB written notice that they elect not to file a bond.
  - The prime contractor must give written notice to the public agency that they elect not to file a public works bond.
  - Subcontractors must give written notice to the prime contractor that they elect not to file a public works bond.
- For projects with a total project cost of \$100,000 or less, a public works bond is not required. (Note this is the total project cost, not an individual contract amount.)
- Emergency projects, as defined in ORS 279A.010(f).

# PREVAILING WAGE RATES

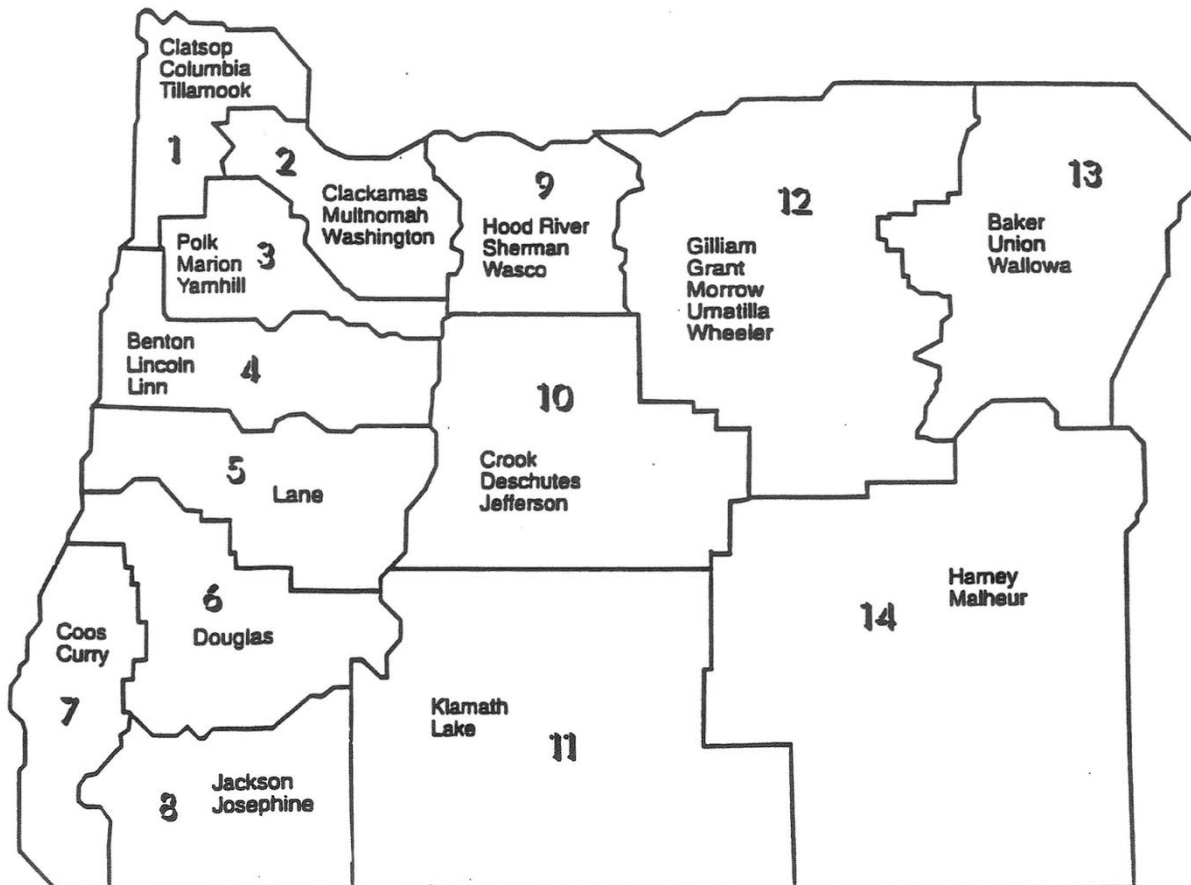
## FINDING THE CORRECT PREVAILING WAGE RATE

To find the correct rate(s) required on your public works project, you will need:

- the date the project was first advertised for bid
- the county your project is in
- the duties of workers on the job

Generally, the rate you should look for is based on the date the project was first advertised for bid. (See OAR 839-025-0020(8) for information about projects that contract through a CM/GC, or contract manager/general contractor.)

The Labor Commissioner must establish the prevailing rate of wage for each region as defined in law. (See ORS 279C.800.) Each region is comprised of one to five counties. See below instructions on locating the correct prevailing wage rate for your public works project.



To find the correct rate in this rate book:

1. *Determine the duties that are being performed by each worker.* Use the booklet *Definitions of Covered Occupations* to find the definition that most closely matches the actual work performed by the worker. You can find this publication online at <https://www.oregon.gov/boli/employers/Pages/occupational-definitions.aspx>.

2. *Find the correct occupation in the “Prevailing Wage Rate for Public Works Contracts” below.* The prevailing wage rate is made up of an hourly base rate and an hourly fringe rate. The combination of these two amounts must be paid to each worker. Watch for possible zone differential, shift differential, and/or hazard pay. If the occupation lists different rates for different Areas of the state, locate the Area that includes the county where the project is located.

Apprentices must be paid consistent with their registered apprenticeship program standard. You can find apprenticeship rates on our website at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>. You may also contact the agency to confirm the correct apprenticeship rate.

The “Prevailing Wage Rate Laws” handbook provides specific information and answers questions regarding prevailing wage laws and is available on our website at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage.aspx>.

If you have any questions about any of this information, please contact the Bureau of Labor & Industries at [PWR.Email@boli.oregon.gov](mailto:PWR.Email@boli.oregon.gov) or (971) 353-2416.

Prevailing Wage Rates by Occupations—Table of Contents

Using the booklet, [Definitions of Covered Occupations](#), find the definition and group number, if applicable, that most closely matches the actual work being performed by the worker.

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<u><a href="#">Piledriver (See Carpenter Group 6)</a></u> .....	<u><a href="#">6</a></u>
<u><a href="#">Plasterer and Stucco Mason</a></u> .....	<u><a href="#">18</a></u>
<u><a href="#">Plumber/Pipefitter/Steamfitter</a></u> .....	<u><a href="#">19</a></u>
<u><a href="#">Power Equipment Operator</a></u> .....	<u><a href="#">20</a></u>
<u><a href="#">Roofer</a></u> .....	<u><a href="#">22</a></u>
<u><a href="#">Sheet Metal Worker</a></u> .....	<u><a href="#">23</a></u>
<u><a href="#">Soft Floor Layer</a></u> .....	<u><a href="#">24</a></u>
<u><a href="#">Sprinkler Fitter</a></u> .....	<u><a href="#">25</a></u>
<u><a href="#">Tender to Mason Trades (Brick and Stonemason, Mortar Mixer, Hod Carrier)</a></u> .....	<u><a href="#">25</a></u>
<u><a href="#">Tender to Plasterer and Stucco Mason</a></u> .....	<u><a href="#">25</a></u>
<u><a href="#">Testing and Balancing (TAB) Technician</a></u> .....	<u><a href="#">26</a></u>
<u><a href="#">Tile Setter/Terrazzo Worker: Hard Tile Setter</a></u> .....	<u><a href="#">26</a></u>
<u><a href="#">Tile, Terrazzo, and Marble Finisher</a></u> .....	<u><a href="#">26</a></u>
<u><a href="#">Truck Driver</a></u> .....	<u><a href="#">26</a></u>



**ASBESTOS WORKER/INSULATOR**

57.17 22.27

Firestop Containment

42.38 16.19

**BOILERMAKER**

40.40 31.90

**BRICKLAYER/STONEMASON**

43.00 24.25

This trade is tended by "Tenders to Mason Trades."

Add \$1.00 per hour to base rate for refractory repair work.

**CARPENTER****Zone A (Base Rate)**

Group 1	44.80	19.21
Group 2	44.97	19.21
Group 3	50.24	19.21
Group 4	Eliminated	
Group 5	45.40	19.21
Group 6	45.74	19.21

**Zone Differential for Carpenters**

Add to Zone A Base Rate

Zone B	1.25 per hour
Zone C	1.70 per hour
Zone D	2.00 per hour
Zone E	3.00 per hour
Zone F	5.00 per hour
Zone G	10.00 per hour

Zone A: Projects located within 30 miles of the respective city hall of the cities listed. Zone B: More than 30 miles but less than 40 miles.

Zone C: More than 40 miles but less than 50 miles.

Zone D: More than 50 miles but less than 60 miles.

Zone E: More than 60 miles but less than 70 miles.

Zone F: More than 70 miles but less than 100 miles.

Zone G: More than 100 miles.

**Reference Cities for Group 1 and 2 Carpenters**

Albany	Goldendale	Madras	Roseburg
Astoria	Grants Pass	Medford	Salem
Baker City	Hermiston	Newport	The Dalles
Bend	Hood River	Ontario	Tillamook
Brookings	Klamath Falls	Pendleton	Vancouver
Burns	La Grande	Portland	
Coos Bay	Lakeview	Port Orford	
Eugene	Longview	Reedsport	

See more Reference Cities for Zone Differential on page 7

**CARPENTER** (continued)Reference Cities for Group 3 Carpenters

Eugene	Medford	Portland	Vancouver
Longview	North Bend	The Dalles	

Reference Cities for Group 5 and 6 Carpenters

Bend	Longview	North Bend
Eugene	Medford	Portland

Zones for **Group 6** Carpenter are determined by the distance between the project site and **either**

- 1) The worker's residence; **or**
- 2) City Hall of a reference city listed, whichever is closer.

**Note:** All job or project locations shall be computed (determined) on the basis of road miles and in the following manner. A mileage measurement will start at the entrance to the respective city hall, facing the project (if possible), and shall proceed by the normal route (shortest time--best road via Google Maps) to the geographical center on the highway, railroad, and street construction projects (end of measurement). On all project contracts, the geographical center where the major portion of the construction is located, shall be considered the center of the project (end measurement).

Group 2, 5 and 6:

Welders shall receive a 5% premium per hour based on their Group's journeyman wage rate, with an 8-hour minimum.

Group 1 and 3:

When working with toxic treated wood, workers shall receive \$.25/hour premium pay for minimum of eight (8) hours.

Group 5 and 6:

When working with creosote and other toxic treated wood, workers shall receive \$.25/hour premium pay for minimum of eight (8) hours.

Group 6:

When working in sheet pile coffer dams or cells up to the external water level, workers shall receive \$.15/hour premium pay for minimum of eight (8) hours.

**CEMENT MASON**

This trade is tended by "Concrete Laborer."

Group 1	<b>39.97</b>	<b>23.00</b>
Group 2	<b>40.81</b>	<b>23.00</b>
Group 3	<b>40.81</b>	<b>23.00</b>
Group 4	<b>41.64</b>	<b>23.00</b>

Zone Differential for Cement Mason

Add to Basic Hourly Rate

Zone A	<b>3.00</b> per hour
Zone B	<b>5.00</b> per hour
Zone C	<b>10.00</b> per hour

Zone A: Projects located 60-79 miles of the respective city hall of the Reference Cities listed below.

Zone B: Projects located 80-99 miles of the respective city hall of the Reference Cities listed below.

Zone C: Projects located 100 or more miles of the respective city hall of the Reference Cities listed below (Page 8).

**CEMENT MASON** (continued)Reference Cities for Cement Mason

Bend	Eugene	Pendleton	Salem	Vancouver
Corvallis	Medford	Portland	The Dalles	

When a contractor takes current employees to a project that is located more than 59 miles from the city hall of the Reference City that is closest to the contractor's place of business, Zone Pay is to be paid for the distance between the city hall of the identified Reference City and the project site.

**Note:** All miles are to be determined on the basis of road miles using the normal route (shortest time – best road), from the city hall of the Reference City closest to the contractor's place of business and the project.

**DIVER & DIVER TENDER**Zone 1 (Base Rate)

<b>DIVER</b>	<b>95.32</b>	<b>19.21</b>
<b>DIVER TENDER</b>	<b>51.32</b>	<b>19.21</b>

- 1) For those workers who reside within a reference city below, their zone pay shall be computed from the city hall of the city wherein they reside.
- 2) For those workers who reside nearer to a project than is the city hall of any reference city below, the mileage from their residence may be used in computing their zone pay differential.
- 3) The zone pay for all other projects shall be computed from the city hall of the nearest reference city listed below.

Zone Differential for Diver/Diver Tender

Add to Zone 1 Base Rate

Zone 2	<b>1.25</b> per hour
Zone 3	<b>1.70</b> per hour
Zone 4	<b>2.00</b> per hour
Zone 5	<b>3.00</b> per hour
Zone 6	<b>5.00</b> per hour
Zone 7	<b>10.00</b> per hour

Zone 1: Projects located within 30 miles of city hall of the reference cities listed.  
 Zone 2: More than 30 miles, but less than 40 miles.  
 Zone 3: More than 40 miles, but less than 50 miles.  
 Zone 4: More than 50 miles, but less than 60 miles.  
 Zone 5: More than 60 miles, but less than 70 miles.  
 Zone 6: More than 70 miles, but less than 100 miles.  
 Zone 7: More than 100 miles.

Reference Cities for Diver/Diver Tender

Bend	Longview	North Bend
Eugene	Medford	Portland

See more information on Zone Pay calculation and Diver Depth/Enclosure Pay on Page 9.

**DIVER & DIVER TENDER** (continued)

**Note:** All job or project locations shall be computed (determined) on the basis of road miles and in the following manner. A mileage measurement will start at the entrance to the respective city hall, facing the project (if possible), and shall proceed by the normal route (shortest time--best road via Google Maps) to the geographical center on the highway, railroad, and street construction projects (end of measurement). On all project contracts, the geographical center where the major portion of the construction is located, shall be considered the center of the project (end measurement).

Diver Depth Pay:

<u>Depth Below Water Surface (FSW)</u>	<u>Daily Depth Pay</u>
50-100 ft.	\$2.00 per foot over 50 feet
101-150 ft.	\$3.00 per foot over 100 feet
151-220 ft.	\$4.00 per foot over 150 feet
Over 220 ft.	\$5.00 per foot over 220 feet

The actual depth in FSW shall be used in determining depth premium.

Diver Enclosure Pay (working without vertical escape):

<u>Distance Traveled in the Enclosure</u>	<u>Daily Enclosure Pay</u>
0 – 25ft.	N/C
25 – 300 ft.	\$1.00 per foot from the entrance
300 – 600 ft.	\$1.50 per foot beginning at 300 ft.
Over 600 ft.	\$2.00 per foot beginning at 600 ft.

**DREDGER**Zone A (Base Rate)

Leverman (Hydraulic & Clamshell)	<b>53.94</b>	<b>16.45</b>
Assistant Engineer (Watch Engineer, Mechanic Machinist)	<b>50.78</b>	<b>16.45</b>
Tenderman (Boatman Attending Dredge Plant), Fireman	<b>49.29</b>	<b>16.45</b>
Fill Equipment Operator	<b>48.12</b>	<b>16.45</b>
Assistant Mate	<b>45.42</b>	<b>16.45</b>

Zone Differential for Dredgers

Add to Zone A Base Rate

Zone B	<b>3.00</b> per hour
Zone C	<b>6.00</b> per hour

Zone mileage based on road miles:

Zone A: Center of jobsite to no more than 30 miles from the city hall of Portland.  
 Zone B: More than 30 miles but not more than 60 miles.  
 Zone C: Over 60 miles.

**DRYWALL, LATHER, ACOUSTICAL CARPENTER & CEILING INSTALLER****Zone 1 (Base Rate)**

1. DRYWALL INSTALLER	<b>44.74</b>	<b>18.91</b>
2. LATHER, ACOUSTICAL CARPENTER & CEILING INSTALLER	<b>44.74</b>	<b>18.91</b>

**Zone Differential for Lather, Acoustical Carpenter & Ceiling Installer**

Zone mileage based on road miles:

Zone B	61-80 miles	<b>6.00</b> per hour
Zone C	81-100 miles	<b>9.00</b> per hour
Zone D	101 or more	<b>12.00</b> per hour

The correct transportation allowance shall be based on AAA road mileage from the City Hall of the transportation reference cities herein listed.

**Reference Cities for Drywall, Lather, Acoustical Carpenter & Ceiling Installer**

Albany	Bend	Grants Pass	Medford	Portland	Seaside
Astoria	Brookings	Hermiston	Newport	Reedsport	The Dalles
Baker	Coquille	Klamath Falls	North Bend	Roseburg	Tillamook
Bandon	Eugene	Kelso-Longview	Pendleton	Salem	Vancouver

Certified welders shall receive 5% over the base wage rate, with an eight (8) hour minimum.

**ELECTRICIAN****Area 1 (Region 14)**

Electrician	<b>43.97</b>	<b>19.26</b>
Lighting Maintenance and Material Handler	<b>21.55</b>	<b>10.30</b>

**Reference County**

Malheur

**Shift Differential\***

1 <sup>st</sup> Shift "day"	Between the hours of 8:00am and 4:30pm	8 hours pay for 8 hours work
2 <sup>nd</sup> Shift "swing"	Between the hours of 4:30pm and 12:30am	8 hours pay for 8 hours work plus 7.5% for all hours worked
3 <sup>rd</sup> Shift "graveyard"	Between the hours of 12:30am and 8:00am	8 hours pay for 8 hours work plus 15% for all hours worked.

\* The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours.

See more information on Premium Pay on Page 11.

**ELECTRICIAN** (continued)

When workers are required to work under compressed air or to work from trusses, scaffolds, swinging scaffolds, bosun's chair or on building frames, stacks or towers at a distance, the following should be added to base rate.

50 – 90 feet to the ground	Add 1 ½ x the base rate
90+ feet to the ground	Add 2 x the base rate

*Pursuant to ORS 279C.815(2)(b), the Electrician Area 6 rate is the highest rate of wage among the collective bargaining agreements for Electrician Areas 1 and 6.*

**Area 2 (Regions 12 and 13)**

Electrician	<b>51.75</b>	<b>24.18</b>
Cable Splicer	<b>54.34</b>	<b>24.26</b>
Certified Welder	<b>56.93</b>	<b>24.34</b>
Material Handler	<b>31.05</b>	<b>13.06</b>

**Reference Counties**

Baker	Grant	Umatilla	Wallowa
Gilliam	Morrow	Union	Wheeler

Add 50% of the base rate when workers are required to work under the following conditions:

- 1) Under compressed air with atmospheric pressure exceeding normal pressure by at least 10%.
- 2) From trusses, swing scaffolds, bosun's chairs, open platforms, unguarded scaffolds, open ladders, frames, tanks, stacks, silos and towers where the workman is subject to a direct fall of (a) more than 60 feet or (b) into turbulent water under bridges, powerhouses or spillway faces of dams.

**Area 3 (Regions 4, 5, 6 and 7)**

Electrician	<b>48.58</b>	<b>23.20</b>
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**Reference Counties**

Coos	Curry	Douglas
Lane – <b>See Area 4</b>	Lincoln – <b>See Area 4</b>	

**Shift Differential\***

1 <sup>st</sup> Shift "day"	Between the hours of 8:00am and 4:30pm	8 hours pay for 8 hours work
2 <sup>nd</sup> Shift "swing"	Between the hours of 4:30pm and 1:00am	8 hours pay for 8 hours work plus 17% for all hours worked
3 <sup>rd</sup> Shift "graveyard"	Between the hours of 12:30am and 9:00am	8 hours pay for 8 hours work plus 31% for all hours worked.

\* The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours.

See more information on Premium Pay on Page 12.

**ELECTRICIAN** (continued)

When workers are required to work under compressed air or where gas masks are required, or to work from trusses, all scaffolds including mobile elevated platforms, any temporary structure, bosun's chair or on frames, stacks, towers, tanks, within 15' of the leading edges of any building at a distance of:

50 – 75 feet to the ground	Add 1 ½ x the base rate
75+ feet to the ground	Add 2 x the base rate

High Time is not required to be paid on any permanent structure with permanent adequate safeguards (handrails, mid-rails, and toe guards). Any vehicle equipped with outriggers are exempted from this section.

**Area 4 (Regions 3, 4, 5, and 10)**

Electrician	<b>51.67</b>	<b>20.58</b>
Cable Splicer	<b>56.84</b>	<b>20.74</b>
Lighting Maintenance/Material Handler	<b>24.29</b>	<b>10.38</b>

**Reference Counties for Area 4**

Benton Crook	Deschutes Jefferson	Lane Linn	Lincoln
Marion – <b>See Area 5 rate</b>	Polk – <b>See Area 5 rate</b>	Yamhill – <b>See Area 5 rate</b>	

**Shift Differential\***

1 <sup>st</sup> Shift "day"	Between the hours of 8:00am and 4:30pm	8 hours pay for 8 hours work
2 <sup>nd</sup> Shift "swing"	Between the hours of 4:30pm and 1:00am	8 hours pay for 8 hours work plus 17% for all hours worked
3 <sup>rd</sup> Shift "graveyard"	Between the hours of 12:30am and 9:00am	8 hours pay for 8 hours work plus 31.4% for all hours worked.

\* The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours.

**Area 5 (Regions 1, 2, 3 and 9)**

Electrician	<b>57.35</b>	<b>28.94</b>
Electrical Welder	<b>63.09</b>	<b>29.11</b>
Material Handler/Lighting Maintenance	<b>32.69</b>	<b>19.45</b>

**Reference Counties**

Clackamas Clatsop Columbia	Hood River Marion Multnomah	Polk Sherman Tillamook	Wasco Washington Yamhill
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See more information on Shift Differentials and Zone Pay on Page 13.

**ELECTRICIAN** (continued)**Shift Differential\***

1 <sup>st</sup> Shift "day"	Between the hours of 7:00am and 5:30pm	8 hours pay for 8 hours work
2 <sup>nd</sup> Shift "swing"	Between the hours of 4:30pm and 3:00am	8 hours pay for 8 hours work plus 17.3% for all hours worked
3 <sup>rd</sup> Shift "graveyard"	Between the hours of 12:30am and 11:00am	8 hours pay for 8 hours work plus 31.4% for all hours worked.

\* The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours.

**Zone Pay for Area 5 – Electrician and Electrical Welder**

Add to Basic Hourly Rate

Zone mileage based on air miles:

Zone 1	31-50 miles	<b>1.50</b> per hour
Zone 2	51-70 miles	<b>3.50</b> per hour
Zone 3	71-90 miles	<b>5.50</b> per hour
Zone 4	Beyond 90	<b>9.00</b> per hour

There shall be a 30-mile free zone from downtown Portland City Hall and a similar 15-mile free zone around the following cities:

Astoria	Seaside	Tillamook
Hood River	The Dalles	

Further, the free zone at the Oregon coast shall extend along Hwy 101 west to the ocean Hwy 101 east 10 miles if not already covered by the above 15-mile free zone.

**Area 6 (Regions 6, 8, 11 and 14)**

Electrician	<b>43.97</b>	<b>19.26</b>
Lighting Maintenance and Material Handler	<b>21.55</b>	<b>10.30</b>

**Reference Counties**

Harney	Josephine	Lake
Jackson	Klamath	Malheur

Douglas – **See Area 3 rate**

**Shift Differential**

1 <sup>st</sup> Shift "day"	Between the hours of 8:00am and 4:30pm	8 hours pay for 8 hours work
2 <sup>nd</sup> Shift "swing"	Between the hours of 4:30pm and 1:00am	8 hours pay for 8 hours work plus 7.5% for all hours worked
3 <sup>rd</sup> Shift "graveyard"	Between the hours of 12:30am and 9:00am	8 hours pay for 8 hours work plus 15% for all hours worked.

\* The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours.



**ELECTRICIAN** (continued)

When workers are required to work under compressed air or to work from trusses, scaffolds, swinging scaffolds, bosun's chair or on building frames, stacks or towers at a distance, the following should be added to base rate.

50 – 90 feet to the ground	Add 1 ½ x the base rate
90+ feet to the ground	Add 2 x the base rate

**ELEVATOR CONSTRUCTOR, INSTALLER AND MECHANIC****Area 1 (Regions 12 and 13)**

Mechanic	<b>62.25</b>	<b>42.32</b>
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**Reference Counties**

Baker                      Union                      Wallowa

Umatilla – **See Area 2 rate**

**Area 2 (Regions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 14)**

Mechanic	<b>62.51</b>	<b>42.34</b>
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**Reference Counties**

Benton	Douglas	Klamath	Multnomah	Deschutes
Clackamas	Gilliam	Lake	Polk	Josephine
Clatsop	Grant	Lane	Sherman	Morrow
Columbia	Harney	Lincoln	Tillamook	Wheeler
Coos	Hood River	Linn	Umatilla	Yamhill
Crook	Jackson	Malheur	Wasco	
Curry	Jefferson	Marion	Washington	

<b><u>FENCE CONSTRUCTOR (NON-METAL)</u></b>	<b>34.98</b>	<b>16.55</b>
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<b><u>FENCE ERECTOR (METAL)</u></b>	<b>34.98</b>	<b>16.55</b>
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<b><u>GLAZIER</u></b>	<b>45.82</b>	<b>25.40</b>
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Add \$1.00 to base rate when employee works from a swing stage, scaffold, suspended contrivance or mechanical apparatus from the third floor up or thirty feet of free fall (whichever is less), and employee is required to wear a safety belt.

Add twenty percent (20%) to base rate when employee works from a bosun chair (non-motorized single-man apparatus), regardless of height.

Certified welders shall receive twenty percent (20%) above the base rate for actual time spent performing welding duties.

<b><u>HAZARDOUS MATERIALS HANDLER</u></b>	<b>29.03</b>	<b>15.18</b>
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**HIGHWAY/PARKING STRIPER****38.18****15.08**Shift Differential

Add \$1.85/hour to base rate for shifts that start between 3:00pm and 4:00am.

**IRONWORKER**Zone 1 (Base Rate):**42.27****32.53**Zone Differential for Ironworker

Add to Basic Hourly Rate

Zone 2        **6.88/hr.** or \$55.00 maximum per day  
 Zone 3        **10.00/hr.** or \$80.00 maximum per day  
 Zone 4        **12.50/hr.** or \$100.00 maximum per day

Zone 1: Projects located within 45 miles of city hall in the reference cities listed below.

Zone 2: More than 46 miles, but less than 60 miles.

Zone 3: More than 61 miles, but less than 100 miles.

Zone 4: More than 100 miles.

**Note:** Zone pay for Ironworkers shall be determined using the quickest route per Google Maps and computed from the city hall or dispatch center of the reference cities listed below **or** the residence of the employee, whichever is nearer to the project.

Reference Cities and Dispatch Center

Medford

Portland

**LABORER**Zone A (Base Rate):

<b>Group 1</b>	<b>34.98</b>	<b>16.55</b>
<b>Group 2</b>	<b>36.25</b>	<b>16.55</b>
<b>Group 3 (Flagger)</b>	<b>30.38</b>	<b>16.55</b>
<b>Group 4 (Landscape Laborer)</b>	<b>24.17</b>	<b>16.55</b>

Zone Differential for Laborers

Add to Zone A Base Rate

Zone B        **.85** per hour  
 Zone C        **1.25** per hour  
 Zone D        **2.00** per hour  
 Zone E        **4.00** per hour  
 Zone F        **5.00** per hour

Zone A: Projects located within 30 miles of city hall in the reference cities listed.

Zone B: More than 30 miles but less than 40 miles.

Zone C: More than 40 miles but less than 50 miles.

Zone D: More than 50 miles but less than 80 miles.

Zone E: More than 80 miles but less than 100 miles.

Zone F: More than 100 miles.

See Reference Cities for Zone Differentials on Page 16.

**LABORER** (continued)Reference Cities for Laborer

Albany	Burns	Hermiston	Roseburg
Astoria	Coos Bay	Klamath Falls	Salem
Baker City	Eugene	Medford	The Dalles
Bend	Grants Pass	Portland	

**Note:** All job or project locations shall be computed (determined) on the basis of road miles and in the following manner. A mileage measurement will start at the entrance to the respective city hall, facing the project (if possible), and shall proceed by the normal route (shortest time, best road) to the geographical center on the highway, railroad, and street construction projects (end of measurement). On all other project contracts, the geographical center where the major portion of the construction is located, shall be considered the center of the project (end measurement).

Any Laborer working in Live Sewers shall receive forty dollars (\$40) per day in addition to their regular pay.

**LANDSCAPE LABORER/TECHNICIAN** (Laborer Group 4) **24.17** **16.55**

**LIMITED ENERGY ELECTRICIAN**

**Area 1 (Region 14)** **33.76** **17.24**

Reference County

Malheur

*Pursuant to ORS 279C.815(2)(b), the Limited Energy Electrician Area 6 rate is the highest rate of wage among the collective bargaining agreements for Limited Energy Electrician Areas 1 and 6.*

**Area 2 (Regions 12 and 13)** **34.51** **16.04**

Reference Counties

Baker	Grant	Umatilla	Wallowa
Gilliam	Morrow	Union	Wheeler

**Area 3 (Regions 4, 5, 6 and 7)** **38.86** **20.81**

Reference Counties

Benton	Curry	Lane	Linn
Coos	Douglas	Lincoln	

**Area 4 (Regions 3, 4, 5 and 10)** **38.44** **17.62**

Reference Counties

Deschutes	Jefferson
Crook	

Benton – **See Area 3 rate**  
Lane – **See Area 3 rate**

Linn – **See Area 3 rate**  
Marion – **See Area 5 rate**

Polk – **See Area 5 rate**  
Yamhill – **See Area 5 rate**

**LIMITED ENERGY ELECTRICIAN** (continued)**Area 5 (Regions 1, 2, 3 and 9)****47.66****22.97**Reference Counties

Clackamas	Hood River	Polk	Wasco
Clatsop	Marion	Sherman	Washington
Columbia	Multnomah	Tillamook	Yamhill

**Area 6 (Regions 6, 8, 11 and 14)****33.76****17.24**Reference Counties

Harney	Josephine	Lake
Jackson	Klamath	Malheur

Douglas – **See Area 3 rate****LINE CONSTRUCTOR****Area 1 (All Regions)**

Group 1	<b>64.58</b>	<b>24.31</b>
Group 2	<b>57.66</b>	<b>23.99</b>
Group 3	<b>35.58</b>	<b>15.44</b>
Group 4	<b>49.59</b>	<b>20.43</b>
Group 5	<b>43.25</b>	<b>17.50</b>
Group 6	<b>35.75</b>	<b>17.16</b>
Group 7	<b>20.71</b>	<b>12.56</b>

Reference Counties

All counties

*Pursuant to ORS 279C.815(2)(b), the Line Constructor Area 1 rate is the highest rate of wage among the collective bargaining agreements for Line Constructor Area 1 and Area 2.*

**MARBLE SETTER****44.00****24.25**

This trade is tendered by "Tile, Terrazzo, &amp; Marble Finishers."

Add \$1.00 per hour to base rate for refractory repair work.

**PAINTER & DRYWALL TAPER**

COMMERCIAL PAINTING	<b>30.72</b>	<b>14.18</b>
INDUSTRIAL PAINTING	<b>32.52</b>	<b>14.18</b>
BRIDGE PAINTING	<b>38.19</b>	<b>14.18</b>

Shift Differential for Painter

Add \$2.00/hour to base rate for entire shift if any hours are worked outside of 5:00 a.m. to 5:00 p.m.

**PAINTER & DRYWALL TAPER** (continued)

## DRYWALL TAPER

Zone A (Base Rate) **42.52** **19.13**

Zone Differential for Drywall  
Taper Add to Zone A Base Rate

Zone B **6.00** per hour  
Zone C **9.00** per hour  
Zone D **12.00** per hour

Dispatch Cities for Drywall Taper

Albany	Bend	Grants Pass	Medford	Portland	Seaside
Astoria	Brookings	Hermiston	Newport	Reedsport	The Dalles
Baker	Coquille	Klamath Falls	North Bend	Roseburg	Tillamook
Bandon	Eugene	Kelso-Longview	Pendleton	Salem	Vancouver

Zone A: Projects located less than 61 miles of the respective city hall of the dispatch cities listed.

Zone B: Projects located 61 miles to 80 miles.

Zone C: Projects located 81 miles to 100 miles.

Zone D: Projects located 101 miles or more.

Note: Zone pay is based on AAA Road Mileage.

**PLASTERER AND STUCCO MASON**

This trade is tended by "Tenders to Plasterers."

Zone A (Base Rate) **41.16** **19.23**

Zone Differential for Plasterer and Stucco Mason  
Add to Zone A Base Rate

Zone B **6.00** per hour  
Zone C **9.00** per hour  
Zone D **12.00** per hour

Zone A: Projects located less than 61 miles of the respective city hall of the reference cities listed below.

Zone B: Projects located 61 miles to 80 miles.

Zone C: Projects located 81 miles to 100 miles.

Zone D: Projects located 101 miles or more.

Reference Cities for Plasterer & Stucco Mason

Bend	Eugene	Medford	Portland	Seaside
Coos Bay	La Grande	Newport	Salem	The Dalles

Add \$1.00 to base rate for swinging scaffold work.

Add \$2.00 to base rate for nozzle technicians on plastering machines.

**PLUMBER/PIPEFITTER/STEAMFITTER****Area 1 (Regions 13 and 14)****34.00****17.07**Reference Counties

Harney Malheur

Baker – **See Area 2 rates**Zone Differential for Area 1

## Add to Base Rate

Zone 1 **2.50** per hourZone 2 **3.50** per hourZone 3 **5.00** per hour

Zone mileage based on road miles:

Zone 1: Forty (40) to fifty five (55) miles from City Hall in Boise, Idaho.Zone 2: Fifty five (55) to one hundred (100) miles from City Hall in Boise, Idaho.Zone 3: Over one hundred (100) miles from City Hall in Boise, Idaho.

Add \$2.21 to base rate if it is possible for worker to fall 30 ft. or more, or if required to wear a fresh-air mask or similar equipment for 2 hours or more.

**Area 2 (Regions 12 and 13)****54.00****34.11**Reference CountiesBaker Grant Umatilla Wallowa  
Gilliam Morrow Union WheelerZone Differential for Area 2

## Add to Base Rate

Zone 2 **10.62/hr.** not to exceed \$80.00 day.

Zone 2: Eighty (80) miles or more from City Hall in Pasco, Washington.

Zone mileage based on road miles:

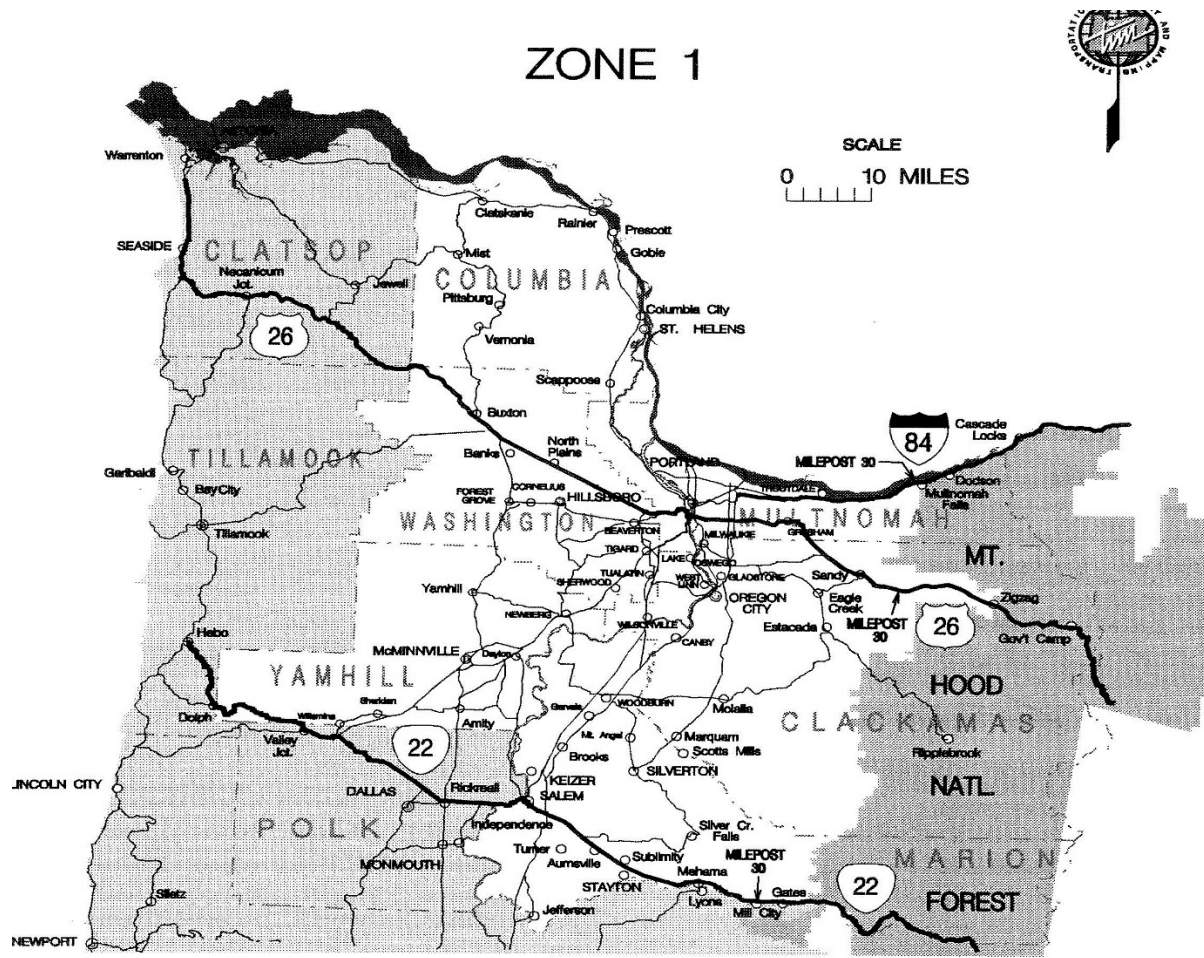
Add \$1.00 to base rate in one-hour minimum increments if it is possible for worker to fall 35 ft. or more.

Add \$1.00 to base rate in one-hour minimum increments if worker is required to wear a mask in hazardous areas.

**Area 3 (Regions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12)****50.68****35.00**Reference CountiesBenton Deschutes Lake Sherman  
Clackamas Douglas Lane Tillamook  
Clatsop Hood River Lincoln Wasco  
Columbia Jackson Linn Washington  
Coos Jefferson Marion Yamhill  
Crook Josephine Multnomah  
Curry Klamath PolkGilliam – **See Area 2 rate**Wheeler – **See Area 2 rate**

**POWER EQUIPMENT OPERATOR**Zone 1 (Base Rate)

Group 1	54.13	18.15
Group 1A	56.29	18.15
Group 1B	58.45	18.15
Group 2	52.22	18.15
Group 3	51.07	18.15
Group 4	47.74	18.15
Group 5	46.50	18.15
Group 6	43.28	18.15

**POWER EQUIPMENT OPERATOR MAP**

Zone Pay Differential for Power Equipment Operator  
 Add to Zone 1 Base Rate

Zone 2	3.00 per hour
Zone 3	6.00 per hour

**For projects in the following metropolitan counties:**

Clackamas	Marion	Washington
Columbia	Multnomah	Yamhill

**POWER EQUIPMENT OPERATOR** (continued)

- (A) All jobs or projects located in Multnomah, Clackamas and Marion counties, West of the western boundary of Mt. Hood National Forest and West of Mile Post 30 on Interstate 84 and West of Mile Post 30 on State Hwy 26 and West of Mile Post 30 on Hwy 22 and all jobs located in Yamhill County, Washington County and Columbia County shall receive Zone 1 pay for all classifications.
- (B) All jobs or projects located in the area outside the *identified boundary* above, but less than 50 miles from the Portland City Hall shall receive Zone 2 pay for all classifications.
- (C) All jobs or projects located more than 50 miles from the Portland City Hall, but outside the identified border above, shall receive Zone 3 pay for all classifications.

**Reference cities for projects in all remaining counties:**

Albany	Coos Bay	Grants Pass	Medford
Bend	Eugene	Klamath Falls	Roseburg

- (A) All jobs or projects located within 30 miles of the respective city hall of the above mentioned cities shall receive Zone 1 pay for all classifications.
- (B) All jobs or projects located more than 30 miles and less than 50 miles from the respective city hall of the above mentioned cities shall receive Zone 2 for all classifications.
- (C) All jobs or projects located more than 50 miles from the respective city hall of the above mentioned cities shall receive Zone 3 pay for all classifications.

**Note:** All job or project locations shall be computed (determined) on the basis of road miles and in the following manner. A mileage measurement will start at the entrance to the respective city hall, facing the project (if possible), and shall proceed by the normal route (shortest time-best road) to the geographical center on the highway, railroad, and street construction projects (end of measurement). On all other project contracts, the geographical center where the major portion of the construction is located, shall be considered the center of the project (end measurement).

Add \$10.00/hour hyperbaric pay for Group 4 Tunnel Boring Machine Mechanic.

Add \$0.40 to the base rate for any and all work performed underground, including operating, servicing and repairing of equipment.

Add \$0.50 to the base rate per hour for any employee who works suspended by a rope or cable.

Add \$0.50 to the base rate for employees who do "pioneer" work (break open a cut, build road, etc.) more than one hundred fifty (150) feet above grade elevation.

**Note:** A Hazardous Waste Removal Differential must be added to the base rate if work is performed inside the boundary of a Federally Designated Waste Site. For information on this differential, call the Prevailing Wage Rate Coordinator at (971) 353-2416.

**Shift Differential**

Two-Shift Operations:

On a two-shift operation, when the second shift starts after 4:30 p.m., second-shift workers shall be paid the base hourly wage rate plus 5% for all hours worked.

When the second shift starts at 8:00 p.m. or later, the second-shift workers shall be paid at the base hourly wage rate plus 10% for all hours worked.

See more information on Shift Differentials on Page 22.



**POWER EQUIPMENT OPERATOR** (continued)

Three-Shift Operations:

On a three-shift operation, the base hourly wage rate plus five percent (5%) shall be paid to all second-shift workers for all hours worked, and the base hourly wage rate plus ten percent (10%) shall be paid to all third shift workers for all hours worked.

**ROOFER****Area 1 (Regions 1, 2, 9, 10, 12 and 13)****38.78****20.48****Reference Counties**

Baker	Deschutes	Morrow	Union
Clackamas	Gilliam	Multnomah	Wasco
Clatsop	Grant	Sherman	Wallowa
Columbia	Hood River	Tillamook	Washington
Crook	Jefferson	Umatilla	Wheeler

Add 10% to the base rate for handling coal tar pitch or coal tar-based materials.

Add 10% to the base rate for handling fiberglass insulation.

**Area 2 (Regions 3, 4, 5, 6, 7, 8, 10, 11 and 14)****32.55****18.65****Reference Counties**

Benton	Harney	Lake	Malheur
Coos	Jackson	Lane	Marion
Curry	Josephine	Lincoln	Polk
Douglas	Klamath	Linn	Yamhill

Crook – **See Area 1 rates**      Deschutes – **See Area 1 rates**

Add \$2.00 to the base rate for handling coal tar products.

Add \$1.50 to the base rate for handling fiberglass insulation.

**Area 4 (Regions 12 and 13)****38.78****20.48****Reference Counties**

Umatilla	Union	Wallowa
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*Pursuant to ORS 279C.815(2)(b), the Roofer Area 1 rate is the highest rate of wage among the collective bargaining agreements for Roofer Areas 1, 4 and 5.*

Add 10% to the base rate for handling coal tar pitch or coal tar-based materials.

Add 10% to the base rate for handling fiberglass insulation.

**ROOFER** (Continued)**Area 5 (Region 12)****38.78****20.48****Reference County**

Morrow

*Pursuant to ORS 279C.815(2)(b), the Roofer Area 1 rate is the highest rate of wage among the collective bargaining agreements for Roofer Areas 1, 4 and 5.*

Add 10% to the base rate for handling coal tar pitch or coal tar-based materials.

Add 10% to the base rate for handling fiberglass insulation.

**SHEET METAL WORKER****Area 1 (Regions 1, 2, 3, 4, 9 and 12)****45.80****25.46****Reference Counties**

Benton	Grant	Morrow	Umatilla
Clackamas	Hood River	Multnomah	Wasco
Clatsop	Lincoln	Polk	Washington
Columbia	Linn	Sherman	Wheeler
Gilliam	Marion	Tillamook	Yamhill

Add \$1.00 to base rate for work performed on any swinging platform, swinging chair or swinging ladder.

Add \$1.00 to base rate for work where a worker is exposed to resins, chemicals or acid.

**Area 2 (Regions 13 and 14)**

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**Reference Counties**

Baker – **See Area 3 rate**      Malheur – **See Area 6 rate**

**Area 3 (Regions 12 and 13)****44.09****25.28****Reference Counties**

Baker                  Union                  Wallowa

Morrow – **See Area 1 rate**      Umatilla – **See Area 1 rate**

Add \$.45 to base rate for work performed on any swinging stage, swinging scaffold or boson chair in excess of thirty (30) feet above the ground.

Add \$1.00 to base rate for work where it is necessary to wear a chemically activated type face mask.

**SHEET METAL WORKER** (continued)**Area 4 (Regions 5 and 6)****37.78****22.72**Reference Counties

Douglas                      Lane

Add \$1.00 to base rate for work performed on any swinging platform, swinging chair or swinging ladder.

Add \$1.00 to base rate for work where a worker is exposed to resins, chemicals or acid.

**Area 5 (Region 7)****38.14****23.76**Reference Counties

Coos                      Curry

Add \$1.00 to base rate for work performed on any swinging platform, swinging chair or swinging ladder.

Add \$1.00 to base rate for work where a worker is exposed to resins, chemicals or acid.

**Area 6 (Regions 7, 8, 11 and 14)****32.12****21.39**Reference CountiesHarney                      Josephine                      Lake  
Jackson                      Klamath                      MalheurCurry – **See Area 5 rate**

Add \$1.00 to base rate for work performed on any swinging platform, swinging chair or swinging ladder.

Add \$1.00 to base rate for work where a worker is exposed to resins, chemicals or acid.

**Area 7 (Region 10)****35.36****21.31**Reference Counties

Crook                      Deschutes                      Jefferson

Add \$1.00 to base rate for work performed on any swinging platform, swinging chair or swinging ladder.

Add \$1.00 to base rate for work where a worker is exposed to resins, chemicals or acid.

**SOFT FLOOR LAYER****37.23****18.17**

**SPRINKLER FITTER****Area 1 (Regions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 14)****44.13      25.84****Reference Counties**

Benton	Douglas	Klamath	Multnomah
Clackamas	Gilliam	Lake	Polk
Clatsop	Grant	Lane	Sherman
Columbia	Harney	Lincoln	Tillamook
Coos	Hood River	Linn	Umatilla
Crook	Jackson	Malheur	Wasco
Curry	Jefferson	Marion	Washington
Deschutes	Josephine	Morrow	Wheeler
			Yamhill

**Area 2 (Regions 12, 13, 14)****37.81      25.84****Reference Counties**

Baker	Union	Wallowa	
Gilliam – <b>See Area 1 rate</b>	Malheur – <b>See Area 1 rate</b>	Umatilla – <b>See Area 1 rate</b>	
Grant – <b>See Area 1 rate</b>	Morrow – <b>See Area 1 rate</b>		

**TENDER TO MASON TRADES (Brick and Stonemason, Mortar Mixer, Hod Carrier)****38.79      16.55**

Add \$0.50 to base rate for refractory repair work.

**TENDER TO PLASTERER AND STUCCO MASON****Zone A (Base Rate)****37.62      16.55****Zone Differential for Tender to Plasterer and Stucco Mason**

Add to Zone A Base Rate

Zone B	<b>6.00</b> per hour
Zone C	<b>9.00</b> per hour
Zone D	<b>12.00</b> per hour

Zone A: Projects located within 60 miles of city hall in the reference cities listed.

Zone B: More than 61 miles but less than 80 miles.

Zone C: More than 81 miles but less than 100 miles.

Zone D: More than 101 miles

**Reference Cities**

Bend	Eugene	Medford	Portland	Seaside
Coos Bay	La Grande	Newport	Salem	The Dalles

Add \$0.50 to base rate for refractory repair work.

**TESTING AND BALANCING (TAB) TECHNICIAN**

For work performed under the [Sheet Metal](#) classification, including Air-Handling Equipment, Ductwork

See [SHEET METAL WORKER RATE](#)

For work performed under the [Plumber/Pipefitter/Steamfitter](#) classification, including Water Distribution Systems

See [PLUMBER/PIPEFITTER/STEAMFITTER RATE](#)

**TILE SETTER/TERRAZZO WORKER: Hard Tile Setter****37.65****20.83**

This trade is tended by "Tile, Terrazzo, & Marble Finisher."

Add \$1.00 when performing terrazzo work.

Add \$1.00 when working with epoxy, furnane, or alkyl acetylene.

**TILE, TERRAZZO, AND MARBLE FINISHER****1. TILE, TERRAZZO FINISHER****28.29****15.30**

Add \$1.00 when performing terrazzo work.

Add \$1.00 when working with epoxy, furnane, or alkyl acetylene.

**2. BRICK & MARBLE FINISHER****28.29****15.43**

Add \$1.00 per hour to base rate for refractory repair work.

**TRUCK DRIVER****Zone A (Base Rate)**

Group 1	<b>30.09</b>	<b>16.73</b>
Group 2	<b>30.23</b>	<b>16.73</b>
Group 3	<b>30.37</b>	<b>16.73</b>
Group 4	<b>30.67</b>	<b>16.73</b>
Group 5	<b>30.91</b>	<b>16.73</b>
Group 6	<b>31.10</b>	<b>16.73</b>
Group 7	<b>31.32</b>	<b>16.73</b>

**Zone differential for Truck Drivers**

Add to Zone A Base Rate

Zone B	<b>.65</b> per hour
Zone C	<b>1.15</b> per hour
Zone D	<b>1.70</b> per hour
Zone E	<b>2.75</b> per hour

See more information on Zone Differentials on Page 27.

**TRUCK DRIVER** (Continued)

Zone A: Projects within 30 miles of the cities listed.

Zone B: More than 30 miles but less than 40 miles.

Zone C: More than 40 miles but less than 50 miles.

Zone D: More than 50 miles but less than 80 miles.

Zone E: More than 80 miles.

**Reference Cities**

Albany	Burns	Hermiston	Madras	Oregon City	Roseburg
Astoria	Coos Bay	Hood River	Medford	Pendleton	Salem
Baker	Corvallis	Klamath Falls	McMinnville	Portland	The Dalles
Bend	Eugene	La Grande	Newport	Port Orford	Tillamook
Bingen	Goldendale	Lakeview	Ontario	Reedsport	Vancouver
Brookings	Grants Pass	Longview			

**Note:** All job or project locations shall be computed (determined) on the basis of road miles and in the following manner. A mileage measurement will start at the entrance to the respective city hall, facing the project (if possible), and shall proceed by the normal route (shortest time-best road) to the geographical center on the highway, railroad, and street construction projects (end of measurement). On all other project contracts, the geographical center where the major portion of the construction is located, shall be considered the center of the project (end measurement).

**LIST OF CONTRACTORS INELIGIBLE  
TO RECEIVE PUBLIC WORKS CONTRACTS  
PUBLICATION DATE: JANUARY 5, 2023**

**To: All Oregon Contracting Agencies**

Pursuant to ORS 279C.860, contractors on this list are ineligible to receive public works contracts subject to the Prevailing Wage Rate Law. These contractors and subcontractors, as well as any firm, corporation, partnership or association in which the contractor or subcontractor has a financial interest are ineligible to receive public works contracts until removed from this list. You can find the most current and up to date list of contractors ineligible to receive public works contracts on our website at <https://www.oregon.gov/boli/employers/Pages/pwr-ineligible-contractors.aspx>.

If you have questions regarding the list or for the most current information regarding persons ineligible to receive prevailing wage contracts, please contact the Prevailing Wage Rate Coordinator in Portland at (971) 353-2416.

	<b><u>CONTRACTOR NAME</u></b>	<b><u>DATE PLACED</u></b>	<b><u>REMOVAL DATE</u></b>
1.	<b>A1 Dumptruck Services LLC</b> 703 N Hayden Meadows Dr., #206 Portland, OR 97213 731 N Hayden Meadows Dr., #206 Portland, OR 97217 2408 NE 164 <sup>th</sup> Avenue Vancouver, WA 98684	February 24, 2020	February 23, 2027
2.	<b>Advanced Flagging &amp; Pilot Car Inc.</b> 16400 NE Las Brisas Ct., Apt. 43 Portland, OR 97230 650 NE Holladay St. Portland, OR 97232 16400 NE Las Brisas Ct. Portland, OR 97230	February 5, 2021	February 4, 2024
3.	<b>Barker, Michael</b> 32966 Tennessee Road Lebanon, OR 97355	January 5, 2021	January 4, 2024
4.	<b>Bell-Eddy, Kimberly</b> 8535 Woodard Ave. SE Salem, OR 97317	January 12, 2016	January 11, 2023
5.	<b>Cameron Creations</b> <b>Steven Cameron</b> <b>Nancy Cameron</b> PO Box 2 Lowell, OR 97452	May 25, 2000	Not to be Removed
6.	<b>Canell's Flagging LLC</b> 731 N Hayden Meadows Dr., Ste 107 Portland, OR 97217	November 24, 2020	November 23, 2023
7.	<b>Canell, Angela</b> 2416 NE 11 <sup>th</sup> Avenue Portland, OR 97212 529 SE Grand #307 Portland, OR 97214	November 24, 2020	November 23, 2023
8.	<b>CJ Construction, Inc.</b> 2969 Ferguson St NW Salem, OR 97304 846 55 <sup>th</sup> Ave. Salem, OR 97304	December 11, 2020	November 6, 2023

**LIST OF CONTRACTORS INELIGIBLE  
TO RECEIVE PUBLIC WORKS CONTRACTS  
PUBLICATION DATE: JANUARY 5, 2023**

	<b><u>CONTRACTOR NAME</u></b>	<b><u>DATE PLACED</u></b>	<b><u>REMOVAL DATE</u></b>
9.	<b>Covington, Timothy aka Tim York</b> 16055 NE Stanton St. Portland, OR 97230 2933 NE 11 <sup>th</sup> Ave. Portland, OR 97212 12231 NE Stanton St. Portland, OR 97230	April 13, 2021	April 12, 2024
10.	<b>Diversified Masonry LLC</b> PO Box 144 Ranchester, WY 82839	January 5, 2021	January 4, 2024
11.	<b>Friedman, Jennifer</b> 2526 Ellen Lane NW Salem, OR 97304 4400 Shaw St NW Salem, OR 97304 4400 Salem-Dallas Hwy Salem, OR 97304 PO Box 5172 Salem, OR 97304	December 11, 2020	October 10, 2023
12.	<b>Friedman, Scott</b> 2969 Ferguson St NW Salem, OR 97304 4400 Dallas Hwy Salem, OR 97304 PO Box 5172 Salem, OR 97304	December 11, 2020	October 10, 2023
13.	<b>Graeme, Eugene</b> 169 SE Cody Lane Madras, OR 97741	July 3, 2017	July 2, 2027
14.	<b>Green Thumb Landscape and Maintenance, Inc., aka Green Thumb Landscaping, aka GT General Contracting</b> 4400 Dallas Hwy Salem, OR 97304 PO Box 5172 Salem, OR 97304	December 11, 2020	October 10, 2023
15.	<b>Green Thumb LLC, aka Green Thumb Contracting</b> 4400 Salem-Dallas Hwy Salem, OR 97304 4400 Shaw St NW Salem, OR 97304 PO Box 5172 Salem, OR 97304	December 11, 2020	October 10, 2023
16.	<b>High-N-Shine Concrete Floors</b> 9024 Silver Star Ave. Vancouver, WA 98664	February 3, 2020	February 2, 2023



**LIST OF CONTRACTORS INELIGIBLE  
TO RECEIVE PUBLIC WORKS CONTRACTS  
PUBLICATION DATE: JANUARY 5, 2023**

	<b><u>CONTRACTOR NAME</u></b>	<b><u>DATE PLACED</u></b>	<b><u>REMOVAL DATE</u></b>
17.	<b>Hoang, Lisa</b> <b>aka Kim Lien Hoang,</b> <b>aka Lien Kim Hoang,</b> <b>aka Kim Hope,</b> <b>aka Lisa K Ryan,</b> <b>aka Ryan Lien Hoang,</b> <b>aka Kim L Hoang,</b> <b>aka Lien Hoang Ryan,</b> <b>aka Lien K Hoang-Ryan,</b> <b>aka Hoang K Lien,</b> <b>aka Lisa Hall,</b> <b>aka Lisa Kim Ryan,</b> <b>aka Lien Ryan,</b> <b>aka Lien Hoang Ryan,</b> <b>aka Kim Hoang Lien,</b> <b>aka K Lisa Hoang</b> 703 N Hayden Meadows Dr, #206 Portland, OR 97213 731 N Hayden Meadows Dr, #206 Portland, OR 97217 2408 NE 164 <sup>th</sup> Avenue Vancouver, WA 98684	February 24, 2020	February 23, 2027
18.	<b>Ingram, Christina</b> 2676 Copeland Road Harper, Oregon 97906	May 6, 2022	May 5, 2025
19.	<b>Ingram, Tyrell</b> 2676 Copeland Road Harper, Oregon 97906	May 6, 2022	May 5, 2025
20.	<b>Kim Bell Flagging, Inc.</b> 8535 Woodard Ave. SE Salem, OR 97317	January 12, 2016	January 11, 2023
21.	<b>Miller, David</b> 731 NW Naito Parkway, #215 Portland, OR 97209	June 17, 2020	Not to be Removed
22.	<b>Nam, Sang In</b> <b>dba Cornerstone Janitorial Services</b> 130 NE Danbury Ave. Hillsboro, OR 97124	September 20, 2016	Not to be Removed
23.	<b>Nguyen, Hai T.</b> 9024 Silver Star Ave. Vancouver, WA 98664	February 3, 2020	February 2, 2023
24.	<b>NW Flagging LLC</b> 703 N Hayden Meadows Dr., #206 Portland, OR 97213 731 N Hayden Meadows Dr., #206 Portland, OR 97217 2408 NE 164 <sup>th</sup> Avenue Vancouver, WA 98684	February 24, 2020	February 23, 2027

**LIST OF CONTRACTORS INELIGIBLE  
TO RECEIVE PUBLIC WORKS CONTRACTS  
PUBLICATION DATE: JANUARY 5, 2023**

	<b><u>CONTRACTOR NAME</u></b>	<b><u>DATE PLACED</u></b>	<b><u>REMOVAL DATE</u></b>
25.	<b>Oregon Building &amp; Landscaping Services LLC</b> 703 N Hayden Meadows Dr., #206 Portland, OR 97213 731 N Hayden Meadows Dr., #206 Portland, OR 97217 2408 NE 164 <sup>th</sup> Avenue Vancouver, WA 98684	February 24, 2020	February 23, 2027
26.	<b>Pacific NW Drywall &amp; Acoustics LLC</b> <b>aka Pacific NW Drywall&amp; Acoustics LLC</b> 731 NW Naito Parkway #215 Portland, OR 97209	June 17, 2020	Not to be Removed
27.	<b>Polson, Pacharee</b> 9024 Silver Star Ave. Vancouver, WA 98664	February 3, 2020	February 2, 2023
28.	<b>Regional Traffic Management LLC</b> 703 N Hayden Meadows Dr., #206 Portland, OR 97213 731 N Hayden Meadows Dr., #206 Portland, OR 97217 2408 NE 164 <sup>th</sup> Avenue Vancouver, WA 98684	February 24, 2020	February 23, 2027
29.	<b>Snake River Construction and Excavation LLC</b> 2676 Copeland Road Harper, Oregon 97906	May 6, 2022	May 5, 2025
30.	<b>Tatom, Alan</b> 168 Clearwater Avenue NE Salem, OR 97301	July 10, 2015	July 9, 2025
31.	<b>Thomas, Antonio</b> 16400 NE Las Brisas Ct., Apt. 43 Portland, OR 97230 650 NE Holladay St. Portland, OR 97232 16400 NE Las Brisas Ct. Portland, OR 97230	February 5, 2021	February 4, 2024
32.	<b>Walker, Phillip</b> 580 Market Street NE Salem, OR 97301	July 10, 2015	July 9, 2025
33.	<b>WCI Construction LLC</b> 169 SE Cody Lane Madras, OR 97741	July 3, 2017	July 2, 2027
34.	<b>WWJD Traffic Control, Inc.</b> 168 Clearwater Avenue NE Salem, OR 97301	July 10, 2015	July 9, 2025

**CHRISTINA E. STEPHENSON, COMMISSIONER  
BUREAU OF LABOR AND INDUSTRIES**

## **Prevailing Wage Rate Laws Handbook**

The 2022 edition of the ***Prevailing Wage Rate Laws Handbook*** is now available on our website at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage.aspx>.

In addition to providing this and other PWR publications, Oregon BOLI Labor & Industries' PWR Unit regularly offers free, informational seminars for both public agencies and contractors. The current schedule is available online at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-seminars.aspx>.

If you are interested in being included on our mailing lists for future seminar notifications, please contact us at [PWR.Email@boli.oregon.gov](mailto:PWR.Email@boli.oregon.gov) or (971) 353-2416.

## First Tier Subcontractors

### FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM (OAR-137-040-0017)

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

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

(Local Time) DISCLOSURE DEADLINE: Date: \_\_\_\_\_, Time: \_\_\_\_\_ PM

(Local Time)

BID OPENING DATE: \_\_\_\_\_ Time: \_\_\_\_\_ PM (Local Time)

This form must be submitted no later than the DISCLOSURE DEADLINE stated above.

List below the Name, Addresses, Dollar Value, Construction Contractor Board (CCB) number if required, Contact Name, and Telephone Number of each subcontractor that will be furnishing labor or materials that are required to be disclosed. Enter "NONE" if there are no subcontractors who need to be disclosed.

#1) NAME/ADDRESS: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

DOLLAR VALUE: \_\_\_\_\_

CCB# \_\_\_\_\_

#2) NAME/ADDRESS: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

DOLLAR VALUE: \_\_\_\_\_

CCB# \_\_\_\_\_

(#3, #4, IF NEEDED, ATTACH ADDITIONAL SHEETS).

The above listed first-tier subcontractor(s) are providing labor or both labor and materials with a Dollar *Value* equal to or greater than:

- A. Five (5) percent of the total Contract Price, but at least \$15,000.00 (including all alternates) If Dollar Value is less than \$15,000.00, do not list the contractor above; or
- B. \$350,000.00 regardless of the percentage of the total Contract Price.

## **First Tier Subcontractors**

**NOTE: FAILURE TO SUBMIT THE FORM BY THE DISCLOSURE DEADLINE WILL RESULT IN A BID SUBMITTED BECOMING NON-RESPONSIVE, AND SUCH BIDS SHALL NOT BE CONSIDERED FOR AWARD!**

Form Submitted by (Bidder Name)\_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone#: \_\_\_\_\_

Deliver Form to owner: \_\_\_\_\_

Person designated to Receive Form: \_\_\_\_\_

Phone# \_\_\_\_\_

Fax # \_\_\_\_\_

Owner's Address \_\_\_\_\_

**STATEMENT OF COMPLIANCE WITH ORS 279.350**

Awarding Agency:  
**Ontario School District 8C**  
195 SW 3rd Avenue  
Ontario, Oregon 97914

Contract: **Kitchen Remodel for Alameda Elementary School**

Contract Number: \_\_\_\_\_

Date Contract Awarded: \_\_\_\_\_

Date Contract Completed: \_\_\_\_\_

State of Oregon, Malheur County

Project Location:  
Alameda Elementary  
**1252 Alameda Drive, Ontario, OR 97914**

In compliance with Oregon ORS 279.348 through ORS 279.380, the Oregon Prevailing Wage Law., the undersigned, being a duly authorized representative of:

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Contractor or Subcontractor

Address

Do hereby certify that the following rates of hourly wage and hourly fringe benefits have been paid laborers, workmen, mechanics, employed by me upon the project described above and that no laborers, workmen, or mechanic has been paid less than the "prevailing rate of wage.

List below or attach each classification of labor employed by you upon the project described above and the hourly pay and hourly fringe benefits paid to each classification. If apprentices have been employed, their names, and/or registration numbers, their stages of progression, the rate of hourly pay and the rate of hourly fringe benefits paid to each apprentice.

Craft and Classification

Rate of  
Hourly pay

Rate of  
Hourly  
Fringe  
Benefits

**STATEMENT OF COMPLIANCE WITH ORS 279.350**

**STATEMENT OF COMPLIANCE WITH ORS 279.350**

\_\_\_\_\_  
Company Name

Acknowledges that provisions of ORS 279.350 (Prevailing Wage Rates) are to be complied with and have been complied with as set forth in Chapter 279 of the Oregon Revised Statutes.

- A. Workers shall be paid prevailing wage rates.
- B. The prevailing wage rate fee shall be paid to the Oregon Bureau of Labor Industries (BOLI)
- C. The Contractor fails to pay for labor or services, the Owner can withhold these amounts from payments due to the Contractor.
- D. Daily/weekly/holiday/weekend overtime shall be paid.

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

By: \_\_\_\_\_ This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

Subscribed and sworn to before me

\_\_\_\_\_  
Notary public in and for the State of Oregon, residing in Oregon

**STATEMENT OF COMPLIANCE WITH ORS 279C.936**

Awarding Agency:  
**Ontario School District 8C**  
195 SW 3rd Avenue  
Ontario, Oregon 97914

Contract: **Kitchen Remodel for Alameda Elementary School**

Contract Number: \_\_\_\_\_

Date Contract Awarded: \_\_\_\_\_

1. In compliance with Oregon ORS 279C.936 the contractor and subcontractors shall obtain a public works bond in the amount of \$30,000 (Thirty-thousand dollars) solely for that payment of unpaid wages to workers as determined by Oregon Bureau of Labor and Industries (BOLI)
  2. The bond shall be filed prior to starting work.
  3. The bond is not contract specific and only one bond is required to be filed.
  4. Any exemptions shall be disclosed to the owner and state.
  5. Contract must include in their contracts to subcontractors a statement that all subcontractors must have a public works bond or bonafide exemptions.
- Please

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

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

Print Name: \_\_\_\_\_