



PROJECT MANUAL

for

Longview School District Olympic Elementary School Re-Roof Project

Bid Set

April 20, 2026

Project No. 2602.6



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**SECTION 00 01 02
PROJECT INFORMATION**

PART 1 GENERAL

1.01 PROJECT IDENTIFICATION

- A. Project Name: Olympic Elementary School Reroof, located at: 1324 30th Ave, Longview, WA 98632.
- B. The Owner, hereinafter referred to as Owner: Longview School District No. 122

1.02 PROJECT DESCRIPTION

- A. Summary Project Description: See Section 01 10 00 - Summary for project description.
- B. Contract Scope: Construction, demolition, and renovation.
- C. Contract Terms: Lump sum (fixed price, stipulated sum).

1.03 PROCUREMENT TIMETABLE

- A. Pre-Bid Walk-through: 10:00 A.M., Wednesday, May 13th, 2026.
- B. Last Request for Substitution Due: 3:00 P.M., Friday, May 15th, 2026.
- C. Last Request for Information Due: 3:00 P.M., Friday, May 15th, 2026.
- D. Date of Last Addendum: Wednesday, May 20th, 2026.
- E. Bid Due Date: Prior to 2:00 P.M., Wednesday, May 27th, 2026.
- F. Substantial Completion Date: Friday, August 14th, 2026.
- G. The Owner reserves the right to change the schedule or terminate the entire procurement process at any time.

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION (NOT USED)

END OF SECTION

**SECTION 00 01 03
PROJECT DIRECTORY**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Identification of project team members and their contact information.

1.02 OWNER:

- A. Name: Longview School District No. 122
 - 1. 2715 Lilac Street
 - 2. Longview, Washington 98632
 - 3. Telephone: 360-643-0238
 - 4. Contact: Cody Brague

1.03 CONSULTANTS:

- A. Architect: Design Professional of Record. All correspondence from the Contractor regarding construction documents authored by Architect's consultants will be through this party, unless alternate arrangements are mutually agreed upon at preconstruction meeting.
 - 1. Brittell Architecture, Inc.
 - a. 3660 Cedarbrook Drive
 - b. Longview, WA 98632
 - c. Telephone: 360-636-5074

END OF SECTION

ADVERTISEMENT FOR BIDS

Owner: Longview School District No. 122

Project Name: Olympic Elementary School

Project No.: 2602.6

Project Location: 1324 30th Ave, Longview, WA 98632

Project Description: The Project includes the following work: Reroof over existing membrane roofs with new membrane roofing system at the main school building as further described below and in the Bidding Documents.

A/E's estimate: \$950,000 - \$1,000,000

Date of Bid Opening: 2:00 P.M., Wednesday, May 27th, 2026.

Bid Submittal: Sealed bids for construction of the Project are requested by the Longview School District No. 122 ("District" or "Owner"). **Bids must be received by Owner no later than 2:00 p.m. on May 27th, 2026, at the Longview School District MOTF Office, located at 2080 38th Avenue, Longview, Washington 98632.** Bids will then be publicly opened. Bids received after the date and hour above stated will not receive consideration.

Additional important information regarding bidding requirements is specified in the Instructions to Bidders.

Questions: Questions about this project should be directed to the project representative, David Brittell with Brittell Architecture, Inc., 3660 Cedarbrook Drive, Longview, Washington 98632; telephone (360) 636-5074; e-mail david@brittellarch.com.

Pursuant to Board of Directors Policy 6220, "Bid or Request for Proposal Requirements," and RCW 39.80.040, the District encourages minority, women, and veteran-owned businesses to respond this bid request.

Mandatory Pre-Bid Site Meeting: The Project site is available for inspection by prospective bidders at a mandatory pre-bid site meeting and walkthrough. **All prospective bidders must attend the meeting to occur at the Project site stated above at 10:00 A.M., on May 13th, 2026.** This will be the only opportunity for bidders to visit the Project site. Bids received from bidders who did not attend one of the mandatory pre-bid site meetings will not be considered.

Bid Documents: The plans and specifications for the Project are available on the Owner's website at <https://www.longviewschools.com/departments/business-services/bids-proposals>.

Bid Guarantee: A surety company bid bond on a form acceptable to Owner or a certified or bank cashier's check payable to the order of Longview School District No. 122, must accompany each bid in an amount not less than five percent (5%) of the Base Bid. No bidder may withdraw its bid after the hour set for the opening thereof, unless the award of the Contract is delayed for a period exceeding 45 days.

Apprentice Utilization: Mandatory apprentice utilization of at least 15 percent of the total labor hours worked on the Contract is required. Apprentices must be registered as apprentices with the State Apprenticeship and Training Council. Bidders may contact the Department of Labor & Industries' Apprenticeship Section at (360) 902-5320 to obtain information on apprenticeship programs. The Contract includes monetary incentives for meeting the goals and monetary penalties for not meeting the goals.

Rejection of Bids; Waiver: The Owner reserves the right to reject any or all bids and to waive as an informality any irregularities in the bids received.

Date(s) of Publication: April 28, 2026 through May 12, 2026

END OF SECTION

INSTRUCTIONS TO BIDDERS

1.01 DEFINITIONS

- A. All definitions set forth in the General Conditions or in other proposed Contract Documents are applicable to the Bidding Documents.
- B. "Addenda" are written or graphic instruments issued by the Longview School District prior to the execution of the Contract that modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections. The contents of Addenda are issued in no particular order and therefore should be carefully and completely reviewed. Addenda relating to administrative matters, such as, for example, the date or time of meetings or Bid receipt, may be issued in writing by fax, mail, or other delivery.
- C. An "Alternate Bid" (or "Alternate") is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if a corresponding change in the Work, as described in the Bidding Documents, is accepted by the Longview School District.
- D. "Award" means the formal decision by the Longview School District notifying a responsible Bidder with the lowest Responsive Bid of the Longview School District's acceptance of the Bid and intent to enter into a contract with the Bidder. A contract is only formed upon execution of the Contract, and not simply by Award.
- E. A "Bid" is a complete and properly signed proposal to perform the Work or designated portion thereof, submitted in accordance with the Bidding Documents, for the sums therein stipulated and supported by any data called for by the Bidding Documents.
- F. The "Base Bid" is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base to which work may be added or from which work may be deleted for sums stated in Alternate Bids.
- G. A "Bidder" is a person or entity who submits a Bid for a prime contract with the Longview School District for the Work described in the Contract Documents.
- H. The "Bidding Documents" include the Advertisement or Invitation to Bid, Instructions to Bidders, the Bid form, any other sample Bidding and contract forms, the Bid Bond, and the Contract Documents, including any Addenda issued prior to receipt of Bids.
- I. The "Contract Documents" for the Work consist of the Advertisement for Bids; Instructions to Bidders; completed Bid Form; AIA Document A101-2017, "Standard Form of Agreement Between Owner and Contractor," as modified by Owner; AIA Document A201-2017, "General Conditions of the Contract for Construction," as modified by Owner; Supplemental Conditions, if any; other Special Forms; Drawings, and Specifications; and all addenda and modifications thereof.
- J. The "Owner" is the Longview School District No. 122, a Washington quasi-municipal corporation.
- K. To be considered "Responsible" or meet "Responsibility" requirements, a Bidder must meet the criteria established in RCW 39.04.350 (as it exists at the time of advertisement for bids). That statute requires that the Bidder:
 - 1. At the time of Bid submittal, have a certificate of registration in compliance with Chapter 18.27 RCW, a plumbing contractor license in compliance with Chapter 18.106 RCW, an elevator contractor license in compliance with Chapter 70.87 RCW, or an electrical contractor license in compliance with Chapter 19.28 RCW, as required under the provisions of those chapters;
 - 2. Have a current state unified business identifier (UBI) number;

3. If applicable, have industrial insurance coverage for the Bidder's employees working in Washington as required in Title 51 RCW;
4. Have an Employment Security Department (ESD) number as required in Title 50 RCW;
5. Have a state excise tax registration number as required in Title 82 RCW;
6. Not be disqualified from bidding on any public works contract under RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations);
7. If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington State Apprenticeship and Training Council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under Chapter 49.04 RCW for the one-year period immediately preceding the date of the Bid solicitation;
8. Have received training on the requirements related to public works and prevailing wage under Chapter 39.04 RCW and Chapter 39.12 RCW and designated a person or persons to be trained on those requirements in a manner meeting requirements of the Department of Labor and Industries ("Department"), except that Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this requirement; and
9. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the Department or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapters 49.46, 49.48, or 49.52 RCW.
10. In addition, a Bidder must meet the following supplemental responsible bidder criteria applicable to this Project adopted by the Owner to the satisfaction of the Owner:
 - a. The ability, capacity, and skill to perform the Contract;
 - b. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
 - c. Whether the Bidder can perform the Contract within the time specified;
 - d. The previous and existing compliance by the Bidder with laws relating to the Contract;
 - e. The quality of performance of previous contracts, including demonstration of successful completion of similar projects in the last three (3) years;
 - f. The designated Project Manager will have a minimum of three (3) years of successful experience in project management and scheduling of projects of similar scope and complexity.
 - g. The designated Superintendent will have a minimum of five (5) years of successful supervision of projects of similar scope and complexity;
 - h. The Bidder's principals will not be excluded or disqualified from Covered Transactions under 2 C.F.R. Part 180 and 2 C.F.R. Part 3000;
 - i. Any other qualifications required by the Contract Documents or Bidding Documents; and
 - j. Such other information as may be secured having a bearing on the decision to award the contract.

- L. A “Sub-bidder” is a person or entity who submits a bid to a Bidder for materials, equipment ,or labor for a portion of the Work.
- M. A “Unit Price” is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or services as described in the Bidding Documents or in the Contract Documents. The Owner reserves the right to reject at any time, without impairing the balance of the proposal, any or all such predetermined unit prices.
- N. The term “day” as used in the Bidding Documents means a calendar day unless otherwise specifically defined.

1.02 BIDDER’S REPRESENTATIONS

A. By making its Bid, each Bidder represents that:

1. **BIDDING DOCUMENTS.** The Bidder has read and understands the Bidding Documents, and its Bid is made in accordance with them.
2. **POSSIBLE SELF-PERFORMED WORK REQUIREMENT.** The Bidder will perform with its own forces at least that percentage (if any) of the Work required by the Bidding Documents or the Contract Documents.
3. **PRE-BID MEETING.** The Bidder has attended any pre-bid meeting(s) required by the Bidding Documents.
4. **BASIS.** Its Bid is based upon the materials, systems, services, and equipment required by the Bidding Documents, without exception.
5. **EXAMINATION.** The Bidder has carefully examined and understands the Bidding Documents, the Contract Documents (including, without limitation, any liquidated damages, indemnification, and insurance provisions), the Project site, including any existing buildings; has familiarized itself with the local conditions under which the Work is to be performed and has correlated its observations with the requirements of the Contract Documents; and has satisfied itself as to the nature, location, character, quality, and quantity of the Work and the labor, materials, equipment, goods, supplies, work, services, and other items to be furnished, as well as all other requirements of the Contract Documents. The Bidder has also satisfied itself as to the conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof including, but not limited to, those conditions and matters affecting: transportation, access, disposal, handling, and storage of materials, equipment, and other items; availability and quality of labor, water, electric power, and utilities; availability and condition of roads; climatic conditions and seasons; physical conditions at the Project site and the surrounding locality; topography and ground surface conditions; and equipment and facilities needed preliminary to and at all times during the performance of the Work. The failure of the Bidder to fully acquaint itself with any applicable condition or matter will not in any way relieve the Bidder from the responsibility for performing the Work in accordance with, and for the Contract Sum and within the Contract Time provided for in, the Contract Documents.
6. **PROJECT MANUAL.** The Bidder has checked its copies of the Project Manual with the Table of Contents bound therein to ensure the Project Manual is complete.
7. **SEPARATE WORK.** The Bidder has examined and coordinated all Drawings, Contract Documents, and Specifications for any other contracts to be awarded separately from, but in connection with, the Work being bid upon, so that the Bidder is fully informed as to conditions affecting the Work under the contract being bid upon.

8. **LICENSE REQUIREMENTS.** Bidders and their proposed Subcontractors will be registered and will hold such licenses as may be required by the laws of Washington, including Chapter 18.27 RCW, for the performance of the Work specified in the Contract Documents.
9. **NO EXCEPTIONS.** Bids must be based upon the materials, systems, and equipment described and required by the Bidding Documents, and terms and conditions in the Contract Documents, without exception.

1.03 BIDDING DOCUMENTS

A. COPIES

1. **Deposit.** Bidders may obtain complete sets of the Bidding Documents from the issuing office and other locations designated in the Advertisement or Invitation to Bid in the number and for the deposit amount, if any, stated. The deposit (if any) will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten (10) days after receipt of Bids. The cost of replacement of any missing or damaged documents will be deducted from the deposit. A Bidder awarded a Contract may retain the Bidding Documents, and its deposit will be refunded.
2. **Sub-bidders.** Bidding Documents will not be issued directly to Sub-bidders or others unless specifically offered in the Advertisement or Invitation to Bid.
3. **Complete Sets.** Bidders will use complete sets of Bidding Documents in preparing Bids and are solely responsible for utilizing established plan holder identification processes to obtain updated bid information; the Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete and/or superseded sets of Bidding Documents. Printed copies of plans take precedence over any online images.
4. **Conditions.** The Owner makes copies of the Bidding Documents available on the above terms only for the purpose of obtaining Bids on the Work and do not confer a license or grant permission for any other use.
5. **Legible Documents.** To the extent any Drawings, Specifications, or other Bidding documents are not legible, it is the Bidder's responsibility to notify the Owner and to obtain legible documents from the plan center.

B. INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

1. **Format.** The Contract Documents may be divided into parts, divisions, and sections for convenient organization and reference. Generally, there has been no attempt to divide the Specification sections into Work performed by the various building trades, any Work by separate contractors, or any Work required for separate facilities in or phases of the Project.
2. **Notify Owner.** Bidders and Sub-bidders will promptly notify the Owner in writing of any ambiguity, inconsistency, or error that they may discover upon examination of the Bidding Documents or of the site and local conditions. All Bidders and Sub-bidders will thoroughly familiarize themselves with specified products and installation procedures and submit to the Owner any objections (in writing) no later than ten (10) calendar days prior to the Bid Date. The submittal of the Bid constitutes acceptance of products and procedures specified as sufficient, adequate, and satisfactory for completion of the Contract.
3. **Written Request.** Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents will make a written request, which must be received by the Owner at least ten (10) calendar days prior to the date for receipt of Bids.

4. **Addenda.** Any interpretation, correction, or change of the Bidding Documents will be made by written Addendum. Interpretations, corrections, or changes of the Bidding Documents made in any other manner will not be binding, and Bidders will not rely upon such interpretations, corrections, and changes.
5. **Singular References.** Reference in the singular to an article, device, or piece of equipment will include as many of such articles, devices, or pieces as are indicated in the Contract Documents or as are required to complete the installation.
6. **Utilities and Runs.** The Bidder should assume that the exact locations of any underground or hidden utilities, underground fuel tanks, and any plumbing and electrical runs may be somewhat different from any location indicated in the surveys or Contract Documents.

C. SUBSTITUTIONS

1. **Standard.** The materials, products, procedures, and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality that must be met by any proposed substitution.
2. **Substitution procedure.** No substitution will be considered prior to receipt of Bids unless the Owner receives a written request for approval on the Owner's Substitution Request form for the Project, with all data requested on the form completed, at least seven (7) days prior to the date for receipt of Bids. Each such request will be submitted with a Request for Substitution form identical to or equivalent in content to the form found in the Project Manual, and will include the name of the material or equipment proposed to be replaced and a complete description of the proposed substitute, including drawings, cuts, performance and test data, warranty information, and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other Work that incorporation of the substitute would require will be included. The proposer has the burden to prove the merit of the proposed substitute; by proposing the substitution, the Bidder represents that it has personally investigated the proposed material or product and determined that it is equal or better in all respects to that specified, that the same or better warranty will be provided for the substitution, that complete cost data, including all direct and indirect costs of any kind, has been presented, that the Contract Time will not be increased, and that it will coordinate the installation of the substitute if accepted and make all associated changes in the Work. The Owner's decision to approve or disapprove a proposed substitution will be final. Written requests for approval will constitute a guarantee by the Bidder that the articles or materials are in all respects, including warranty and installation, equal or superior to those specified, unless otherwise noted.
3. **Addendum.** If the Owner approves a proposed substitution prior to receipt of Bids, the approval will be set forth in a written Addendum. Bidders will not rely upon approvals made in any other manner. Substitution request forms returned by the Owner are a courtesy only, and Bidders/Sub-bidders will rely solely on substitution approvals listed in an Addenda.
4. **Post-Bid Substitutions.** After the Contract has been executed, the Owner may consider a written request for the substitution of material or products in place of those specified in the Contract Documents only under the circumstances as specified therein.

D. ADDENDA

1. **Written.** All Addenda will be written. They will be mailed, emailed, faxed, delivered, and/or posted electronically with notice to those the Owner knows to have received a complete set of Bidding Documents.
2. **Copies.** Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

3. **Verification and Acknowledgment of Receipt.** Prior to bidding, each Bidder will ascertain that it has received all Addenda issued. Each Bidder will acknowledge its receipt of all Addenda in its Bid.

1.04 BIDDING PROCEDURE

A. FORM AND STYLE OF BIDS

1. **Form.** Bids (including any required attachments) will be submitted on forms identical to the form included with the Bidding Documents. Bids on different forms may be rejected. No oral, email, or telephonic responses or modifications will be considered to be Bids.
2. **Completion of Form.** All blanks on the Bid form will be filled in by typewriter or manually in ink.
3. **Words and Figures.** Where so indicated by the makeup of the Bid form, sums will be expressed in both words and figures; in case of discrepancy between the two, and regardless of any statement to the contrary on the Bid form, the amount written in figures will govern and the words will be used to determine any ambiguities in the figures. Portions of the Bid form may require the addition of component bids to a total or the identification of component amounts within a total. In case of discrepancy between component amounts listed and their sum(s), the component amounts listed will govern.
4. **Initial Changes.** Any interlineation, alteration, or erasure must be initialed by an authorized representative of the Bidder.
5. **Alternates and Unit Prices.** All requested Alternates and unit prices should be bid. The Owner reserves the right, but is not obligated, to reject any Bid on which all requested Alternates or unit prices are not bid. If no change in the Base Bid is required for an Alternate, enter "No Change." If there is no entry, it will be presumed that the Bidder has made no offer to accomplish this Alternate. If it is not otherwise clear from the Bid or nature of the Alternate, it will be presumed that the amount listed for an Alternate is an add rather than a deduct.
6. **No Conditions.** The Bidder will make no conditions or stipulations on the Bid form nor qualify its Bid in any other manner.
7. **Identity of Bidder.** The Bidder will include in the specified location on the Bid form the legal name of the Bidder and, if requested, a description of the Bidder as a sole proprietor, a partnership, a joint venture, a corporation (including the state of incorporation), or another described form of legal entity. The Bid will be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid submitted by an agent will have a current power of attorney attached certifying the agent's authority to bind the Bidder, and provide other information requested.
8. **Taxes.** The Bid will include in the sum stated all taxes imposed by law, EXCEPT STATE AND LOCAL SALES TAX ON THE CONTRACT SUM.
9. **Bid Breakdown.** The Bid form may contain, for the Owner's accounting purposes only, a breakdown of some or all of the components included in the Base Bid.

B. POTENTIAL LISTING OF SUBCONTRACTORS

1. **Procedure.** On certain projects of the Owner, the Bid form includes a requirement that certain Subcontractors be listed, and the list must be submitted to the Owner. In these circumstances, the Bidder must name the Subcontractor with whom the Bidder, if awarded the Contract, will subcontract directly (i.e., not lower-tier Subcontractors) for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in Chapter 18.106 RCW; electrical work as described in Chapter 19.28 RCW; structural steel installation and rebar installation; and any other categories of Work listed on the Subcontractor listing form.

- a. **SELF-PERFORMANCE:** If the Bidder intends to self-perform any of these categories of Work, it must name itself for each such category of Work.
 - b. **IF NO SUBCONTRACTORS:** If there is no work to be performed by a HVAC, plumbing, electrical, or other Subcontractor category identified on the Bid form, the Bidder should insert "None" or "N/A" on the Bid form. If a category is left blank, that will indicate that the Bidder believes that there is no Work to be performed by that trade.
 - c. **MULTIPLE ENTRIES:** The Bidder will not list more than one (1) entity for a particular category of Work identified, unless a Subcontractor varies with an Alternate Bid, in which case the Bidder will identify the Subcontractor to be used for the Alternate and the affected portion of the Work and otherwise make its Bid clear as to which Subcontractor will be utilized depending upon the selection of Alternates.
 - d. **MULTIPLE SUBMITTAL TIMES:** In the event the Bidding Documents call for a second submittal time for receipt of Alternate Bids, and no additional Subcontractors are listed with such Alternate Bids, the Owner will consider that there is no change in the Subcontractors from those listed with the base Bid.
2. **Failure to Submit.** In accordance with RCW 39.30.060, failure of a Bidder to submit as part of the Bid the names of such proposed HVAC, plumbing, electrical, and structural steel and rebar installation Subcontractors or to name itself to perform such Work, or the naming of two or more Subcontractors to perform the same Work, will render the Bidder's Bid nonresponsive and, therefore, void.
 3. **Requirement to Subcontract.** The Bidder, if awarded the Contract, will subcontract with the listed Subcontractor for performance of the portion of the Work designated on the Bid Form, subject to the provisions of the Contract for Construction and RCW 39.30.060. The Bidder will not substitute a listed Subcontractor in furtherance of bid shopping or bid peddling.
 4. **Replacement.** If a listed Subcontractor is unable to comply with any bondability, qualification, or other requirements of the Contract or Bidding Documents (including without limitation a finding of Subcontractor Non-Responsibility), the Owner may require the Bidder to replace the Subcontractor with a Subcontractor acceptable to the Owner at no change in the Contract Sum or Contract Time.
 5. **Subcontractor Standards.** Subcontractors will meet contractual and technical qualifications standards, and provide specialized certification, licensing, and/or payment and performance bonding where specified.

C. BID SECURITY

1. **Purpose and Procedure.** Each Bid will be accompanied by a bid security payable to the Owner in the form required in the Bidding Documents and equal to five percent (5%) of the Base Bid (and excluding Washington State sales tax). The bid security constitutes a pledge that the Bidder will enter into the Contract with the Owner in the form provided, in a timely manner, and on the terms stated in its Bid and will furnish in a timely manner the payment and performance bonds, certificates of insurance, Contractor's Construction Schedule, and all other documents required by the Contract Documents. Should the Bidder fail or refuse to enter into the Contract or fail to furnish such documents, the amount of the bid security will be forfeited to the Owner as liquidated damages, not as a penalty. By submitting its Bid and bid security, the Bidder agrees that any forfeiture is a reasonable prediction at the time of Bid submittal of future damages to the Owner.
2. **Form.** The bid security will be in the form of a certified or bank cashier's check payable to the Owner or a bid bond executed by a bonding company acceptable to the Owner and licensed in Washington State on the form included with the Bidding Documents or on an acceptable and

equivalent form. The Attorney-in-Fact who executes the bond on behalf of the surety will be licensed to do business in Washington State and will affix to the bond a certified and current copy of his or her Power of Attorney.

3. **Retaining Bid Security.** The Owner will have the right to retain the Bid Security of Bidders to whom an award is being considered until the earliest of either: (a) the Contract has been executed, and payment and performance bonds have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected.
4. **Return of Bid Security.** Within forty-five (45) days after the Bid Date, the Owner will release or return Bid securities to Bidders whose Bids are not to be further considered in awarding the Contract. Bid securities of the three apparent low Bidders will be held until the Contract has been finally executed, after which time all Bid securities not forfeited will be returned.

D. SUBMISSION OF BIDS

1. **Procedure.** The Bid, the Bid security, and any other documents required to be submitted with the Bid will be enclosed in a sealed, opaque envelope. The envelope will be addressed to the party specified in the Advertisement or Invitation to Bid and will be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope will be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.
2. **Deposit.** Bids will be deposited at the designated location prior to the time and date for receipt of Bids indicated in the Advertisement or Invitation to Bid, or any extension thereof made by Addendum. Bids received after the time and date for receipt of Bids may be opened, retained unopened, or returned (open or unopened), all at the discretion of the Owner.
3. **Responsibility.** The Bidder assumes full responsibility for timely delivery at the location designated for receipt of Bids.
4. **Form.** Oral, fax, telephonic, email, electronic, or telegraphic Bids are invalid and will not be considered.

E. MODIFICATION OR WITHDRAWAL OF BID

1. **After Receipt Deadline.** A Bid may not be modified, withdrawn, or canceled by the Bidder during a forty-five (45) day period following the time and date designated for the receipt of Bids, and each Bidder so agrees by virtue of submitting its Bid.
2. **Before Receipt Deadline.** Prior to the time and date designated for receipt of Bids, any Bid submitted may be modified or withdrawn only by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice will be in writing over the signature of the Bidder or by telegram or fax; if by telegram or fax, written confirmation over the signature of the Bidder will be mailed and postmarked on or before the date and time set for receipt of Bids. The notice will be worded so as not to reveal the amount of the original Bid. Email notice will not be considered. It will be the Bidder's sole responsibility to verify that the notice has been received by the Owner in time to be withdrawn before the Bid opening.
3. **Resubmittal.** Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids, provided that they are then fully in conformance with these Instructions to Bidders.
4. **Bid Security with Resubmission.** Bid security will be in an amount sufficient for the Bid as modified or resubmitted.

- F. **NOTICE:** Notice or a request from a Bidder under these Instructions to Bidders must be in writing over the signature of the Bidder and delivered in person or by mail, express delivery, telegram, or fax. If the notice is by telegram or fax, written confirmation over the signature of the Bidder must be mailed and postmarked on or before the date and time set for the notice.

1.05 CONSIDERATION OF BIDS

- A. **Opening of Bids.** Unless stated otherwise in the Advertisement or Invitation to Bid or any Addendum, the properly identified Bids received on time will be opened publicly and will be read aloud. An abstract of the Base Bids and Alternate Bids, if any, will be made available to Bidders and other interested parties.
- B. **Rejection of Bids.** The Owner will have the right, but not the obligation, to reject any or all Bids for any reason or for no reason, to reject a Bid not accompanied by required Bid security or by other material or data required by the Bidding Documents, or to reject a Bid which is in any way incomplete or irregular.
- C. **Acceptance of Bid (Award).**
1. **Owner.** The Owner intends (but is not bound) to award a Contract to the lowest Responsible and Responsive Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner has the right to waive any informality or irregularity in any Bid(s) received and to accept the Bid which, in its judgment, is in its own best interests.
 2. **Alternates.** The Owner will have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Contract Documents or Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates (if any) accepted. The Owner retains the right to accept Alternate Bid items at the price bid within forty-five (45) days after the Agreement is executed.
 3. **Requirements for Award.** Before the Award, the lowest Responsive Bidder will meet the Award Requirements.

D. BID PROTEST PROCEDURES

1. **Request for Copies of Bids.** Within two (2) business days of the bid opening, the Owner will provide, if requested by a Bidder, copies of all the bids received for the Project. The Owner will allow at least two (2) business days after providing copies of the bids before executing a Contract. (Intermediate Saturdays, Sundays, and legal holidays are not counted.)
2. **Procedure.** A Bidder protesting for any reason the Bidding Documents; a bidding procedure; the Owner's objection to the Bidder or a person or entity proposed by the Bidder, including but not limited to a finding of Non-Responsibility; the rejection of a Bid; the award of the Contract; or any other aspect arising from or relating in any way to the bidding and award (or lack thereof), will cause a written protest to be filed with the Owner within two (2) business days of the event giving rise to the protest and, in any event, no later than two (2) business days after either (a) the date upon which Bids are opened, or (b) when the Owner provides copies of the bids to those Bidders requesting bids under Paragraph 1.05(D)(1), above. (Intermediate Saturdays, Sundays, and legal holidays are not counted.) The written protest will include the name of the protesting Bidder, a detailed description of the specific factual and legal grounds for the protest, copies of all supporting documents, and the specific relief requested. The written protest will be delivered to: **Patti Bowen, Executive Director of Business Services, 2715 Lilac Street, Longview, WA 98632**
3. **Consideration.** Upon receipt of the written protest, the Owner will consider the protest. The Owner may, within three (3) business days of the Owner's receipt of the protest, provide any other affected Bidder(s) the opportunity to respond in writing to the protest. If the protest is not resolved by mutual

agreement of the protesting Bidder and the Owner, the Superintendent of the Owner or his or her designee will review the issues and promptly furnish a final and binding written decision to the protesting Bidder and any other affected Bidder(s) within six (6) business days of the Owner's receipt of the protest. (If more than one (1) protest is filed, the Owner's decision will be provided within six (6) business days of the Owner's receipt of the last protest.) If no reply is received from the Owner during the six (6) business-day period, the protest will be deemed rejected.

4. **Waiver.** Failure to comply with these protest procedures will render a protest waived.
5. **Condition Precedent.** Timely and proper compliance with and exhaustion of these protest procedures will be a condition precedent to any otherwise permissible judicial consideration of a protest.

1.06 POST-BID INFORMATION

A. INFORMATION FROM APPARENT LOW BIDDER

1. **Submittal.** Within forty-eight (48) hours of the Owner's request, the apparent low Bidder and any other Bidders so requested will submit the following to the Owner:
 - a. Additional information regarding the use of their own forces and the use of Subcontractors and suppliers;
 - b. A properly executed Bidder Qualification Statement on the form provided (unless otherwise required to be submitted at the time of the Bid);
 - c. A letter or form from the Bidder's insurance company stating that the insurance required by the Contract Documents will become effective upon execution of the Contract;
 - d. A letter or form from the Bidder's surety stating that the bond(s) required by the Contract Documents will become effective upon execution of the Contract;
 - e. If requested by the Owner, a detailed breakdown of the Bid in a form acceptable to the Owner;
 - f. The names of the persons or entities (including a designation of the Work to be performed with the Contractor's own forces, and the names of those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work;
 - g. The proprietary names and the suppliers of the principal items or systems of materials and equipment proposed for the Work;
 - h. An Office of Superintendent of Public Instruction (OSPI) Form D-9, if requested;
 - i. A signed statement in accordance with RCW 9A.72.085 verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria of RCW 39.04.350(1)(g).
 - j. A completed Apprenticeship Utilization Plan utilizing a form acceptable to the Owner.

Failure to provide any of the above information in a timely manner may constitute an event of breach permitting forfeiture of the Bid security.

2. **Responsibility.** The Bidder will be required to establish to the satisfaction of the Owner the reliability and Responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents and the qualifications set forth in the sections of the Project Manual pertaining to such proposed Subcontractors' respective trade(s). The Responsibility of the

Bidder may be judged in part by the Responsibility of these proposed entities. The following will be considered:

- a. The ability, capacity, and skill to perform the Contract;
 - b. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
 - c. Whether the Bidder can perform the Contract within the time specified;
 - d. The previous and existing compliance by the Bidder with laws relating to the Contract;
 - e. The quality of performance of previous contracts, including demonstration of successful completion of similar projects in the last three (3) years;
 - f. The designated Project Manager will have a minimum of three (3) years of successful experience in project management and scheduling of projects of similar scope and complexity.
 - g. The designated Superintendent will have a minimum of five (5) years of successful supervision of projects of similar scope and complexity;
 - h. Any other qualifications required by the Contract Documents or Bidding Documents; and
 - i. Such other information as may be secured having a bearing on the decision to award the contract.
3. **Consideration.** In considering a Bidder's Responsibility, a Bidder will be deemed to be unqualified to perform the Contract if, after review and verification of the representations included upon the Bidder Qualification Statement submitted by the Bidder, conditions such as, but not limited to, the following appear:
- a. The Bidder does not have sufficient prior experience (or an acceptable substitute thereof, as described below) with projects of a similar nature in technical, managerial, and financial requirements to that in the present Contract being bid. In addition to such established contractors, a newly established contractor may be considered qualified if it has shown on the Bidder Qualification Statement that it is staffed with sufficient technical, managerial, and financial personnel with prior experience in the nature of construction for which the Bids are invited.
 - b. The Bidder does not have sufficient capability to undertake the obligations of the Contract. A determination will be made when the Owner's review of the probable cash flow needs of the Bidder for this Project (including payroll, cost of material and supplies, equipment rental costs, and any other direct or incidental costs of the Contract), concludes that the Bidder does not have sufficient financial resources to enable it to satisfy its financial obligations under the Contract.
 - c. The Bidder has submitted unrealistic unit prices as determined by other Bidders' unit prices for this Project.
 - d. The Bidder does not have sufficient staff, equipment, or plant available to perform the Contract. The Owner's determination in this matter will be based upon that represented by Bidder in the Contractor's Qualification Statement.
 - e. The Bidder has a history of unsatisfactory performance of contracts of this or similar nature, regardless of whether such contracts existed between the Owner and the Bidder, or other parties.

- i. A determination of this nature will be made if the Owner, after review of the Bidder's previous work experience, determines that the Bidder's unsatisfactory performance has resulted predominantly from the Bidder's failure rather than a failure to perform by another party. The Owner will give the Contractor an opportunity to explain such nonperformance's before any final determination is reached.
 - ii. A determination of failure to perform will be made if the Owner is satisfied, after review of the Bidder's prior experience, that the Bidder has failed to satisfy its obligations under past contracts, and the Owner cannot safely assume satisfactory performance of the Contract by the Bidder.
 - iii. In reaching its determination, the Owner may consider statements of other parties to the prior unperformed contracts, as well as the representations of the Bidder on its Contractor's Qualification Statement.
 4. **Subcontractors.** The Responsibility of the Bidder may be judged in part by the Responsibility of its Subcontractors. Bidders must verify Responsibility criteria for each first-tier Subcontractor. A Subcontractor of any tier that hires other Subcontractors must verify Responsibility criteria for each of its next lower-tier Subcontractors. Verification will include that each Subcontractor, at the time of subcontract execution, is Responsible and possesses an electrical contractor license, if required by Chapter 19.28 RCW, or an elevator contractor license, if required by Chapter 70.87 RCW, or a plumbing contractor license, if required by Chapter 18.106 RCW, and can obtain any payment and performance bonds required by the Bidding or Contract Documents.
 5. **Request to Modify Criteria.** No later than ten (10) days prior to the Bid Date, a potential Bidder may request in writing that the Owner modify the Responsibility criteria listed in Paragraph 1.06(A)(2), above, or elsewhere in the Contract Documents or the Bidding Documents. The Owner will evaluate the information submitted by the potential Bidder and respond before the Bid Date. If the evaluation results in a change of the criteria, the Owner will issue an Addendum identifying the new criteria.
 6. **Objection.** Prior to the Award of the Contract, the Owner will notify the Bidder in writing if the Owner, after due investigation, has reasonable objection to the Bidder or a person or entity proposed by the Bidder, and the Owner will provide the reasons for the determination. The Bidder may appeal the determination within two (2) business days of its receipt of the objection by presenting additional information to the Owner, and the Owner will consider the additional information before issuing its final determination. The Bidder may, after the Owner's objection or determination, and at Bidder's option, (1) withdraw the Bid, (2) submit an acceptable substitute person or entity with no change in the Contract Time and no adjustment in the Base Bid or any Alternate Bid, even if there is a cost to the Bidder occasioned by the substitution, or (3) appeal by filing a protest in accordance with Paragraph 1.05(D). In the event of withdrawal, Bid security will not be forfeited.
 7. **Change.** Persons and entities proposed by the Bidder and to whom the Owner has made no reasonable objection must be used on the Work for which they were proposed and will not be changed except with the written consent of the Owner.
 8. **Right to Terminate.** The Bidder's representations concerning its qualifications will be construed as a covenant under the Contract. Should it appear that the Bidder has made a material misrepresentation on its Contractor's Qualification Statement, the Owner will have the right to terminate the Contract for cause for the Contractor's breach, and the Owner may then pursue such remedies as exist elsewhere under the Contract, or as otherwise are provided at law or equity.
- B. **INFORMATION FROM OTHER BIDDERS:** All other Bidders designated by the Owner as under consideration for award of a Contract will also provide a properly executed Contractor's Qualification Statement, if so requested by the Owner.

- C. **BIDDING MISTAKES:** The Owner will not be obligated to consider notice of claimed bidding mistakes received more than three (3) business days after the Bid opening. In accordance with Washington law, a low Bidder that claims error and fails to enter into the Contract is prohibited from bidding on the Project if a subsequent call for Bids is made for the Project.

1.07 PERFORMANCE BOND; LABOR AND MATERIAL PAYMENT BOND

- A. **Bond Requirements.** Within twenty-four (24) hours after the issuance of the Owner's notice of intent to award the Contract, and prior to the date of execution of the Contract, the Bidder will furnish evidence satisfactory to the Owner of its ability to obtain statutory bonds pursuant to Chapter 39.08 RCW covering the faithful performance of the Contract and the payment of all obligations arising thereunder in the form prescribed in the Contract Documents and in the full amount of the Contract Sum plus sales tax. The cost of such bonds will be included in the Base Bid.
- B. **Subcontractor Bonds.** The Owner reserves the right to require certain Subcontractors to furnish performance and labor and material payment bonds in form as set forth herein and as set forth under the Bidding Documents or Contract Documents. The Owner will not, however, be responsible for any costs for any Subcontractor bonds unless the Owner, prior to the execution of the Owner-Contractor Agreement, requires the Bidder, in writing, to furnish such bonds from designated Subcontractors. Should any bonds be furnished by subcontract bidders, or be required by any Bidder to be furnished by any subcontract bidder or Subcontractor, without the written request of the Owner prior to the execution of the Owner-Contractor Agreement, the costs for any such bonds will be at the expense of the Bidder and will not be added to the Contract Sum.
- C. **Time of Delivery and Form of Bonds.** The Bidder will deliver the bonds and other documents required by the Contract Documents (including, but not limited to, certificates of insurance) to the Owner pursuant to the Contract Documents, and in no event any later than seven (7) days after the date of execution of the Contract and prior to commencing operations at the site. The bonds will be written in the form(s) approved by the Owner for public works, as required by Chapter 39.08 RCW. The bonds will be written by a surety firm licensed to do business in the State of Washington, with an A.M. Best rating of at least A/IX. The Bidder will require the Attorney-in-Fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his/her Power of Attorney.

1.08 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

- A. **Form to be Used:** The Agreement for the Work will be written on the form(s) contained in the Bidding Documents.
- B. **Conflicts:** In case of conflict between the provisions of these Instructions and any other Bidding Document, these Instructions will govern. In case of conflict between the provisions of the Bidding Documents and the Contract Documents, the Contract Documents will govern.

1.09 CONTRACT DOCUMENTS

This paragraph contains descriptions of some, but not all, of the provisions of the Contract Documents.

- A. **RETAINAGE.** The Contract Documents specify the statutory retainage requirements of Chapter 60.28 RCW for this Project.
- B. **CONTRACT TIME.** The Contract Documents specify the Contract Time. Timely completion of this Project is essential to the Owner.
- C. **PREVAILING WAGES.** The Contract Documents contain requirements regarding the payment of prevailing wages pursuant to Chapter 39.12 RCW.

- D. **WRITTEN CLAIMS AND NOTICE.** The Contract Documents contain a number of provisions that require the Contractor to provide notice of Claims and to make and support Claims, in writing, within a specified time in order to maintain the Claim. The Owner is under no obligation to consider Claims that fail, in any respect, to meet such requirements.
- E. **CHANGES IN CONTRACT SUM.** The Contract Documents contain provisions specifying requirements for and pricing of changes in the Contract Sum.
- F. **DISPUTE RESOLUTION.** The Contract Documents contain provisions replacing the arbitration provisions of the form General Conditions with an alternative dispute resolution procedure which, among other things, requires non-binding mediation of all disputes.
- G. **CONTRACTOR REGISTRATION.** Pursuant to Chapter 39.06 RCW, the Bidder will be registered or licensed as required by the laws of the Washington State, including, but not limited to, Chapter 18.27 RCW.
- H. **COMMISSIONING OF OPERATIONAL SYSTEMS.** Certain systems may be designated in the Contract Documents as "Operational Systems." If so, prior to the Date of Substantial Completion the Operational Systems must be up and running, ready for normal operation, and subject to a pre-commissioning inspection.
- I. **TAXES.** The Contractor will include in its Bid and pay for all applicable taxes, except Washington State sales tax and local sales tax on the Contract Sum, which will be excluded in the preparation of its Bid. Such state and local sales taxes will be added to the Contract Sum, paid by the Owner to the Contractor, and then paid by the Contractor as specified in the Contract Documents. Refer to General, Supplementary, or other conditions regarding further information.
- J. **OTHER PROVISIONS.** The above paragraphs contain descriptions of some, but not all, of the provisions of the Contract Documents. Bidders should review in detail the Contract Documents themselves and not rely upon the above paragraphs in this Paragraph 1.09 as complete or inclusive.

1.10 POSSIBLE TRENCH EXCAVATION SAFETY PROVISIONS

To ensure that the Bidder agrees to comply with relevant trenching safety requirements of RCW 39.04.180 and Chapter 49.17 RCW, the Base Bid must include the cost of any required trench safety provisions. The Bidder will enter in the blank provided on the Bid form the dollar amount the Bidder has included in its Base Bid for any trench safety provisions for trenching that will exceed a depth of four feet. If trench excavation safety provisions do not pertain to the Project, the Bidder may enter "N.A." or "Not Applicable" in the blank on the Bid form.

1.11 APPRENTICESHIP UTILIZATION PLAN

These Instructions to Bidders require that, after Bids are received, those Bidders requested by Owner will submit a completed Apprenticeship Utilization Plan utilizing a form acceptable to Owner. Without limiting the foregoing, in accordance with RCW 39.04.350, if the successful Bidder has a history of receiving monetary penalties for not achieving the apprentice utilization requirements pursuant to RCW 39.04.320, or is habitual in utilizing the good faith effort exception process, the bidder must submit to the Owner an Apprenticeship Utilization Plan within ten (10) business days immediately following the Notice to Proceed date.

- END OF SECTION -

**SECTION 00 31 00
AVAILABLE PROJECT INFORMATION**

PART 1 GENERAL

1.01 EXISTING CONDITIONS

- A. Certain information relating to existing surface and subsurface conditions and structures is available to bidders but will not be part of Contract Documents, as follows:
- B. Limited Asbestos Survey: None found.

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION (NOT USED)

END OF SECTION

BID FORM

To be submitted no later than 2:00 p.m. on the bid submittal date indicated in Section 00 11 13.

TO: Longview School District No. 122
 MOTF Office
 2080 38th Avenue
 Longview, Washington 98632

The undersigned Bidder acknowledges receipt of and familiarization with the Bidding Documents, the Project Manual, the Drawings, the Specifications, the Contract Documents, and the following Addenda:

Addendum No.:	Date	Pages	Initials of Bidder Representative
1			
2			
3			
4			

BASE BID:

Pursuant to and in compliance with the Contract Documents, including the Advertisement for Bids and Instructions to Bidders, the Bidder hereby certifies that it has carefully examined the Bidding Documents, the Contract Documents, and the conditions affecting the Work, and being familiar with the site, and having made the necessary examinations, proposes to furnish all labor, materials, equipment, and services necessary to complete the Work in strict accordance with the Contract Documents for the above-named Project for the following sum, which is hereby designated as the Base Bid:

_____ Dollars (\$ _____).

(Show amount in words and figures. This amount does not include state/local sales tax.)

ALTERNATE BIDS:

See Section 01 23 00, Alternates, for full description.

No.:	Description of Alternate Bids	Type	Alternate Bid Amount (Words)	Alternate Bid Amount (Figures)
1.				\$
2.				\$

No.:	Description of Alternate Bids	Type	Alternate Bid Amount (Words)	Alternate Bid Amount (Figures)
3.				\$
4.				\$

REINSTATEMENT OF ALTERNATE BIDS:

The undersigned Bidder agrees that the Owner has the right, for a period of forty-five (45) days following the bid submittal deadline, to initiate or rescind acceptance of any Alternate Bid in the amount(s) quoted above.

SALES TAX:

None of the sums stated in the foregoing includes Washington State or local sales tax.

TIME OF COMPLETION AND LIQUIDATED DAMAGES:

The undersigned Bidder agrees, if awarded the Contract, to achieve Substantial Completion of the Work of the Contract within the period specified in AIA Document A101-2017, as modified by Owner, and also agrees to the amounts specified in the Contract Documents for Liquidated Damages. It is further agreed that the time for completion of the Work described herein is a reasonable time considering the average climatic range and usual industrial conditions prevailing in the locality.

TRENCH EXCAVATION SAFETY PROVISIONS:

If the Contract Documents contain any work that requires trenching exceeding a depth of four (4) feet, all costs for adequate trench safety systems must be identified as a separate bid item in compliance with Chapter 39.04 RCW and WAC 296-155-650. The purpose of this provision is to ensure that the Bidder agrees to comply with all the relevant trench safety requirements of Chapter 49.17 RCW. This bid amount will be considered as part of the Base Bid set forth above. Bidder must include a lump-sum dollar amount in the blank below (even if the value is \$0.00) to be responsive.

Trench Excavation Safety Provisions Only: _____ Dollars
 (\$_____).

CONTRACT AND BONDS:

If the Owner awards a contract based on this Bid within forty-five (45) days of the bid submittal deadline, the Bidder agrees to execute a contract for the above work, for compensation computed from the above-stated sums, on the form of contract provided in the Bidding Documents, and to furnish Payment and Performance Bonds and acceptable evidence of insurance as required by the Contract Documents.

BID GUARANTEE:

Pursuant to the Instruction to Bidders, Section 00 21 13, Bidder hereby certifies that it has furnished a bid guarantee for no less than five (5) percent of the Base Bid, and that such guarantee accompanies this Bid Form.

Within twenty-four (24) hours after the issuance of the Owner's notice of intent to award the Contract, the successful bidder must furnish evidence satisfactory to the Owner of its ability to obtain statutory bonds pursuant to Chapter 39.08 RCW. Additionally, the successful bidder must submit the Payment and Performance Bonds and other documents required by the Contract Documents (including, but not limited to, certificates of insurance) to the Owner no later than seven (7) days after the date of execution of the Contract. The successful bidder must also submit within forty-eight (48) hours of the Owner's request a complete Apprenticeship Utilization Plan and such other information as specified in Paragraph 1.06 ("Post-Bid Information") of the Instructions to Bidders, Section 00 21 13.

If the successful bidder, upon award of the Contract by the Owner, fails to execute the Contract or submit the Payment and Performance Bonds or other information required by the Instructions to Bidders as required within the time specified, the Owner may revoke the award. Should the successful bidder fail to enter into the Contract with Owner, the bid guarantee may be retained by Owner as liquidated damages, not as a penalty.

If a contract is not awarded within forty-five (45) days after the bid submittal deadline, or if the Bidder delivers an executed Contract, executed Payment and Performance Bonds, and such other information required by the Instructions to Bidders, Section 00 21 13, then the certified or bank cashier's check submitted as the bid guarantee will be returned to the bidder, or the Bid Bond will become void.

IDENTIFICATION OF SUBCONTRACTORS:

A. Due Within One (1) Hour of the Bid Submittal Deadline

List here the names of the Subcontractors with whom the Bidder, if awarded the Contract, will subcontract for performance of the Work of HVAC (heating, ventilation, and air conditioning), plumbing (as described in Chapter 18.106 RCW) and electrical (as described in Chapter 19.28 RCW), or indicate if Bidder will self-perform the Work. Bidder may only substitute a listed Subcontractor in accordance with RCW 39.30.060. Failure of the Bidder to submit as part of the Bid the names of such Subcontractors or to name itself to perform such Work, or the naming of two or more Subcontractors to perform the same Work, will render the Bid nonresponsive and, therefore, void.

Type of Work	Subcontractor Name (Or Indicate Self-Performed)	Subcontractor Address	Subcontractor Phone
HVAC (heating, ventilation, and air conditioning)			

Plumbing as described in Chapter 18.106 RCW			
Electrical as described in Chapter 19.28 RCW			

If Subcontractors vary with Alternate Bids, Bidder must indicate which Subcontractor will be used for which Alternate Bid.

Alternate No.:	Subcontractor Name	Work to be Performed
1		HVAC
		Plumbing
		Electrical
2		HVAC
		Plumbing
		Electrical

3		HVAC
		Plumbing
		Electrical
		HVAC
		Plumbing
		Electrical
		HVAC
		Plumbing
		Electrical

RESPONSIBILITY CRITERIA:

The undersigned hereby verifies under penalty of perjury, in accordance with RCW 9A.72.085, that Bidder is in compliance with the responsible bidder criteria requirements of RCW 39.04.350(1)(g).

BIDDER'S INFORMATION:

Bidder's Business Name:
Type of Business: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation (State of Incorporation:____) <input type="checkbox"/> Other
Physical Business Address (Must not be a P.O. Box):

City:		State:	Zip Code:
Business Telephone Number:	Business Fax Number:	Business Email Address:	
State of Washington numbers for the following:			
Contractor Registration No.:	UBI No.:	Employment Security Dept. No.:	

OFFICIAL AUTHORIZED TO SIGN FOR BIDDER:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct":	
Signature:	Date:
Print Name and Title	Location or Place Executed: (City, State)

END OF SECTION

Project Name: _____

The undersigned attests, under penalty of perjury, that the bidder has no final and binding citation or notice of assessment from Labor & Industries for:

- Minimum wage requirements and labor standards (RCW 49.46)
- Wages – payment – collection (RCW 49.48)
- And, only for contracts awarded between Sept. 1, 2010, and Dec. 31, 2013, not been found in violation of requirements to submit of information to L & I about certain “off-site, prefabricated, nonstandard, project specific items” (RCW 39.04.370)

Authorized Signature

Printed Name

Title

Date

4. Bid Breakdown

Attach an itemized breakdown of the Bid, including labor tasks, labor costs, materials, material costs, and delivery charges.

5. Work History

- 5.1. Attach or list the following information on similar projects that your organization has completed in the past three (3) years: name and type of project, owner (include name and telephone number of the contact person), contract amount, expected date of completion, and date of completion.

- 5.2. Describe your organization's experience with remodeling of and/or additions to K-12 school facilities, and particularly athletic facilities.

- 5.3. Attach or list the following information on all projects that your organization now has in progress: name and type of project, owner, architect/engineer (include name and telephone number of contact person), contract amount, and scheduled date of completion.

- 5.4. Has your organization ever defaulted on or otherwise failed to complete any work under contract? If so, describe each such circumstance:

- 5.5. Has any officer, partner, or principal of your organization ever been an officer, partner, or principal of another organization that defaulted on or otherwise failed to complete any work under contract? If so, describe each such circumstance:

- 5.6. Provide the construction experience (length, project type, scope, complexity) of the Project Manager and Superintendent that would be assigned to perform the Work under this proposed contract.

6. Additional Letters and Forms

- 6.1. Attach a letter or form from the Bidder's insurance company stating that the insurance required by the Bidding Documents will become effective upon execution of the proposed Contract.
- 6.2. Attach a letter or form from the Bidder's surety stating that the Payment Bond and the Performance Bond will become effective upon execution of the proposed Contract.
- 6.3. [If applicable, see Owner for questions:] Attach a completed copy of page 2 of the Office of Superintendent of Public Instruction (OSPI) Form D-9. The applicable form may be found at: [Form D-9 \(www.k12.wa.us\)](http://www.k12.wa.us).

END OF SECTION

DRAFT AIA® Document A101™ – 2017

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)

«Longview School District No. 122»
«2715 Lilac Street»
«Longview Washington 98632»
«(360) 575-7019»

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

« »
« »
« »
« »

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

«Olympic Elementary School Reroof»
1324 30th Ave, Longview, WA 98632
«Reroof of the main school building, as further described in Bidding Documents.»

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

«Brittall Architecture, Inc, P.C.»
«3660 Cedarbrook Drive»
«Longview, Washington 98632»
«(360) 636-5074»
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, 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.

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~~EXHIBIT A – INSURANCE AND BONDS~~

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, revised 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 entire 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:
(Check one of the following boxes.)

~~« »~~ The date of this Agreement.

~~«X»~~ A date set forth in a notice to proceed issued by the Owner.

~~« »~~ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

~~« »~~

~~If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.~~

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

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement of the Work.

[« X »] By the following date: August 14, 2026.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

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 « », plus Washington State and local sales tax on the Contract Sum, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
As allowed under the Bidding Documents or Contract Documents.		

§ 4.3 Allowances, if any, included in the Contract Sum. These descriptions are summary in nature, and the scope of this Work is further described elsewhere in the Contract Documents: (Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any, are as follows. These descriptions are summary in nature, and the scope of this Work is further described elsewhere in the Contract Documents: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 4.5 Liquidated damages, if any: (Insert terms and conditions for liquidated damages, if any.)

«§ 4.5.1 Contractor will pay to Owner liquidated damages of \$750 per day that the Work is delayed beyond the date stated for Substantial Completion in the Contract Documents. The liquidated damage amounts set forth herein will be assessed not as a penalty, but as liquidated damages for breach of the Contract Documents. This amount is fixed and agreed upon by and between the Contractor and Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in such event. This amount will be construed as the actual amount of damages sustained by the Owner, and may be retained by the Owner and deducted from periodic payments to the Contractor.

§ 4.5.2 Assessment of liquidated damages will not release Contractor from any further obligations or liabilities pursuant to the Contract Documents. This Section 4.5 does not limit the remedies available to the Owner under this Agreement or by law.

§ 4.5.3 The period for calculating liquidated damages will end when Substantial Completion of the Work is achieved. However, if Final Completion of the Work is also delayed beyond the time allowed per the Contract Documents, actual damages will be assessed, as provided in Section 4.6.1. »

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

«§ 4.6.1 Actual Damages. Actual damages will be assessed for failure to achieve Final Completion within the time provided. Actual damages will be calculated on the basis of direct architectural, administrative, and other related costs and expenses of any nature whatsoever attributable to the Project, or a portion thereof, from the date when Final Completion should have been achieved, based on the date Substantial Completion is actually achieved to the date Final Completion is actually achieved. Owner may offset these costs against any payment due Contractor. This provision does not limit Owner's remedies available under the Contract Documents or by law.

§ 4.6.2 Statutory Incentives and Penalties. Monetary incentives and penalties for meeting or failing to meet Washington State apprenticeship utilization goals, in accordance with RCW 39.04.320(4)(b)—if any—shall be as described in the General Conditions.»

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor pursuant to Section 9.3 of the AIA Document A201-2017 as revised, and Certificates for Payment issued by the Architect pursuant to Section 9.4 of the AIA Document A201-2017 as revised, 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, consistent with the AIA Document A201-2017 as revised, ~~or as follows:~~

« »

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the «last working» day of a month and the Contractor has satisfied those other conditions specified in Section 9.3 of the AIA Document A201-2017 as revised, the Owner shall make payment of the amount certified to the Contractor as specified in Section 9.6 of the AIA Document A201-2017 as revised ~~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 of the amount certified shall be made by the Owner as otherwise provided by the Contract Documents ~~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 Pursuant to Section 9.2 of the AIA Document A201-2017 as revised, ~~each Application~~ Each Application for Payment shall be based on the most recent approved 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 and as specified in the Contract Documents. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect or Owner may require. This schedule of values 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 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the Project site for subsequent incorporation in the completed construction, or, if approved in writing and in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, and the Owner agrees, is due and payable under Section 7.3 of the AIA Document A201-2017 as revised ~~the Architect determines, in the Architect's professional judgment, to be reasonably justified.~~

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Owner or Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect or Owner may withhold payment, or for which the Owner or Architect may nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7 herein.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

«Five percent (5%) of each approved Application for Payment shall be retained, unless the Contractor submits, and the Owner accepts, a retainage bond pursuant to RCW 60.28.011(6) and in accordance with Section 9.3.4 of the AIA Document A201-2017 as revised.»

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

«[Not used] »

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

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

«Reduction or limitation of retainage, if any, shall be as provided in Washington statute and the Contract Documents.»

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows: The Contractor may make a request for payment of retainage following Final Completion, and the Owner will release retainage, in accordance with Section 9.10.6 of the AIA Document A201-2017 as revised.

(Insert any other conditions for release of retainage upon Substantial Completion.)

«↔»

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

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

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, except for retainage, 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 Article 12 of AIA Document A201-2017, 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; and
- .3 Final Acceptance by the Owner's Board of Directors has occurred.

§ 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:

«Sixty (60) days after Final Acceptance, as defined in Section 9.10.2 of the AIA Document A201-2017 as revised.»

§ 5.3 Interest

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.)

«As specified in Chapter 39.76 RCW.» % « »

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

~~The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the 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.)~~ **[Not used]**

«»
«»
«»
«»

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[« »] Arbitration pursuant to Section 15.4 of AIA Document A201-2017

[« »] Litigation in a court of competent jurisdiction

[«X»] Other *(Specify)*

«Litigation in Superior Court for the County of Cowlitz, Washington.»

If the Owner and Contractor do not select a method of binding dispute resolution, 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 in Cowlitz County, Washington.

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 A201-2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.) **[Not used]**

«—»

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's designated representative:
(Name, address, email address, and other information)

«Patti Bowen
Executive Director of Business Services
Longview School District»
«2715 Lilac Street»
«Longview, Washington 98632»
«pbowen@longviewschools.org»

§ 8.3 The Contractor's designated representative:
(Name, address, email address, and other information)

« »
« »
« »
« »
« »
« »
« »

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A201-2017 as revised A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A201-2017 as revised A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise may be given as set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

«As stated in Section 1.6 of the AIA Document A201-2017 as revised and elsewhere in the Contract Documents.»

§ 8.7 Other provisions:

«**§ 8.7.1 Public Records Act Compliance.** Contractor understands that the Owner is bound by the Washington Public Records Act, Chapter 42.56 RCW. Contractor agrees to fully cooperate with the Owner in responding to public

records requests. The Contractor shall promptly provide such records to the Owner as requested by the Owner or required by law for the Owner to fulfill its obligations in responding to public records requests. Such records shall be provided at no cost to the Owner. Contractor shall cause any subcontract to contain this provision. This section shall survive expiration or termination of this Agreement for any reason.

§ 8.7.2 Substitution of Personnel. Contractor and the Owner have no present intention to substitute personnel, and the parties shall endeavor to minimize substitutions and maintain continuity of personnel, but each reserves the right to substitute its personnel for the purpose of carrying out its responsibilities under this Contract. Such substitution by the Contractor shall be subject to the approval of the Owner, which approval shall not be unreasonably withheld. If the Contractor substitutes personnel, it shall not charge the Owner for any extra costs incurred thereby, including, without limitation, costs incurred to familiarize new personnel with the Project. If requested by the Owner, the Contractor shall remove from performing the Work, without cost to the Owner or delay to the Work, any person whose removal the Owner reasonably requests. Nothing in this provision shall be construed to alter the independent contractor status of the Contractor.

§ 8.7.3 Prohibited Interest. Contractor shall ensure that its officers, employees, and agents, and those of its Subcontractors, comply with the Code of Ethics for Municipal Officers, Chapter 42.23 RCW, which, among other things, prohibits municipal officers from being beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer, in whole or in part. Contractor shall remove, at its sole cost and expense, any of its or its Subcontractors' employees or agents if they are in violation of this provision. No director, officer, or employee of the Owner shall have any interest, directly or indirectly, in this Contract or the proceeds thereof prohibited by Chapter 42.23 RCW.

§ 8.7.4 Severability. If, for any reason, any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal, void, or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid; provided, however, that if it should appear that any provision of the Contract Documents is in conflict with any statutory provision of the State of Washington, the provision shall be deemed modified to conform to such statutory provision.»

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- 1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor (as revised by Owner). All references to the A101 or to the Agreement are to the document as revised by the Owner.
- 2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds **[Not used]**
- 3 AIA Document A201™-2017, General Conditions of the Contract for Construction (as revised by Owner). All references to the A201 or to the General Conditions are to the document as revised by the Owner.
- 4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below: **[Not used]**
(Insert the date of the E203-2013 incorporated into this Agreement.)

↔

- 5 Drawings

Number	Title	Date
See the Index of Drawings in the Project Manual.		

- 6 Specifications

Section	Title	Date	Pages
See the Table of Contents in the Project Manual.			

- 7 Addenda, if any:

Number	Date	Pages

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

- .8** Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~[]~~ AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204 2017 incorporated into this Agreement.)

~~_____]~~

~~[]~~ The Sustainability Plan:

Title	Date	Pages

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
See the Project Manual.			

- .9** Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

«See the General Conditions and Special Conditions.»

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

Longview School District No. 122

OWNER *(Signature)*

Patti Bowen, Exec. Director of Business Services

(Printed name and title)

CONTRACTOR *(Signature)*

« » « »

(Printed name and title)

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS: That we, _____

(herein "Principal"),
as Principal, and _____

(herein "Surety"),
as Surety, are held firmly bound unto Longview School District No. 122, Cowlitz County, Washington,
in the full sum of _____ Dollars
(\$_____) lawful money of the United States of America for the payment of which
sum of money, well and truly to be made, said Principal and Surety bind themselves and each and
every of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly
by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the above-named Principal has
submitted a bid for the **Olympic Elementary School Reroof Project** in accordance with the
Advertisement for Bids and Instructions to Bidders prepared by Longview School District No. 122 and
is desirous of accompanying said bid with a bid bond in the penalty of five (5) percent of said bid in
lieu of certified or bank cashier's check.

NOW THEREFORE, if said Principal, upon receipt of written notice of the acceptance of such bid,
shall within forty-five (45) days after the Bid Date enter into a written contract with Longview School
District No. 122 upon the form of contract included in the Bidding Documents for the completion of
such contract in accordance with the terms and conditions of said bid, provide payment and
performance bonds with good and sufficient sureties for the faithful and proper fulfillment of such
contract, and provide all insurances as required by the contract, then this obligation will be null and
void; otherwise to remain in full force and effect.

SIGNED AND SEALED this _____ day of _____, 20____.

Principal:

Surety:

Signature of Representative

Signature of Representative

Printed Name

Printed Name

Title

Title

Address

Address

Telephone No.

Telephone No.

Witness

Witness

END OF SECTION

DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

«Olympic Elementary School Reroof»

1324 30th Ave,
Longview, WA
98632

THE OWNER:

(Name, legal status and address)

«Longview School District No. 122»

«2715 Lilac Street»

«Longview Washington 98632»

THE ARCHITECT:

(Name, legal status and address)

«Brittelle Architecture, Inc, P.C.»

«3660 Cedarbrook Drive»

«Longview, Washington 98632»

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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14 **TERMINATION OR SUSPENSION OF THE CONTRACT**

15 **CLAIMS AND DISPUTES**

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(Topics and numbers in bold are Section headings.)

NOTE: THIS INDEX HAS NOT BEEN UPDATED TO REFLECT OWNER'S REVISIONS TO THE FORM AIA DOCUMENT A201-2017. READERS SHOULD CAREFULLY REVIEW THE ENTIRE DOCUMENT.

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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 Owner or Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements. Should there be a conflict or discrepancy among or in the Contract Documents that cannot be resolved by interpreting the Contract Documents as a single, integrated document and giving effect to each provision therein, interpretation shall be determined in the following priority, with an Addendum or a revision to a Contract Document having precedence over the original document and later Addenda having precedence over earlier:

- .1 Agreement (revised AIA Document A101-2017) (written amendments having precedence);
- .2 Any Special Conditions;
- .3 Any Supplementary Conditions;
- .4 These revised General Conditions (revised AIA Document A201-2017);
- .5 Specifications;
- .6 Material and systems schedules;
- .7 Drawings (large-scale having precedence over small-scale, and written or computed dimensions having precedence over scaled dimensions).

In the event that Work is shown on Drawings but not contained in Specifications, the Work as shown shall be provided at no change in the Contract Sum or Contract Time, according to specifications to be issued by the Architect that are consistent with and reasonably inferable from the Work shown on the Drawings.

§ 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, although the Owner does not waive any third-party beneficiary rights or rights to assignment it may otherwise have as to Subcontractors of any tier. (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 demolition, abatement, disposal, 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, the Project Manual, and other similar materials describing the Work to be executed by the Contractor.

§ 1.1.8 Initial Decision Maker

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

§ 1.1.9 Project Manual

The Project Manual is a volume or volumes assembled for the Project which may include the bidding requirements, sample forms, Conditions of the Contract, Specifications, and other related materials such as construction details and schedules.

§ 1.2 Correlation and Intent of the Contract Documents

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

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

§ 1.2.2 Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings, shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. Such organization also shall not obviate the Contractor's duty to complete all of the Work when coordination between the Specifications and the Drawings or coordination between Subcontractors is required.

§ 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.

§ 1.2.4 If the Contractor discovers that the Specifications, Drawings, or Project Manual fail to specify the material or kind of goods to be used in any location; discovers an inconsistency or ambiguity between the Specifications, Drawings, or Project Manual; or an inconsistency or ambiguity arises internally within the Specifications, Drawings, or Project Manual, the Contractor shall inquire of the Architect as to what is intended and best suited. The material that a competent contractor would use in its place to produce first-quality finished Work shall be considered a part of the Contract without adjustment to the Contract Sum or Contract Time. If the Contractor discovers such an inconsistency or ambiguity and fails to notify the Architect, there shall be no adjustment to the Contract Sum or Contract Time.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles and sections herein, 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. Reference in the singular to an article, device, item, or piece of equipment shall include the larger of the number of such articles indicated in the Contract Documents or the number required to complete the installation. Specification and Drawing notes may include

incomplete sentences where words such as “shall,” “shall be,” “the Contractor shall,” and similar phrases shall be supplied by inference. The term(s) “approved,” “or approved,” and “as approved” mean approved by the Architect, and by any governing codes and officials, and by any quality standards specified as applicable to the work in question. The term “as directed” means as directed by the Architect or the Owner’s Authorized Representative. The term “provide” means to furnish and install. The term “as required” or “as necessary” means as required by applicable codes or standards, and/or as may be required for proper completion of the Work. The terms “shall” and “will” are used interchangeably throughout the Contract Documents to mean “is required to.”

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

§ 1.5.1 The Architect and the Architect’s consultants shall, subject to the rights of the Owner, be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and subject to the rights of the Owner shall retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

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

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by ~~email~~electronic transmission if a method for electronic transmission is set forth in the Agreement. Electronic transmission by email shall be made to such address(es) specified by each party in writing upon execution of this Agreement. Email transmission shall be deemed completed on a given day if sent prior to 5 p.m. Pacific Time. Emails sent after 5 p.m. shall be deemed sent on the next calendar day.

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

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service. ~~The Contractor acknowledges that Drawings, Specifications, Instruments of Service, or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data. that the Contractor receives in digital form, other than PDF files, may contain transmission or translation errors and are issued for convenience only, and thus the Contractor may rely upon only hard copy documents and PDF files. Any electronic files other than PDF files will be provided for the convenience of the Contractor. Neither the Architect nor the Owner shall be liable for any inaccuracy or incompleteness in information contained in an electronic copy (other than PDF files) of an Instrument of Service. Electronic files other than PDF files are not Contract Documents and cannot be relied upon as identical to the Contract Documents. Use of information contained in electronic files (other than PDF files) is at the Contractor’s risk and without liability to the Architect or the Owner. The Contractor is required to execute the Architect’s electronic document release to obtain the Instruments of Service in an electronic format other than PDF.~~

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in ~~AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, an agreement required by the Owner or Architect shall be at the using or relying party’s sole risk and without liability to the other party and its~~

contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative. Longview School District No. 122 ("District"), which is represented by the District's Board of Directors or its authorized representative. The "Owner" does not include District administrators, employees, consultants, or volunteers. Waivers of provisions of the Contract can only be made in writing by the District's Board of Directors. No other person is authorized to grant such waivers on behalf of the Owner. No officer, employee, agent, or representative of the Owner shall be personally responsible for any liability arising under this Contract.

~~**§ 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. [Not used.]~~

§ 2.2 Evidence of the Owner's Financial Arrangements

~~**§ 2.2.1** Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately. [Not used.]~~

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

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

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

§ 2.3 Information and Services Required of the Owner

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

changes in existing facilities. The Contractor is responsible to secure and pay for licenses and all other permits, subject to Section 3.7.1.

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

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

§ 2.3.4 The Owner shall ~~may~~ 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. The Contractor should assume that the locations of any underground or hidden utilities, active or abandoned underground tanks, plumbing, or electrical runs indicated in the surveys or Contract Documents are shown in approximate locations. The Contractor is responsible for performing all utilities investigation and location work to determine the precise locations thereof. The Contractor shall not damage or interrupt utilities or utilities services of any kind. The Contractor shall bear the risk of loss arising out of its Work that directly or indirectly damages or interrupts any utilities or utilities services, or causes or contributes to damages of any nature, except in the case where the loss resulted because the utility location information provided by Owner or Utility Provider was significantly inaccurate.

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

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2. Electronic files may be available from the Architect, subject to the Architect's terms.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly or materially 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 itself, the Contractor, or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of 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 default or neglect. In the event such deficiencies threaten the health or safety of the Owner's employees, students, or occupants, or exist within fourteen (14) calendar days of the date on which the Owner is scheduled to begin to operate school or school-related activities at the Project, the Owner may immediately proceed to correct such deficiencies without notice and without the 10-day cure period. Such action by the Owner and amounts charged to the Contractor ~~are both subject to prior approval of the Architect and the Architect may, shall entitle the Owner and the Architect to,~~ pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. The right of the Owner to correct the Work pursuant to this Section 2.5 shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of itself or others. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15. The Owner's exercise of its rights under this Section shall not adversely affect any warranties applicable to the Project.

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 bonded, and insured 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 and submittals approved or accepted pursuant to Section 3.12. The Contractor shall comply with any requirements of the Office of the Superintendent of Public Instruction (“OSPI”) and requirements related to the Washington Sustainable Schools Protocol (“WSSP”), to the extent applicable to the Project.

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

§ 3.1.4 The Contractor shall be and operate as an independent contractor in the performance of the Work and shall have complete control over and responsibility for all personnel performing the Work. The Contractor is not authorized to enter into any agreements or undertakings for or on behalf of the Owner or to act as or be an agent or employee of the Owner.

§ 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. By executing this Contract, the Contractor agrees that the Contract Sum is reasonable compensation for all the Work, that the Contract Time is adequate for the performance of the Work, and that Contractor has carefully examined the Contract Documents, the Project site (including any existing structures and access thereto), and any drawings of the existing conditions available from the Owner, and that it has satisfied itself as to the nature, location, character, quality, and quantity of the Work, labor, materials, equipment, goods, products, supplies, services, and other items to be furnished and all other requirements of the Contract Documents. Contractor further agrees that it has satisfied itself regarding the surface conditions and other foreseeable matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof, including but not limited to those conditions and matters affecting: transportation, access, local regulations, disposal, handling and storage of materials, equipment and other items; availability and quality of labor, water, electric power, utilities, and drainage; availability and condition of roads; normal climatic conditions and seasons; physical conditions at the Project site and the surrounding locality; topography and ground surface conditions; and equipment and facilities needed preliminary to and at all times during the performance of the Work. The failure of the Contractor to fully acquaint itself with any such condition or matter shall not in any way relieve the Contractor from the responsibility for performing the Work in accordance with the Contract Documents and within the Contract Sum and Contract Time and shall not be the basis of a Claim.

§ 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 Drawings, Specifications, and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4; shall take field measurements of and verify any existing conditions related to that portion of the Work, including all general reference points and any interfering existing conditions; shall observe any conditions at the site affecting it; and shall carefully compare and verify such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing such activities. 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 Owner and Architect any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Owner or 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 Owner and Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Owner or Architect may require. The Contractor shall comply with all applicable federal, state, county, and city laws, ordinances, rules, and regulations, including, but not limited to, the latest applicable versions of:

- .1 International Building Code (with Washington State amendments);
- .2 Uniform Plumbing Code;
- .3 Uniform Mechanical Code;
- .4 International Fire Code;
- .5 National Electrical Code;
- .6 Washington State Energy Code;
- .7 Washington State Rules and Regulations for Barrier-Free Design;
- .8 Americans with Disabilities Act (“ADA”);
- .9 Federal and state safety codes as adapted and/or modified by state and local ordinances;
- .10 Washington Sustainable Schools Protocol (“WSSP”), to the extent that this Project receives any State of Washington funds or as otherwise required by the Contract Documents; and
- .11 Any applicable municipal code.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of any design errors or omissions or inconsistencies noted by the Contractor, or clarifications or instructions the Owner or Architect issues in response to the Contractor’s notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission, or difference and failed to report it to the Owner and the Architect. If the Contractor performs any construction activity it knows or reasonably should have known involves an error, inconsistency, or omission in the Contract Documents or reports referenced therein without such notice to the Owner and the Architect, the Contractor shall be responsible for such performance and shall bear the attributable costs for correction.

§ 3.2.5 The Contractor will participate in recommending necessary investigations of hidden or subsurface conditions. The results of these investigations will be available for the convenience of the Contractor and its Subcontractors of any tier but are not a part of the Contract Documents unless specifically so indicated. While the Contractor may reasonably rely upon such investigation results, there is no guarantee, express or implied, that the conditions indicated are representative of those existing throughout the site or that unforeseen developments may not occur. The Contractor is solely responsible for reasonably interpreting the information and extrapolating beyond the testing location, including each individual boring, test pit, or other location.

§ 3.2.6 The Contractor shall do no Work, except Work related to means and methods and temporary controls, without applicable Drawings, Specifications, or written modifications or, where required, Shop Drawings, Product Data, or Samples, unless instructed to do so in writing by the Owner.

§ 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, assembly details, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, assembly details, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and ~~shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative~~ advise the Owner and Architect if (1) the specified instruction deviates from what the Contractor considers to be good construction practice or jeopardizes jobsite safety, (2) following the instruction will negatively affect any warranties, or (3) the Contractor objects to the instruction. The Contractor shall propose alternative instructions acceptable to the Contractor, for which no increase in the Contract Sum or Contract Time will be made. The Contractor shall not proceed with such alternative

instruction without the written acceptance of the Owner and the Architect, and the Contractor shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's principals, agents, employees, Subcontractors of any tier 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 of any tier.

§ 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. Under no condition shall a section of Work proceed prior to preparatory Work having been completed, cured, dried, and otherwise made satisfactory to receive the related Work. Responsibility for timely installation of all materials and equipment rests solely with the Contractor, who shall maintain coordination control at all times. The Contractor shall require its Subcontractors of any tier to be familiar with all aspects of the Contract Documents related to their Work. The Contractor shall ensure that the responsible Subcontractor has carefully examined all preparatory Work that has been executed to receive its Work and has notified the Contractor (who shall notify the Owner and Architect in writing) of any defects or imperfections in preparatory Work that will, in any way, affect satisfactory completion of the Work. The lack of such notification or the failure of the Contractor to inspect such portions of the Work shall constitute an acceptance of preparatory Work and a waiver of any later claim of defect therein.

§ 3.3.4 The Contractor shall perform such detailed examination, inspection, and quality control and surveillance of the Work as will ensure that the Work is progressing and is being completed in strict accordance with the Contract Documents, including the then-current issue of the Drawings, Specifications, and accepted shop drawings. The Contractor shall be responsible for examination, inspection, and quality control and surveillance of all Work performed by any Subcontractor of any tier. The Contractor shall determine when it is necessary to perform, and shall perform, tests (in addition to those requested by the Owner or required by the Specifications or any other provision of the Contract Documents) to verify its inspections or to ensure that the Work is being completed in strict accordance with the Contract Documents. The Contractor shall report known errors, omissions, or inconsistencies to the Architect and the Owner before commencing Work. Inspections by or on behalf of the Owner shall not constitute approval of the Work.

§ 3.3.5 The Contractor shall plan and lay out all Work in advance of installation so as to coordinate all Work without delay or revision. The Contractor is responsible for coordination of all the Drawings related to specific locations. The Contractor shall establish and maintain existing lot lines, restrictions, existing survey markers of any kind, and benchmarks. The Contractor shall establish and maintain all other lines, levels, and benchmarks necessary for the execution of the Work and take necessary steps to prevent their dislocation or destruction. The Contractor shall employ a professional land surveyor registered in the State of Washington to initially lay out and be responsible for the accuracy of the Work and to create and submit to the Owner an as-built survey and accurate utility as-builts for use by the Owner. The Contractor shall provide an as-built surveyed site plan noting all site improvements, including, but not limited to, building corners, storm, sewer, drains, grade and invert elevations, edge of pavement, signs, markings, back of curb, and sidewalks.

§ 3.3.6 The Contractor's superintendent shall provide a Daily Report to the Owner for each workday during the Contract Time, whether or not any Work is performed, and for each non-workday in which Work is performed on the site. The Daily Report shall be completed on a form approved by the Owner and Architect and submitted to the Owner and the Architect on the workday following the day covered in the Report. Failure to provide timely Daily Reports to the Owner will entitle the Owner to withhold a portion of or the entire progress payment otherwise due to the Contractor.

§ 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. The Contractor shall install temporary meters to quantify the Contractor's required reimbursement to the Owner for the Contractor's use of utilities.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the After the Contract has been executed, the Owner and the Architect may consider a written request for the substitution of material or products in place of those specified in the Contract Documents only as described in the Specifications and following the procedures of the Contract Documents. The written request must include the specifications for the material or product and any proposed change in the Contract Sum or Contract Time. The Contractor may make substitutions only with the written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. By requesting a substitution, the Contractor represents that it has personally investigated the proposed material or product and determined that it is equal or better in all respects to that specified (or if not equal or better in all respects, the Contractor shall identify such deficiencies), that the same or better warranty will be provided for the substitution, that complete cost data, including all direct and indirect costs of any kind, has been presented, that the Contractor waives any other known or unknown Claim for an increase in the Contract Sum or Contract Time related to the substitution, that the Contractor has coordinated with affected Subcontractors, that the substitution will not impact other parts of the Work, and that the Contractor will coordinate the installation of the substitute if accepted and make all associated changes in the Work. Neither the Owner nor the Architect will be responsible for the performance of the substituted product.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work, including observance of badging, drug testing, and all smoking, tobacco, drug, alcohol, parking, safety, weapons, background checks, sexual harassment, and other rules governing the conduct of personnel at the Owner's property and at the Project site. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. No employees of either the Contractor or any of its Subcontractors of any tier shall harass, intimidate, have physical contact with, or engage in other verbal or physical conduct or communication of a sexual, intimidating, or harassing nature with students or the Owner's directors, officers, or employees, nor create an intimidating, hostile, or offensive environment. Without limiting the foregoing, the Contractor shall remove from the Work and Project site any employee, agent, or other person who has violated the District's policy and/or procedures or otherwise engaged in actions that the Owner reasonably considers objectionable without change in the Contract Sum or Contract Time. The Contractor shall also ensure by appropriate provisions in each subcontract agreement that the Contractor may remove from the Work and Work site any Subcontractor or Subcontractor's employee who has violated District policies/procedures or engaged in such action without change in the Contract Sum or Contract Time. Failure to comply with these requirements is grounds for immediate termination of the Contract for cause.

§ 3.4.3.1 All employees of Contractor and Subcontractors of any tier who may have unsupervised access to students shall undergo a record check through the Washington State Patrol criminal investigation system under RCW 43.43.830-.834, RCW 10.97.030, and RCW 10.97.050, and through the Federal Bureau of Investigation, before working at the Project site. The record check will include a fingerprint check using a complete Washington State criminal identification fingerprint card. The Contractor will provide the results of the record check to the subject of the records and to the Owner. The Contractor will pay all costs of the requirements set forth in this provision. When necessary, applicants may be employed on a conditional basis pending completion of the background check. In addition, any agreements between Contractor and Subcontractors of any tier who will perform services for the Owner will include this provision requiring the Subcontractor to comply with RCW 28A.400.303.

§ 3.4.3.2 Contractor will prohibit any employee of the Contractor from working at the Project site who has pleaded guilty to or been convicted of any crime enumerated in RCW 28A.400.322, as now or hereafter amended. Any failure to comply with this Section 3.4.3.2 will be grounds for the Owner to immediately terminate the Contract. In addition, any agreements between Contractor and Subcontractors of any tier who will perform services for the Owner will include this provision requiring the Subcontractor to prohibit any employee of said Subcontractor from working at a public school or the Project site who has pleaded guilty to or been convicted of any crime enumerated in RCW 28A.400.322.

§ 3.4.3.3 The Contractor shall develop and administer a system for maintaining site security and tracking all individuals with access to the Project site. All contractors, suppliers, and visitors who come onto school property shall be required to display an identification badge or sticker on their person (such as a hard hat sticker), which shall be provided by the Contractor. The Contractor shall coordinate the distribution of badges or stickers, shall maintain a list of all contractors, suppliers, and visitors with permission to be on school property (including identifying any personnel required to have a background check pursuant to Section 3.4.3.1), and shall make such list available to the Owner or Architect upon request. All badges or stickers shall include a personal identifier (such as a numerical

designation), correlated with the Contractor's list of approved personnel and visitors, to allow the Owner or Architect to identify the contractor, supplier, or visitor.

§ 3.4.4 Nondiscrimination

§ 3.4.4.1 Contractor will comply with all applicable federal, state, and local laws, regulations, and ordinances prohibiting discrimination in the performance of this Contract, including without limitation, the Washington Law Against Discrimination, Chapter 49.60 RCW; Chapter 28A.640 RCW; Chapter 28A.642 RCW; Chapter 392-190 WAC; Title VII of the Civil Rights Act of 1964; the Vietnam Era Veterans Readjustment Act of 1974; Sections 503 and 504 of the Vocational Rehabilitation Act of 1973; the Equal Employment Act of 1972; the Age Discrimination Act of 1967; the Americans with Disabilities Act of 1990; and the Civil Rights Act of 1991. These laws and regulations establish minimum requirements for affirmative action and fair employment practices that Contractor must meet.

§ 3.4.4.2 Contractor will not discriminate against any employee or applicant for employment on the basis of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal nor commit any other unfair practice(s) as defined in Chapter 49.60 RCW.

§ 3.4.4.3 In all solicitations or advertisements for employees placed by or for it, Contractor will state that all qualified applicants will be considered for employment, without regard to sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal.

§ 3.4.4.4 Contractor will send to each labor union, employment agency, or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union, employment agency, or workers' representative of Contractor's obligations according to the Contract Documents and Chapter 49.60 RCW.

§ 3.4.4.5 The Contractor will not discriminate against any recipient of any services or benefits provided for in this Contract on the grounds of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal.

§ 3.4.4.6 Contractor will permit access to its books, records, and accounts, and to its premises by Owner and the Washington State Human Rights Commission for the purpose of investigation to ascertain compliance with this Section 3.4.4.

§ 3.4.4.7 Contractor will include the provisions of this Section 3.4.4 in every Subcontract and ensure that Subcontractors take such actions as may be required to ensure full compliance with the provisions of this section.

§ 3.4.5 Prevailing Wages

§ 3.4.5.1 Contractor will pay all laborers, workers, or mechanics performing Work under this Contract prevailing wages as required by Chapter 39.12 RCW and the rules and regulations of the Department of Labor and Industries ("Department") and will satisfy all other requirements of that chapter and the Department's regulations (collectively, the "Prevailing Wage Law"), including, but not limited to, requiring that all Subcontractors performing Work related to the Project comply with the Prevailing Wage Law. It is the Contractor's responsibility to ensure that the correct prevailing wage rates are paid. The Contractor shall provide the respective Subcontractors with a schedule of the applicable prevailing wage rates.

§ 3.4.5.2 The hourly minimum rates of wage which may be paid to laborers, workers, or mechanics for work related to the Project are determined by the Industrial Statistician of the Department and are shown on the Department's website at the following locations (using the bid due date for this Project):

Journey: <https://secure.lni.wa.gov/wagelookup/rates/journey-level-rates>

Apprentice: <https://secure.lni.wa.gov/wagelookup/rates/apprentice-rates>

A copy of the applicable wage rates is also available for viewing in the Owner's offices. It is the Contractor's responsibility to verify the applicable prevailing wage rate.

§ 3.4.5.3 Before commencing the Work and prior to the Owner making any payment to the Contractor under this Contract, Contractor and each Subcontractor will submit to the Owner a Statement of Intent to Pay Prevailing

Wages approved by the Industrial Statistician of the Department, complying with the requirements of RCW 39.12.040, and certifying the rate of hourly wage paid and to be paid to each classification of laborers, workers, or mechanics employed upon the Work by Contractor and Subcontractors. Each Application for Payment submitted by Contractor will state that prevailing wages have been paid in accordance with the pre-filed Statements of Intent, as approved.

§ 3.4.5.4 Copies of the approved Statements of Intent will be posted on the Project job site(s) with the address and telephone number of the Industrial Statistician of the Department where a complaint or inquiry concerning prevailing wages may be made.

§ 3.4.5.5 Disputes regarding prevailing wage rates will be referred for arbitration to the Director of the Department. The arbitration decision will be final, conclusive, and binding on all parties involved in the dispute as provided for by RCW 39.12.060.

§ 3.4.5.6 In compliance with Chapter 296-127 WAC, Contractor will pay to the Department the currently established fee(s) for each Statement of Intent and/or affidavit of wages paid submitted to the Department for certification.

§ 3.4.5.7 Prior to release of the sums retained pursuant to Section 9.3.4 (“Retainage”) and other provisions herein, Contractor and each Subcontractor shall submit to the Owner an Affidavit of Wages Paid approved by the Industrial Statistician of the Department and complying with the requirements of RCW 39.12.040.

§ 3.4.5.8 Without limiting the general duty of indemnification under Section 3.18, the Contractor shall defend, indemnify, and hold harmless the Owner, including for attorneys’ fees, arising from any violation or alleged violation by the Contractor or any Subcontractor of any tier of Chapter 39.12 RCW (“Prevailing Wages on Public Works”) and Title 51 RCW (“Industrial Insurance”), including without limitation RCW 51.12.050.

§ 3.4.5.9 The Contractor and each Subcontractor of any tier shall keep accurate payroll records for three (3) years from the effective date of the Contract showing each employee’s full name, address, Social Security number, trade or occupation, classification, straight and overtime rates, hourly rate of usual benefits, and hours worked each day and week, including any employee authorizations executed pursuant to RCW 49.28.065, and the actual gross wages, itemized deductions, withholdings, and net wages paid, for each laborer, worker, and mechanic employed by the Contractor or Subcontractor for work performed on the Project. In addition, the Contractor and each Subcontractor shall file a copy of its certified payroll records using the Department’s online system at least once per month. If said online system is not used, the Contractor or Subcontractor shall file a copy of its certified payroll records directly with the Department at least once per month. The Contractor shall include, or require to be included, in contracts with Subcontractors of any tier language substantially similar to this provision.

§ 3.4.6 Hours of Labor

§ 3.4.6.1 Contractor shall comply with all applicable provisions of Chapter 49.28 RCW (“Hours of Labor”). Pursuant to that statute, no laborer, worker, or mechanic employed by Contractor, any Subcontractor, or any other person performing or contracting to do the whole or any part of the Work, shall be permitted or required to work more than eight (8) hours in any one calendar day, provided, that in cases of extraordinary emergency, such as danger to life or property, the hours of work may be extended, but in such cases the rate of pay for time employed in excess of eight (8) hours of each calendar day will be not less than one and one-half (1.5) times the rate allowed for this same amount of time during eight (8) hours’ service.

§ 3.4.6.2 Notwithstanding the preceding paragraph, Chapter 49.28 RCW permits the Contractor or a Subcontractor on any public works contract subject to those provisions to enter into an agreement with its employees in which the employees work up to ten (10) hours in a calendar day. No such agreement may provide that the employees work ten (10)-hour days for more than four (4) calendar days a week. Any such agreement is subject to approval by the employees. The overtime provisions of Chapter 49.28 RCW shall not apply to the hours, up to forty (40) hours per week, worked pursuant to any such agreement.

§ 3.4.7 Apprenticeship

§ 3.4.7.1 The Contractor shall comply with the apprentice utilization requirement of RCW 39.04.320, as now enacted or hereafter amended, if applicable to the Project, and as such requirement may be adjusted by the Owner for this Contract pursuant to RCW 39.04.320(2). Sections 3.4.7.2 through 3.4.7.9 only apply in the event the Project is a public work estimated to cost \$1 million or more.

§ 3.4.7.2 The Contractor will ensure that no less than fifteen percent (15%) of the total labor hours utilized on the project are performed by apprentices registered with the Washington State Apprenticeship and Training Council. Total labor hours include additional hours worked as a result of Change Orders. Total labor hours exclude hours worked by foremen, superintendents, supervisors, owners, and workers who are not subject to prevailing wage requirements. However, total labor hours shall include the hours worked by supervisors, foremen, and superintendents if it is determined they are subject to prevailing wage requirements pursuant to WAC 296-127-015. Total labor hours include all hours worked by the Contractor and all Subcontractors on the Project.

§ 3.4.7.3 The Contractor will meet the apprentice utilization requirements of the Contract Documents on all labor hours on the Project. Pursuant to RCW 39.04.320(8), the Contractor or Subcontractor of any tier may not be required to exceed the apprenticeship utilization requirements of that statute.

§ 3.4.7.4 The Contractor will include the apprentice utilization requirements of this section in all subcontracts executed for the Project and ensure compliance with said requirements by Subcontractors.

§ 3.4.7.5 If, during the term of this Contract, the Contractor determines that it will be unable to meet the percentage utilization requirement in Section 3.4.7, the Contractor may make a written request to the Owner to reduce the required percentage. The request will include documentation of: (1) the Contractor's good faith efforts to use registered apprentices; (2) the lack of availability of registered apprentices; and/or (3) a disproportionately high ratio of material costs to labor hours, which makes infeasible the required minimum level of apprentice participation.

§ 3.4.7.6 The Owner will evaluate the request made under Section 3.4.7.5, and, if appropriate, a change order will be prepared by the Owner reducing the utilization requirement.

§ 3.4.7.7 During the term of this Contract, the Owner may adjust the apprenticeship labor hour requirement upon its finding or determination that includes:

- 1.** A demonstration of lack of availability of apprentices in the geographic area of the Project;
- 2.** A disproportionately high ratio of material costs to labor hours that does not make feasible the required minimum levels of apprenticeship participation;
- 3.** Demonstration by participating contractors of a good faith effort to comply with the requirements of RCW 39.04.300, RCW 39.04.310, and RCW 39.04.320; or
- 4.** Other criteria the Owner deems appropriate, which are subject to review by the Owner's Board of Directors.

§ 3.4.7.8 With its monthly Application for Payment, the Contractor shall report apprentice participation to the Owner on forms provided or approved by the Owner. In addition, copies of quarterly certified payroll records may be requested to document the goal, including copies with any birthdates and Social Security numbers (and any other sensitive personal information) redacted such that the copies may be used to respond to any public records requests. The reports shall include:

- 1.** The name of the Project;
- 2.** The dollar value of the Project;
- 3.** The date of the Contractor's notice to proceed;
- 4.** The name of each apprentice and apprentice registration number;
- 5.** The number of apprentices and labor hours worked by them, categorized by trade or craft;
- 6.** The number of journey level workers and labor hours worked by them, categorized by trade or craft;
and
- 7.** The number, type, and rationale for the exceptions granted.

§ 3.4.7.9 In accordance with RCW 39.04.320(4)(b), the monetary incentive for the Contractor meeting apprenticeship utilization requirements shall be payment of the sum of Ten-Thousand Dollars (\$10,000), which shall be due upon final payment. Without limiting any remedy that may be available to the Owner, the penalty for Contractor failing to meet apprenticeship utilization requirements will be a deduction of Ten-Thousand Dollars (\$10,000) from the amounts due and payable to the Contractor hereunder, which amount shall be deducted from the final payment.

§ 3.4.8 The Contractor shall be responsible for labor peace on the Project and shall at all times use its best efforts and exercise its best judgment as an experienced contractor to adopt and implement policies and practices designed

to avoid work stoppages, slowdowns, disputes, or strikes where reasonably possible and practical under the circumstances, and shall at all times maintain Project-wide labor harmony.

§ 3.4.9 Pursuant to Chapter 49.70 RCW (“Worker and Community Right to Know Act”) and Chapter 296-901 WAC, the Contractor shall provide the Owner copies of and have available at the Project site a workplace survey or material safety data sheets for all hazardous chemicals under the control or use of Contractor or any Subcontractor of any tier at the Project site. The Contractor shall not be entitled to an increase in the Contract Time or Contract Sum arising from its failure or alleged failure to comply with this statute or regulation.

§ 3.4.10 All products and materials incorporated into the Project as part of the Work shall be certified as “asbestos-free” and “lead-free” by United States standards. At the completion of the Project, and using the forms provided or approved by the Owner, the Contractor shall submit certifications of asbestos-free and of lead-free materials certifying that all materials and products incorporated into the Work meet the requirements of this section.

§ 3.4.11 Materials shall conform to the manufacturer’s standards in effect at the date of execution of the Contract Documents and shall be installed in strict accordance with the manufacturer’s instructions, specifications, and directions. The Contractor shall, if required in writing by the Owner or Architect, furnish satisfactory evidence regarding the kind and quality of any materials, identifying thereon the source, and warranting their quality and compliance with the Contract Documents.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or explicitly permit otherwise. The Contractor further warrants that the Work will be performed in a skillful and workmanlike manner, 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 explicitly permit. Work, materials, or equipment not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Unless such actions are caused by or are the responsibility of the Contractor, the Contractor’s warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed or supervised by or through the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor is not relieved of its general warranty obligations by the specification of a particular product or procedure in the Contract Documents. Warranties in the Contract Documents shall survive completion, acceptance, final payment, and the correction period identified in Section 12.2.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall secure, assign if requested by the Owner, and furnish directly to the Owner all written warranties required by the Contract Documents, first executed by the applicable Subcontractor and those suppliers and manufacturers furnishing materials for the Work, and subsequently countersigned by the Contractor, which shall extend to the Owner all rights, claims, benefits, and interests that the Contractor may have under express or implied warranties or guarantees against the Subcontractor, supplier, or manufacturer for defective or non-conforming Work. Prior to furnishing Owner with written guarantees and warranties, the Contractor shall provide copies to the Architect for review.

§ 3.6 Taxes

The Contractor shall pay all taxes, including but not limited to 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. The only taxes excluded from the Contract Sum and separately reimbursable are state and local sales taxes on the Contract Sum.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner shall pay only for the permits and associated plan-review fees that are explicitly listed as the Owner’s responsibility in the Contract Documents or Bidding Documents, and the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, as a part of the Contract Sum all other permits, fees, and licenses necessary for the execution of the Work, 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, received, including, without limitation: any building permits; all utility connection fees; subcontractor permits and fees, including plan-check fees for deferred submittals; the application fees and review fees for any and all shop drawings or bidder-designed systems; any inspection fees not covered by the initial building permit fee, including reinspection fees, renewals, and penalties; and miscellaneous, ancillary, and governmental fees, excepting only any permits that the Specifications explicitly indicate that the Owner is providing. The Owner shall also not pay, and the Contractor shall not be reimbursed for, any license fees or any renewals or penalties.

§ 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. The Contractor shall coordinate and schedule all Work with entities with jurisdiction over the Project site, permitting agencies, utility companies, and other such agencies determined to have jurisdictional authority necessary for completion of the Work. The Contractor shall keep the Owner informed of communications from these authorities and utilities. The Owner may assist the Contractor with such coordination and scheduling, but the Owner is not responsible for any delays caused by such permitting agencies, utility companies, and other such agencies determined to have jurisdictional authority. The Contractor shall be responsible for providing all information, documents, and fees to the permitting agencies, utility companies, and other such agencies determined to have jurisdictional authority within thirty (30) days after issuance of the Notice to Proceed as necessary to obtain and coordinate permits, utility and other such connections. The Contractor shall obtain all permit renewals during the course of the Work at the Contractor's expense. The Contractor is responsible for providing information and fees to the Department.

§ 3.7.3 If the Contractor observes that portions of the Contract Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification. 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 any soils reports or other reports made available by the Owner to the Contractor or 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 written notice to the Owner and the Architect before conditions are disturbed and in no event later than four (4) working days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both, consistent with the requirements of the Contract Documents. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15. No increase to the Contract Sum or the Contract Time shall be allowed if the Contractor knew or reasonably should have known of the concealed conditions prior to its executing the Contract.

§ 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 immediately notify the Owner and Architect by telephone call and email. Upon receipt of such notice, the Owner and Architect by telephone call or email shall promptly coordinate with each other and take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations that may affect the human remains, burial markers, archaeological sites, or wetlands 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, if any, arising from the existence of such remains or features may must 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 made reasonable, timely written 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, except sales tax on progress payments, 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 reasonable costs and the allowances under Section 3.8.2.1, and (2) changes in Contractor's costs under Section 3.8.2.2, except where the allowance is based upon a unit price specified in the Agreement.

Allowances are defined in the Contract Documents due to the uncertainty in the scope, price, and quantity of the Allowance items at the time the Contract was executed. Whenever actual costs are more or less than the allowance, the Contract Sum will be adjusted accordingly by Change Order. The Contractor must provide the Owner with written notice of its intent to exceed an allowance amount, with estimates and justification (providing the Owner with the opportunity to approve or reject the excess costs), before exceeding an allowance amount.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness in sufficient time to avoid delay in the Work.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ an experienced, competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The Contractor shall also employ an experienced, competent Project Manager. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The superintendent shall be an employee of the Contractor and remain on the Project site whenever Subcontractors of any tier are present and, in any event, for not less than eight (8) hours per day, five (5) days per week, unless the job is closed due to a legal holiday, a general strike, conditions beyond the control of the Contractor, or termination of the Contract in accordance with the Contract Documents, or unless Final Completion is attained. The Project Manager shall also be an employee of the Contractor. The Contractor shall also have available for work on site experienced, skilled workers, such as carpenters, laborers, erection specialists, etc., to perform work as needed.

§ 3.9.2 The Contractor, as soon as practicable within seven (7) days after award of the Contract, shall notify the Owner and Architect in writing of the name and qualifications of a proposed Project Manager, Project Engineer, and superintendent. Within 14 days Within a reasonable time of receipt of the information, the Owner or Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed Project Manager, Project Engineer, or superintendent or (2) requires additional time for review. Failure of Owner or the Architect to provide notice within the 14-day period a reasonable time shall constitute notice of no reasonable objection. Within ten (10) days after issuance of the Conditional Notice to Proceed, the Contractor shall also furnish to the Architect and Owner:

- .1 A chain-of-command organizational chart that includes all supervisory personnel, including the Project Manager, the Project Engineer, and the superintendent, assistant superintendent, and lead foreman that the Contractor intends to use on the Work. The chart shall specify any limits of authority for each person, including any limitation on his or her ability to speak for and bind the Contractor, as well as any limits on decision-making authority with respect to specific dollar values, Contract time, and issues affecting quality of the Work.
- .2 Complete résumés, including all past and current projects, for the Project Manager, the Project Engineer, and the superintendent. The Owner intends to review the résumés and verify references, and it reserves the right to reject personnel reasonably believed to be unsuitable or incompatible for the Project. The Contractor shall replace any rejected personnel with an agreeable replacement at no increase in the Contract Sum or Contract Time.
- .3 A list of telephone numbers for all key personnel of the Contractor and its principal subcontractors for purposes of contacting personnel after hours in the event of an emergency. The list shall be periodically updated as necessary to ensure the Owner has the most current information.

§ 3.9.3 The Contractor shall not employ a proposed Project Manager, Project Engineer, or superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the Project Manager, Project Engineer, or superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed. The Owner reserves the right, after consultation with the Contractor, to require the Contractor to replace a superintendent, Project Engineer, Project Manager, or other assistants if the Owner determines that such replacement is in the best interests of the Project. The Owner shall exercise such right in a reasonable manner. The Owner shall be entitled to exercise the same rights concerning any replacement.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly and within ten (10) days after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule preliminary Contractor's construction schedule for the Work consistent with the requirements of the Contract Documents. Prior to submitting its first Application for Payment, the Contractor, after consultation with its Subcontractors, shall submit two color paper copies and an electronic copy of the Contractor's construction schedule consistent with the requirements of the Contract Documents. The Owner may withhold up to ten (10) percent of any progress payment until a satisfactory schedule is submitted. The schedule shall be related to the entire Project and shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion, as provided in the Agreement; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work, and (4) any other information required by the Contract Documents. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals least monthly and as required by the conditions of the Work and Project.

§ 3.10.1.1 Contractor shall promptly notify the Owner and the Architect in writing of any proposed changes in the Contractor's construction schedule or the Contract Time or of any event which could delay performance of any item of the Work, stating the cause of the delay, expected duration of the delay, the anticipated effect of the delay on the Contractor's construction schedule, and the action being taken to correct the delay. Notification of potential delay does not constitute a change in the Contract Time: only a Change Order signed by the Owner can amend the Contract Time. The Contractor shall comply with Article 15 with regard to any delays that it believes are the responsibility of the Owner or are otherwise the subject of a Claim for additional Contract Time.

§ 3.10.1.2 If any Contractor's construction schedule submitted sets forth a date for Substantial Completion for the Work or for any phase of the Work beyond the dates of Substantial Completion established in the Contract Documents (as the same may be extended as provided in the Contract Documents), the Contractor shall submit to the Architect and the Owner for their review and approval a narrative description of the means and methods which the Contractor proposes to use to expedite the progress of the Work to ensure timely completion of the various phases of the Work and the Work as a whole. Regardless of the cause of any delay, the Contractor shall exercise reasonable efforts to bring the Project back into compliance with the Contractor's construction schedule.

§ 3.10.1.3 To the extent that the Contractor or any Subcontractor or material supplier of any tier is responsible for the delay, the Contractor shall take all necessary action to bring the Project back into compliance with the Contractor's construction schedule, including without limitation increasing the number of personnel on the Project and implementing overtime and double shifts at no cost to Owner.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to at least monthly maintain a current submittal schedule, shall submit a submittal schedule for the Owner and Architect's review, approval. The Architect's approval The Owner's and Architect's review shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Owner and Architect reasonable time to review submittals in accordance with the Specifications and submittal procedures. The Contractor shall also provide the Owner's project manager with a copy of all submittals at the same time. The Contractor should expect a response time of at least fourteen (14) days for the Architect's review and at least twenty-one (21) days for review by the Architect's consultants. Complex, inter-related, or multiple submittals will often take longer. Neither the Owner nor the Architect guarantee response times from governmental authorities, such as permitting agencies or review of any required deferred submittals. If the Contractor fails to submit a-and update an acceptable submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in ~~general~~ accordance with the most recent schedules submitted to the Owner and Architect and shall promptly notify the Owner and Architect of any substantial deviations from those schedules. The Contractor's Construction Schedule shall be based upon a critical path method ("CPM") analysis of construction activities and sequence of operations needed for the orderly performance and completion of all separable parts of the Work, in the form of a precedence diagram and activity listing that is time-scaled, all in accordance with the Contract and within the Contract Time. The Contractor shall utilize scheduling software for its CPM scheduling. The Schedule shall be resource loaded and provided to the Owner in electronic, readable format. It shall include the Date of Commencement, any milestone dates identified in the Specifications, the Date(s) of Substantial Completion, and the Date(s) of Final Completion in accordance with the Contract Documents. The Schedule shall be updated monthly and submitted with the Contractor's Application for Payment. The Critical Path shall be clearly indicated on the Contractor's Construction Schedule.

§ 3.10.4 The Contractor shall not be entitled to any adjustment in the Contract Time, the Contractor's Construction Schedule, or the Contract Sum, or to any additional payment of any sort by reason of the loss or use of any float time, including time between the Contractor's anticipated completion date and end of the Contract Time, whether or not the float time is described as such on the Contractor's Construction Schedule. To ensure that the Owner is substantively aware and effectively able to mitigate any Project delays, the Contractor shall not be entitled to any extension of time, compensable or otherwise, for any delay that occurred during any time the Contractor has not timely submitted an updated Construction Schedule as required by the Contract Documents.

§ 3.10.5 Any float time to activities not on the critical path shall belong to the Project, and such float time may be used by the Project to optimize its construction process. Any float time between the end of the final construction activity and the final completion date shall belong to the Owner, and may be used by the Owner in determining if additional Contract Time is to be awarded for changes in the Contract or for delays caused by the Owner. The Contractor will not be entitled to any adjustment in the Contract Time, the Construction Schedule, or the Contract Sum, or to any additional payment of any sort by reason of the Owner's use of float time between the end of the final construction activity and the final completion date or be reason of the loss or use of any float time, including time between the Contractor's anticipated completion date and end of the Contract Time, whether or not the float time is described as such on the Contractor's Construction Schedule.

§ 3.10.6 The Contractor shall attend and participate in, and ensure applicable Subcontractors of any tier attend and participate in:

- 1** A preconstruction meeting;
- 2** Regular weekly on-site Project status meetings scheduled by the Owner or by the Architect to review progress of the Work, to discuss the Contractor's progress reports, to obtain necessary Owner's or Architect's approvals, and generally to keep the Owner and Architect informed and involved in the progress of the Project. Contractor responsible for creating meeting agenda and keeping meeting minutes; and
- 3** Other meetings scheduled from time to time by the Owner or by the Architect to review progress of the Work and other pertinent matters.

§ 3.11 Documents and Samples at the Site

The Contractor shall maintain at least weekly and make available, at the Project site, a record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and a record copy of the approved or accepted Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form ~~or~~ and paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed. The location of all existing or new hidden piping, valves, conduit, cabling, and utilities, as located during the course of construction, shall be appropriately marked until the actual field location dimensions and coordinates are incorporated on the as-built drawings, and mechanical and electrical deviations and changes shall be included. The documents shall include all Architectural, Mechanical, Electrical, Structural, Landscape, and Civil as-built drawings, whether changes occur or not, using Owner-approved drawing/document software. These documents, as well as the approved permit set of plans, shall be available to the Architect and Owner at the site and reviewed with them on a monthly basis. Upon Final Completion of the Work, the Contractor shall transfer all as-built information in a clear and legible manner as described in the Contract Documents and in compliance with all requirements of local governmental entities, shall certify in writing that these documents reflect complete and accurate "as-built" conditions, and shall deliver each of

the following in a clear, clean, and legible manner and in compliance with all requirements of local governmental authorities: (1) complete, integrated copies of the documents in both paper form in good condition and in electronic form in the same format as originally created by the Architect or as electronic PDF, (2) the approved permit set of plans, and (3) the full-size record documents, Shop Drawings, Specifications, Addenda, maintenance manuals, and warranties to the Architect for submittal to the Owner in accordance with the provisions of the Contract Documents. Satisfactory maintenance of up-to-date as-built drawings on a monthly basis shall be a requirement for approval of progress payments.

§ 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 and/or assemblies or mock-ups that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review and approval or acceptance of such submittals by the Owner or Architect is subject to the limitations of Section 4.2.7 and shall not constitute an approval or acceptance of the Contractor's means and methods or a waiver or modification of any requirement of the Contract Documents. Informational submittals upon which the Owner or 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 Owner or Architect without action.

§ 3.12.5 The Contractor shall be responsible for tracking the status of submittals. The Contractor shall review for compliance with the Contract Documents, note any deviations from the Contract Documents, approve in writing, 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-accepted by the Owner and Architect or, in the absence of an approved-accepted submittal schedule, with reasonable promptness and frequency and in such sequence and uniform flow rate consistent with the submittal schedule as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors. The Contractor shall notify the Owner and Architect of any expedited review required. Submittals that are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action, which will not constitute an Owner-caused delay to the Contractor. At the time of submission, the Contractor shall inform the Architect in writing whether expedited review is requested or if there is any deviation in the Shop Drawings, Product Data, or Samples from the requirements of the Contract Documents. So far as practicable, each Shop Drawing or Product Data submittal shall bear a cross-reference note referring to Drawing or detail numbers on the Drawings showing the same Work in order to facilitate checking of Shop Drawing or Product Data and their prompt return to the Contractor. Shop Drawings for interrelated Work shall be submitted at approximately the same time. Unless otherwise directed in writing, the Contractor shall provide submittals electronically. The Contractor shall keep accurate records of the receipt, review, and delivery of all Submittals and shall submit to the Owner reports every other week on the status of their review, identifying the location and the causes of any failure to promptly receive such submissions and suggesting responsibility.

§ 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.

- .1** Each submittal shall bear a stamp or specific written indication that the Contractor has satisfied its responsibilities under the Contract Documents with respect to the review of the submission. The Contractor's superintendent must initial each submittal.
- .2** Each submittal shall be accompanied by a completed Submittal Cover Sheet, as included in the Project Manual or provided by the Architect, which shall clearly identify applicable Specification

Section and paragraph number(s), material, supplier, pertinent data (such as catalog numbers), and the use for which it is intended.

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

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's review, acceptance, or approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval/acceptance 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 review, acceptance, or approval thereof. Any corrections or modifications to Shop Drawings made by the Architect shall be deemed accepted by the Contractor, without change in Contract Sum or Contract Time, unless the Contractor provides the Architect with written notice at least three (3) working days before commencing any Work from such Shop Drawings and complies with the change procedures in the Contract Documents. The Contractor shall make all corrections requested by the Architect and, when requested by the Architect, provide a corrected Submittal without change in the Contract Sum or Contract Time.

§ 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 or acceptance of a resubmission shall not apply to such revisions.

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

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

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

§ 3.12.11 Any mechanical systems shown in the Drawings are diagrammatic. (Other Drawings may also be diagrammatic.) The Contractor shall provide dimensioned Shop Drawings and details for all plumbing piping, ductwork, heating system piping, underground hot water piping, hot water boilers, and accessories to indicate complete systems. Shop Drawings shall be to 1/4" = 1'-0" minimum scale in all mechanical rooms, boiler rooms, as well as where accuracy or location is necessary for coordination or installation purposes. Ductwork Shop Drawings shall include a separate drawing to not less than 1/4" = 1'-0" scale showing all duct penetrations through structure (floors, roof, and walls) dimensioned, and all equipment locations, weights and pad details for all HVAC equipment. Critical dimensions of all equipment pad and pipe or duct penetrations through the structure shall be included.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. There shall be no use of existing on-site facilities (parking, toilets, etc.) without the Owner's prior approval. Portions of the site may be occupied and in use during construction. The Contractor is responsible to coordinate its Work with any such occupation or use at no increase to the Contract Sum or Contract Time and at no disruption to the occupancy or use.

§ 3.14 Cutting and Patching

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

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

§ 3.14.3 Existing structures and facilities, including but not limited to buildings, landscaping, utilities, topography, streets, curbs, and walks, that are damaged or removed due to excavations or other construction Work of the Contractor, shall be patched, repaired, or replaced by the Contractor to the satisfaction of the Architect, the owner of such structures and facilities, and governmental authorities having jurisdiction. In the event the governmental authority requires that the repairing and patching be done with its own labor and/or materials, the Contractor shall abide by such regulations and it shall pay for such Work at no change in the Contract Sum or Contract Time.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. The Contractor shall furnish portable containers on site for use by all trades. At the Owner's request and, in any event, at the completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor for any clean-up costs. The Contractor shall only use waste receptacles provided by the Contractor and shall appropriately dispose of any waste material off site.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

that the required design, process, or product is an infringement of a copyright or patent, then the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law and subject to the conditions of this Section 3.18, the Contractor shall defend, indemnify, and hold harmless the Owner, its directors, officers, employees, consultants, project manager, students, and volunteers, the Architect, the 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, employees, and the successors and assigns of any of them ("Indemnified Parties") from and against all claims, damages, losses, and expenses, direct and indirect, or consequential, including but not limited to costs, design professional and consultant fees, and attorneys' fees incurred on such claims and in proving the right to indemnification, 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 of any tier, their agents, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable ("Indemnitor"), 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.

§ 3.18.1.1 The Contractor shall fully defend, indemnify, and hold harmless the Indemnified Parties for the sole negligence of the Indemnitor.

§ 3.18.1.2 If such claims are caused by or are resulting from the sole negligence of the Indemnified Parties or their agents or employees, then the Contractor shall have no duty to defend, indemnify, and hold harmless the Indemnified Parties.

§ 3.18.1.3 If such claims are caused by or are resulting from the concurrent negligence of (1) the Indemnified Parties or the Indemnified Parties' agents or employees, and (2) the Contractor or the Contractor's agents or employees, then the Contractor shall be obligated to defend, indemnify, and hold harmless the Indemnified Parties only to the extent of the Indemnitor's negligence.

§ 3.18.1.4 The Contractor agrees to being added by the Owner or the Architect as a party to any arbitration or litigation with third parties in which the Owner or Architect alleges indemnification or contribution from the Contractor, any of its Subcontractors of any tier, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. The Contractor agrees that all of its Subcontractors of any tier shall, in their subcontracts, similarly stipulate; in the event any does not, the Contractor shall be liable in place of such Subcontractor(s) of any tier.

§ 3.18.1.5 To the extent any portion of this Section 3.18 is stricken by a court of competent jurisdiction for any reason, all remaining provisions shall retain their vitality and effect.

§ 3.18.1.6 The obligations of the Contractor under this Section 3.18 shall not be construed to negate, abridge, or otherwise reduce any other right or obligations of indemnity which would otherwise exist as to any party or person described in this Section 3.18. To the extent the wording of this Section 3.18 would reduce or eliminate an available insurance coverage of the Contractor or the Owner, this Section 3.18 shall be considered modified to the extent that such insurance coverage is not affected.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor of any tier, 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 of any tier under workers' compensation acts, disability benefit acts, or other employee benefit acts. After mutual negotiation of the parties, the Contractor waives immunity as to the Owner, the Architect, and their respective consultants only under Title 51 RCW ("Industrial Insurance). IF THE CONTRACTOR DOES NOT AGREE WITH THIS WAIVER, IT MUST PROVIDE A WRITTEN NOTICE TO THE OWNER PRIOR TO THE DATE FOR THE RECEIPT OF BIDS, OR THE CONTRACTOR WILL BE DEEMED TO HAVE NEGOTIATED AND WAIVED THIS IMMUNITY.

§ 3.19 Contractor will immediately report to the Owner any failure by the Contractor, a Subcontractor of any tier, or any third party observed by the Contractor to comply with applicable laws, regulations, or ordinances while performing the Work or upon the Project, including, but not limited to, those related to environmental compliance, spills, unauthorized fill in waters of the State (including wetlands), water quality standards, noise, and air quality.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. The term “Architect” means the Architect or the Architect’s authorized representative and does not include any employees of the Owner.

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

§ 4.2 Administration of the Contract

§ 4.2.1 ~~The Architect~~ Owner’s project manager will administer the Contract. The Architect will assist in provide administration of administering the Contract as described in the Contract Documents and will be an Owner’s representative (but not the Owner’s agent) during construction until the date the Architect issues the final Certificate for Payment and from time to time during the one (1) year period for correction of Work. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract. Neither the Architect nor the Owner’s project manager is the agent of the Owner and neither is authorized to agree on behalf of the Owner to changes in the Contract Sum or Contract Time, nor to waive provisions of the Contract Documents, nor to direct the Contractor to take actions that change the Contract Sum or Contract Time, except that the Owner’s representative may issue Construction Change Directives in accordance with Section 7.3.

§ 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 and to keep the Owner reasonable informed about 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~~ Neither the Architect nor the Owner shall 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 because these are solely the Contractor’s rights and responsibilities under the Contract Documents. The presence of the Architect or the Owner at the site shall not in any manner be construed as assurance that the Work is being completed in compliance with the Contract Documents, nor as evidence that any requirement of the Contract Documents of any kind, including notice, has been met or waived. The Contractor shall reimburse the Owner for any amounts paid to the Architect for site visits made necessary by the fault of the Contractor or by defects and deficiencies in the Work.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. ~~The Architect will not~~ Neither the Architect nor the Owner shall be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not Neither the Architect nor the Owner shall 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. Neither the Architect nor the Owner shall be responsible for defining the extent of any subcontract or dealing with disputes between the Contractor and third parties.

§ 4.2.4 Communications

The Owner and Contractor shall endeavor to include the Architect in all communications that relate to or affect the Architect’s services or professional responsibilities. The Contractor shall simultaneously provide the Owner’s project manager with a copy of all written communications the Contractor makes to the Architect, including all notices, requests, transmittals, substitutions, RFIs, Claims, and potential changes in the Contract Sum or Contract Time, but not including Shop Drawings, Product Data, or Samples. Claims must be directed to the Owner. The

Owner shall endeavor to promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through ~~the Owner.~~ Owner's project manager. The Contract Documents may specify other communication protocols. Communications may be simultaneously copied to other recipients.

§ 4.2.5 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will ~~review and certify~~ make recommendations to and otherwise assist the Owner to determine the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 ~~The Architect has Both the Architect and the Owner have~~ Both the Architect and the Owner have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect or the Owner considers it necessary or advisable, the Architect or the Owner will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed, or completed. However, neither this authority of the Architect or the Owner 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 or the Owner or their representatives to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, accept, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, ~~and Samples,~~ and other submittals required by the Contract Documents, 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 with reasonable promptness in accordance with the submittal schedule ~~approved~~ accepted by the Architect or, in the absence of an ~~approved~~ accepted 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, weights or gauges, fabrication processes, coordination with the Work of other trades, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval or acceptance of a specific item shall not indicate approval of an assembly of which the item is a component. The Contractor shall clearly note, and the Architect shall not be required to search for, any deviations from the Contract Documents not clearly identified by the Contractor, nor shall the Architect be required to review partial submissions or those for which submission for correlated items have not been received. Regardless of how a submittal is marked, the Contractor should not presume that the Architect has reviewed a submittal in every aspect.

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

§ 4.2.9 The Architect will ~~conduct inspections~~ make observations, make recommendations, and otherwise assist the Owner to determine the date or dates of Substantial Completion and the date of ~~final completion~~ 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 upon compliance with the requirements of the Contract Documents and pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor ~~of any change in the~~ in writing of any changes to the duties, responsibilities, and limitations of authority of the Project representatives that are described in the Contract Documents. Without such written notification, the duties, responsibilities, and limitations of authority of the Project representatives are as described in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the ~~Contract Documents~~ Drawings and Specifications and any modifications thereto 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. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.11, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made for them.

§ 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 initial decisions, the Architect will endeavor to secure faithful performance of the Contract Documents by both Owner and Contractor, will not show partiality to either, and will not be liable to the Contractor 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 and agreeable to the Owner.

§ 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 or to supply materials or equipment. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site or to supply materials or equipment. 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.

§ 5.1.3 A Subcontractor of any tier is a Subcontractor or a Sub-subcontractor.

§ 5.1.4 The designation of terms in this Section is not meant to change or alter the definitions contained in Chapter 60.28 RCW ("Lien for Labor, Materials, Taxes on Public Works"); Chapter 39.12 RCW ("Prevailing Wages on Public Works"); or other statutory definitions of a subcontractor for the purposes of such statutes.

§ 5.1.5 A "responsible" Subcontractor is a person or entity who is qualified and can document training, experience, license, and special certification to perform Work, supply materials, or provide equipment required and specified by the Contract Documents.

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, ~~the Contractor, as soon as practicable after award of the Contract,~~ within ten (10) days after the Owner's issuance of the Conditional Notice to Proceed, the Contractor shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work (i.e., at least two (2) percent of the Contract Sum), including those who are to furnish materials or equipment fabricated to a special design. The Contractor shall organize this list of Subcontractors in the same sequence as the Index of Specification, and state the Work category followed by the name of the Subcontractor and/or fabricator (or "Contractor" where the portion of the Work is by the Contractor's own forces), including the address, telephone number, individual name of the project contact, and his or her email address. The list shall be accompanied by evidence of any qualifications required within the technical sections of the Project Manual and satisfactory to the Architect and Owner. The list shall be updated promptly as part of the payment process if additional Subcontractors of any tier are engaged. If the Agreement is executed, no progress payment will become due until this information is so furnished. No action or inaction of the Owner or Architect in response to receipt of the names of the proposed Subcontractors of any tier shall constitute approval of any Subcontractor of any tier or of its performance. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review.

“Reasonable objection” shall include, without limitation, lack of “responsibility” of the proposed Subcontractor, as defined in the Contract Documents or the Bidding Documents, or lack of qualification as required within the bidding documents or the technical sections of the Project Manual. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. If the Owner makes a reasonable objection, the Contractor shall replace the Subcontractor with no increase to the Contract Sum or Contract Time. Such a replacement shall not relieve the Contractor of its responsibility for the performance of the Work and compliance with all of the requirements of the Contract within the Contract Sum and Contract Time.

§ 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~~, a timely and reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, or a Subcontractor as not “responsible,” the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was qualified, “responsible,” and 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~~, qualified names as required. In addition, no increase in the Contract Sum or Contract Time shall be allowed for such change if: (1) the Owner reasonably concludes that a proposed Subcontractor of any tier has materially failed to perform satisfactorily (such as causing a material delay) on one or more projects for the Owner within three years of the bidding date or is otherwise not “responsible” as defined in the Contract Documents, the Bidding Documents, RCW 39.26.160(2), or Chapter 39.04 RCW; (2) the proposed Subcontractor is not qualified as required within the technical sections of the Project Manual; or (3) the proposed Subcontractor is different from the entity listed with the Bid. The proposing of a replacement Subcontractor shall not relieve the Contractor of its responsibility for the performance of the Work or compliance with all of the requirements of the Contract within the Contract Sum and Contract Time. The Contractor’s listing or use of any Subcontractor that is not “responsible” shall be sufficient cause for the Owner to declare that the Contractor is not a responsible bidder, unless the Contractor agrees to substitute a responsible Subcontractor at no change to the Contract Sum or Contract Time.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution. If the Owner reasonably concludes that any portion of the Work subcontracted by the Contractor is not being performed in accordance with the Contract Documents, the Contractor shall, upon request of the Owner, remove the Subcontractor performing such Work. This removal shall not relieve the Contractor of its responsibility for the performance of the Work or complying with all of the requirements of the Contract within the Contract Sum and Contract Time, nor shall the Owner be obligated to request any such removal.

§ 5.2.5 The Contractor shall perform with its own organization and under its immediate supervision a portion of the Work, not including general conditions, amounting to not less than the percentage (if any) of the total original Contract Sum specified in the Contract Documents or in the Bidding Documents.

§ 5.2.6 The Contractor shall verify responsibility criteria for each first-tier Subcontractor. A Subcontractor of any tier that engages other Subcontractors must verify responsibility criteria for each of its lower-tier Subcontractors. Verification shall include that each Subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in the Instructions to Bidders or Specifications.

§ 5.2.7 The Contractor shall schedule, supervise, and coordinate the operations of all Subcontractors of any tier. No subcontracting of any of the Work shall relieve the Contractor from its responsibility for the performance of the Work in accordance with the Contract Documents or from its responsibility for the performance of any other of its obligations under the Contract Documents. The Contractor is responsible for the timely, accurate, and appropriate Subcontractor coordination of the Work of lower tier Subcontractors in accordance with the overall Work, including communication, meetings, drawings, illustrations, and other necessary associated activities required for the successful coordination of all trades, schedules, materials, and workmanship.

§ 5.2.8 The Contractor agrees to diligently, and using its best efforts, cause each Subcontractor of any tier to correct, at that Subcontractor’s own expense, all Work performed by the Subcontractor of any tier that is defective in

material or workmanship or otherwise fails to conform to the Contract Documents, including all necessary removal, replacement, and/or repair of any other portion of the Project which may be damaged in removing, replacing, or repairing any portion of the Project. If any Subcontractor of any tier defaults in its obligation promptly to correct any such deficiency, the Contractor shall be responsible for correcting the deficiency.

§ 5.2.9 The Contractor shall provide, and shall cause its Subcontractors of any tier to provide, all required notices and comply with all applicable health and safety laws, rules, regulations, codes, and lawful orders of public authorities and of quasi-governmental authorities relating to the Work, including, without limitation, all Occupational Safety and Health Act of 1970 (OSHA) and Washington Industrial Safety and Health Act (WISHA) requirements.

§ 5.3 Subcontractual Relations

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

§ 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 or 14.4 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, but only for events and payment obligations that arise after the date of the assignment.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than ~~30~~ sixty (60) days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

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

§ 5.5 LIENS

§ 5.5.1 The Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials, or other items in connection with the performance of the Work (including, but not limited to, any Subcontractors of any tier) to the extent that the Owner has paid the Contractor for such. The Contractor shall furnish to the Owner such releases of liens and Claims and other documents monthly with its payment application to evidence such payment (and discharge). The Owner may, at its option, withhold payment, in whole or in part, to the Contractor until such documents are furnished. The Contractor may provide other security acceptable to the Owner, such as a bond, in lieu of paying disputed liens or Claims.

§ 5.5.2 The Contractor shall defend, indemnify, and hold harmless the Owner from any liens, including all expenses and Architect and attorneys' fees, except to the extent a lien has been filed because of the failure of the Owner to make a contractually required payment.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

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

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

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

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

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents. If the Contractor receives items from a separate contractor or from the Owner for storage, erection, or installation, the Contractor shall acknowledge receipt for items delivered, and thereafter will be held responsible for the care, storage, and any necessary replacement of items received.

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

§ 6.2.3 The Contractor shall reimburse and indemnify 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.~~ If the Contractor claims that delay or additional cost is involved because of Owner's performance of work or the Owner's use of Separate Contractors, the Contractor shall make such Claim as provided in Article 15, except that the Contractor shall have no Claim for such construction or operations to the extent disclosed in the Bidding Documents or Contract Documents or known to the Contractor prior to execution of this Contract. The Contractor is also responsible to coordinate its Work with any other entities performing work on or adjacent to the site, such as work in the right of way and work by utility companies, and the Contractor shall incorporate such work into its construction schedule.

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

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

§ 6.2.6 Should the Contractor or any of its Subcontractors of any tier cause damage of any kind, including but not limited to delay, to any Separate Contractor or its Subcontractors on the Project, the Contractor shall, upon due notice, promptly attempt to settle with such Separate Contractor or its Subcontractor by agreement or otherwise to resolve the dispute.

§ 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 plus a ten percent (10%) markup on such costs.

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, solely 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 or Owner alone.

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

§ 7.1.4 Before effectuating a change in the Work or in the Contract Documents, the Owner may, through a Change Order proposal or similar document, request the Contractor to propose the amount of change in the Contract Sum, if any, and the extent of change in the Contract Time, if any, arising from the proposed change in the Work. The Contractor shall submit its responsive proposal as soon as possible, and in any event within ten (10) days. Contractor shall in good faith specify the components and amounts by which the Contract Sum and/or Contract Time would change. Labor, materials, and equipment shall be limited to and itemized in the manner described in Section 7.5 for the Contractor and Subcontractors of any tier. If the Contractor fails to respond within this time, the Owner may withhold some or all of a progress payment otherwise due until the tardy proposal is received. If the Owner explicitly accepts the proposal in writing, the Owner and the Contractor will be immediately bound to the terms of the proposal, the change will be included promptly in a future Change Order, and the change in the Work described in the proposal shall commence expeditiously. The Owner may reject the proposal, in which case the Owner may either not effectuate the change in the Work or may order the change through a Construction Change Directive, supplemental instruction, or an order for a minor change in the Work. The Owner and Architect may confer directly with Subcontractors of any tier concerning any item proposed to the Owner under this Article.

§ 7.1.5 If the Contractor adds a reservation of rights that has not been initialed by the Owner to any Change Order, Construction Change Directive, Change Order proposal, Application for Payment, or any other document, all amounts and all Work therein shall be considered disputed and not due or payable unless and until costs are renegotiated or the reservation is withdrawn or changed in a manner satisfactory to and, in all cases, initialed by the Owner. If the Owner makes payment for a Change Order or an Application for Payment that contains a reservation of rights not initialed by the Owner to indicate agreement with the reservation, and if the Contractor negotiates the check for such payment, then the reservation of rights shall be deemed waived, withdrawn, and of no effect.

§ 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 Contract Documents, including any 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. The Owner's use of a Construction Change Directive does not constitute agreement that the directive constitutes a change in the Work, the Contract Sum, or the Contract Time. The Owner or Architect may also issue a Field Authorization, or the Owner, Architect, and Contractor may agree to a Construction Change Authorization, to effectuate changes in the Work. For any change in the Work, whether initiated by a Construction Change Directive, Field Authorization, Construction Change Authorization, or a Change Order proposal, the Contractor must submit its proposed price and any proposed extension of the Contract Time to the Owner within ten (10) days of the date of the Construction Change Directive, Field Authorization, Construction Change Authorization, or a Change Order proposal. If the Contractor fails to submit a proposed price and time within this time period, the Owner may establish what it believes to be the fair price of the changed work, and any additional Contract Time, and this price and time submitted by the Owner shall be final and binding upon the parties, as if they had signed a Change Order in this amount, without recourse to submitting any claims or litigation. Payment for any Changes to the Work shall not exceed the labor and equipment indicated on the daily work logs.

§ 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 or as mutually agreed in writing by the Owner and Contractor:

- .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 (accompanied by the Contractor's itemized estimate of probable cost) and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, ~~the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, or if the cost is to be determined under Section 7.3.3.3, the Contractor shall provide a not-to-exceed price for the Construction Change Directive Work within fourteen (14) days of receipt of the Construction Change Directive, and the Contractor shall keep and present, itemized in the categories of Section 7.5 and in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:~~

- ~~.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;~~
- ~~.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;~~
- ~~.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;~~
- ~~.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and~~
- ~~.5 Costs of supervision and field office personnel directly attributable to the change.~~

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor ~~may~~ must make a Claim in accordance with applicable provisions of Article 15 or such claim will be waived.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and as soon as possible, and within seven (7) days of receipt, the Contractor shall advise the Architect and Owner in writing of the Contractor's agreement or disagreement with the proposed adjustment or method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time. The Contractor's response shall reasonably specify the reasons for its disagreement and the adjustment or other terms that it proposes. Without such timely written response, the Contractor shall conclusively be deemed to have accepted the Owner's adjustment. The Contractor's disagreement shall not relieve the Contractor of its obligation to comply promptly with any written notice issued by the Owner or the Architect. The adjustment shall then be determined by the Architect in accordance with the provisions of the Contract Documents. The ultimate adjustment shall not exceed the larger amount submitted.

§ 7.3.6.1 In order to facilitate checking of such quotations, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by complete itemization of costs, including labor, equipment, material, and subcontract costs. Labor, equipment, and materials shall be itemized in the manner described in Section 7.5. When major cost items arise from Subcontractors of any tier, these items shall also be similarly itemized. Approval may not be given without such itemization. Failure to provide data within twenty-one (21) days of the Owner's or Architect's request shall constitute waiver of any Claim for changes in the Contract Time or Contract Sum. The total cost of any change, including a Claim under Article 15, shall be limited to the reasonable value, as determined by the Owner (subject to appeal through the dispute resolution procedure of Article 15), of the items in Section 7.5. Unless otherwise agreed in writing by the Owner, the cost shall not exceed the lower of the prevailing cost for the Work in the locality of the Project or the cost of the Work in the current edition of R.S. Means Company, Inc., Building Construction Cost Data as adjusted to local costs and conditions. The Architect and the Owner may communicate directly with Subcontractors of any tier concerning costs of any Work included in a Construction Change Directive. If the Contractor disagrees with the method or the adjustment in the Contract Time, the adjustment or method shall be referred to the Architect for determination, and any adjustment shall be limited to the change in the actual critical path of the Contractor's Construction Schedule directly caused thereby.

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

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be the largest of (1) the reasonable and prevailing value of the deletion or change, (2) the line item value in the Schedule of Values, or (3) the actual net cost as confirmed by the Architect-Owner. 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. and provided that any reservations of rights regarding the Construction Change Directive have been initialed by the Owner, amounts not in dispute for such changes in the Work may be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs.~~

§ 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~~ shall be recorded in 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 or the Owner may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's or Owner's order for minor changes shall be in writing. The Contractor shall carry out such written orders promptly. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Owner and Architect and shall not proceed to implement the

change in the Work unless directed otherwise in writing by the Owner. If the Contractor continues to believe that such order, or the response to a Request for Information, causes an increase in the Contract Sum or Time, the Contractor must properly submit a notice and Claim pursuant to Article 15. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect and Owner that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 7.5 PRICING COMPONENTS

§ 7.5 The total cost of any Change in the Work or of any other increase or decrease in the Contract Sum, including a Claim, shall be limited to the following components:

§ 7.5.1 Direct Labor Costs: These are the labor costs determined by the number of additional craft hours and the hourly costs necessary to perform the change in the Work. The hourly cost shall be based upon the following:

- .1** Basic wages and fringe benefits: The hourly wage (without markup or labor burden) and fringe benefits paid as established by the Washington Department of Labor and Industries or contributed to labor trust funds as itemized fringe benefits, whichever is applicable, not to exceed that specified in the applicable "Intent to Pay Prevailing Wage" for the laborers, apprentices, journeymen, and foremen performing and/or directly supervising the Change in the Work on the site. The premium portion of overtime wages is not included unless preapproved in writing by the Owner. Costs paid or incurred for vacations, per diem, subsistence, housing, travel, bonuses, stock options, or discretionary payments to employees are not separately reimbursable. The Contractor shall provide copies of certified payrolls for itself and Subcontractors of any tier upon the Owner's request.
- .2** Workers' insurances: Direct contributions to the State of Washington as industrial insurance; medical aid; and supplemental pension by class and rates established by the Washington Department of Labor and Industries.
- .3** Federal insurances: Direct contributions required by the Federal Insurance Compensation Act (FICA); Federal Unemployment Tax Act (FUTA); and State Unemployment Compensation Act (SUCA).

Upon the Owner's request, the Contractor shall substantiate all claimed wage rates and shall provide a breakdown of the various components of the labor costs in a form provided or approved by the Owner.

§ 7.5.2 Direct Material Costs: This is an itemization, including material invoice, of the quantity and cost of additional materials reasonable and necessary to perform the change in the Work. The unit cost shall be based upon the net cost after all discounts or rebates, freight costs, express charges, or special delivery costs, when applicable. No lump sum costs will be allowed except when approved in advance by the Architect and the Owner. If the Contractor is offered discounts and/or rebates based upon prompt payment, the Contractor shall offer the Owner the opportunity to take advantage of such discount and/or rebate, and if the Owner makes such a prompt payment then the Owner shall only be charged the price as reduced by the discount and/or rebate. If the Owner declines the opportunity the Contractor may keep any such discounts and/or rebates it achieves through its own prompt payment. If the Contractor does not provide the Owner the opportunity to participate, the Contractor may only charge the net costs after consideration of discounts and rebates.

§ 7.5.3 Construction Equipment Usage Costs: This is an itemization of the actual length of time that construction equipment appropriate for the Work will be used solely on the change in the Work at the site, multiplied by the applicable rental cost as established by the lower of the local prevailing rate published in the "Rental Rate Blue Book" by EquipmentWatch, Atlanta, Georgia (copies of which shall be provided to the Owner), as modified by the AGC/WSDOT agreement or the actual, reasonable rate paid to unrelated third parties as evidenced by rental receipts. Rates and quantities of equipment rented that exceed the local fair market rental costs shall be subject to the Owner's prior approval. Total rental charges for equipment or tools shall not exceed seventy-five percent (75%) of the fair market purchase value of the equipment or the tool. Actual, reasonable mobilization costs are permitted if the equipment is brought to the Site solely for the change in the Work. If more than one rate is applicable, the best available rate shall be utilized. The rates in effect at the time of the performance of the changed Work are the maximum rates allowable for equipment of modern design and in good working condition and include full compensation for furnishing all fuel, oil, lubrication, repairs, maintenance, and insurance to the same extent as the comparable Blue Book or fair market rate. Equipment not of modern design and/or not in good working condition shall have lower rates. Hourly, weekly, and/or monthly rates, as appropriate, shall be applied to yield the lowest total cost. When rental rates payable do not include fuel, lubrication, maintenance, and servicing, as defined as operating

costs in the Blue Book, such operating costs shall be reimbursed based on actual costs. The rate for equipment necessarily standing by for future use on the changed Work shall be no more than fifty percent (50%) of the rate established above. If equipment is required for which a rental rate is not established by Blue Book, an agreed rental rate shall be established for that equipment, which rate and use must be approved by the Owner prior to performing the Work.

§ 7.5.4 Cost of Change in Insurance or Bond Premium: This is defined as:

- .1 Contractors' liability insurance: The actual cost (expressed as a percentage submitted with the certificate of insurance provided under Section 11.3.1.1, and subject to audit) of any changes in the Contractor's liability insurance arising directly from the changed Work; and
- .2 Public works bond: The actual cost (expressed as a percentage submitted with evidence of bondability under Section 11.6, and subject to audit) of the change in the Contractor's premium for the Contractor's statutorily required performance and payment bond arising directly from the changed Work, and any such premiums for the Changed Work on Subcontractor bonds that have been contractually required by the Owner. The Contractor is not entitled to any increased premium on any retainage bond or any Subcontractor bond not contractually required by the Owner, as such bonds are optional.

Upon request, the Contractor shall provide the Owner with supporting documentation from its insurer or surety of any associated cost incurred.

§ 7.5.5 Subcontractor Costs: These are payments the Contractor makes to Subcontractors for changed Work performed by such Subcontractors. The Subcontractors' cost of changed Work shall be determined in the same manner as prescribed in this Section 7.5.

§ 7.5.6 Fee: This is the allowance for all combined overhead, profit, and other costs, including all office, home office, and site overhead (including facilities, purchasing, clerical, project manager, project engineer, other engineers, project foreman, estimator, superintendent, and their vehicles and assistants), taxes (except for sales tax), employee per diem, subsistence and travel costs, warranty, safety costs, printing and copying, quality control/assurance, purchasing, small or hand tool (a tool that costs \$500 or less and is normally furnished by the performing contractor) or expendable charges, preparation of as-built drawings, impact on unchanged Work, Change Order and Claim preparation, and delay and impact costs of any kind (cumulative, ripple, or otherwise). No such costs may be added to the total cost to the Owner of any Change Order, Construction Change Directive, Claim or any other claim of any kind on this Project. No Fee shall be due, however, for direct settlements after Substantial Completion by the Owner of Subcontractor claims. The Fee shall be limited in all cases to the following schedule:

- .1 The Contractor shall receive ten percent (10%) of the cost of any materials supplied or Work properly performed by the Contractor's own forces.
- .2 The Contractor shall receive six percent (6%) of the amount owed (less fee) directly to a first-tier Subcontractor or first-tier supplier for materials supplied or for Work properly performed by that Subcontractor or supplier.
- .3 Each Subcontractor of any tier shall receive ten percent (10%) of the cost of any materials properly supplied or Work performed by its own forces.
- .4 Each Subcontractor of any tier shall receive six percent (6%) of the amount (less fee) it properly incurs for materials supplied or Work properly performed by its suppliers or Subcontractors of the next lower tier.
- .5 The Contractor and its Subcontractors of any tier shall receive five percent (5%) of any amounts owed to any remote, sub-tier Subcontractors which are within the lines of contractual responsibility but not in privity of contract with such Contractor or Subcontractors, for Work performed by that remote, sub-tier Subcontractor.
- .6 The cost to which this Fee is to be applied shall be determined in accordance with Section 7.5.
- .7 The total summed Fee of the Contractor and all Subcontractors of any tier shall not exceed twenty-six (26%) of any amounts owed to any remote, lower-tier Subcontractors that are within the lines of contractual responsibility but not in privity of contract with such Contractor or Subcontractor(s), for Work performed by that remote, lower-tier Subcontractor. If the Fee would otherwise exceed twenty-six percent (26%), the Contractor shall proportionately reduce the Fee percentage for the Contractor and all Subcontractors except for the Subcontractor supplying material or performing Work with its own forces. None of the fee percentages authorized in this Section 7.5.6 may be compounded with any other fee percentage or percentages authorized in this Section.

If a change in the Work involves both additive and deductive items, the appropriate Fee allowed will be added to the net difference of the items. If the net difference is negative, no Fee will be added to the negative figure as a further deduction. If the changed Work is performed by a wholly owned subsidiary or by a company with common ownership interests (i.e., at least 50 percent similar ownership) of the Contractor or any Subcontractor, then only the entity performing the changed Work may receive a Fee per the above schedule and the higher-tier company shall not be entitled to any Fee. The parties acknowledge that the fees listed in this Section 7.5.6 are substantially greater than the fees and overhead normally included in determining the Contract Sum bid; that these higher percentages are a sufficient amount to compensate the Contractor for all effects and impacts of Changes in the Work; and that the resultant overcompensation of the Contractor for some Changes compensates the Contractor for any Changes for which the Contractor believes the percentage is otherwise insufficient.

§ 7.5.7 The cost of any changed Work or of any other increase or decrease in the Contract Sum, including a Claim, shall not include, among other things, consultant costs, attorneys' fees, or Claim preparation expenses. Such matters are not recoverable from the Owner.

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 by the Owner in its Conditional Notice to Proceed, which may not be issued until the Contractor has complied with the terms of the notice of award of the Contract. Work on the Project site may begin when the Contractor complies with the requirements of the Conditional Notice to Proceed. Within ten (10) days of issuance of the Conditional Notice to Proceed, the Contractor shall submit the executed contract, evidence of bondability, certificates of insurance, and all other documents required by the Contract Documents.

§ 8.1.3 The date of Substantial Completion (or a designated portion thereof) is the date set by the Owner and certified by the Architect in accordance with Section 9.8.

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

§ 8.2 Progress and Completion

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

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces, and shall achieve Substantial Completion within the Contract Time, and achieve Final Completion within sixty (60) days thereafter (or such other period of time for specific phases as is specified in the Contract Documents).

§ 8.2.4 THE TIMELY COMPLETION OF THIS PROJECT IS ESSENTIAL TO THE OWNER. The Owner will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time; however, it would be difficult, if not impossible, to determine the amount of such damages, which could include, for example, personnel and overtime costs, transportation costs, governmental fees, storage costs, portable rental costs, loss of use, and lost opportunities. Consequently, provisions for liquidated damages as a reasonable estimate of loss may be included in the Contract Documents. The Owner's right to liquidated damages is not affected by partial completion, occupancy, or beneficial occupancy. The Contractor shall furnish sufficient forces, construction plant, and equipment, and shall work such hours, including night shifts, overtime operations, and weekend and holiday work, as may be necessary to ensure the completion of the Work in accordance with the date of Substantial Completion and the accepted Contractor's Construction Schedule. If the Contractor fails to perform in a timely manner in accordance with the Contract Documents and, through the fault of the Contractor or Subcontractor(s) of any tier fails to meet the Contractor's Construction Schedule, the Contractor shall take such steps as may be necessary to immediately improve its progress by increasing the number of workers, shifts, overtime

operations, or days of work (to the extent allowable under local hours of work ordinances) or other means and methods, all without additional cost to the Owner.

§ 8.2.5 If the Work is to be performed in phases, with separate dates set forth for Substantial Completion elsewhere in the Contract Documents, then the specified liquidated damages shall apply separately to each such phase unless otherwise specified.

§ 8.2.6 Any provisions in the Contract for liquidated damages are intended to be in lieu of the liability of the Contractor for special, incidental, and consequential damages (such as cost of capital and loss of profits, use, and revenue) sustained by the Owner but shall not relieve or release the Contractor from liability for any and all damage or damages suffered by the Owner due to other breaches of the Contract or suffered by separate contractors.

§ 8.2.7 It is the Contractor's option, but not its right, to attempt to complete the Project earlier than the dates specified in the Contract Documents. Therefore, any Claim based upon delay shall be evaluated based upon the dates specified in the Contract Documents, not an earlier projected completion that the Contractor may propose.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work only to the extent reflected in approved Change Orders providing for specific extensions of the Contract Time; (3) by unexpected industry-wide labor disputes, fire, seismic event, unusual delay in deliveries, governmental delays (including unanticipated permit delays not caused by the Contractor) (delays caused by a local jurisdiction's scheduled days off shall not be considered an excusable delay), unavoidable casualties, unanticipated, abnormal, and adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect Owner determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, by Change Order for such reasonable time, limited to the change in the actual critical path of the Contractor's Construction Schedule directly caused thereby, as the Owner may determine consistent with the provisions of the Contract Documents. In no event, however, shall the Contractor be entitled to any extension of time absent proof of (1) delay to an activity on the critical path of the Contract Schedule, so as to actually delay the Project completion beyond the date of Substantial Completion, or (2) delay transforming an activity into the critical path of the Contract Schedule, so as to actually delay the Project completion beyond the date of Substantial Completion. For purposes of this Section 8.3.1, labor or material shortages, delays in deliveries, governmental delays, and similar events due to the ongoing COVID-19 global pandemic will be deemed to have been anticipated by Contractor and will not result in an extension of time unless agreed by the Owner in advance in writing in its sole discretion.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15 and shall include any proposed changes in the Contractor's Construction Schedule or the Contract Time, a description of any event that could delay performance or supplying of any item of the Work, the expected duration of the delay, the anticipated effect of the delay on the Contractor's Construction Schedule, and the action being taken to correct the delay situation. That the Owner or the Architect may be aware of the occurrence or existence of a delay through means other than the Contractor's written notification shall not constitute a waiver of a timely or written notice or Claim. The Contractor has an obligation to minimize and mitigate schedule impacts.

§ 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.

- .1** If the delay was not caused by the Owner, the Contractor, a Subcontractor of any tier, or the Architect, or anyone acting on behalf of any of them, the Contractor is not entitled to an increase in the Contract Sum but may be entitled to an increase in the Contract Time. If the delay was caused by the Contractor, a Subcontractor of any tier, or anyone acting on behalf of any of them, the Contractor is not entitled to an increase in the Contract Time or in the Contract Sum. The Contractor shall be entitled to a change in the Contract Sum only if the delay was caused by the Owner or the Architect, or anyone acting on behalf of them. The Contractor shall not recover damages, an equitable adjustment, or an increase in the Contract Sum or Contract Time from the Owner where the Contractor could have reasonably avoided the delay by the exercise of due diligence. The Contractor shall be able to recover an increase in the Contract Sum, provided it is consistent with the terms of the Contract Documents, only if the delay directly impacts the critical path, could not have reasonably

been avoided, was unreasonable, and was caused by the Owner or anyone acting on its behalf as permitted under the Contract Documents. The Owner is not obligated, directly or indirectly, for damages, an equitable adjustment, or an increase in the Contract Sum for any delay suffered by a Subcontractor of any tier that does not increase the Contract Time.

- .2 In the event the Contractor (including any Subcontractors of any tier) is held to be entitled to damages from the Owner for delay beyond the payment permitted in Section 7.5.6, it is agreed that the total combined damages to the Contractor and any Subcontractors of any tier for each day of delay shall not exceed the daily liquidated damage rate specified in the Contract Documents due the Owner for the Contractor's delay in achieving Substantial Completion. By submitting its bid on the Work and executing the Agreement, the Contractor represents that it would be difficult, if not impossible, to determine the amount of any delay damages due it, that it has taken this provision for liquidated damages into consideration in its bid, and that these liquidated damages are a reasonable estimate of its loss. No damages shall be allowed for any time prior to seven (7) days before receipt of written notice of the Claim of the delay pursuant to Article 15.
- .3 The Contractor shall not in any event be entitled to damages arising out of actual or alleged loss of efficiency; morale, fatigue, attitude, or labor rhythm; constructive acceleration; home office overhead; expectant underrun; trade stacking; reassignment of workers; rescheduling of work; schedule compression; concurrent operations; dilution of supervision; learning curve; beneficial or joint occupancy; logistics; ripple; season change; extended or expanded overhead or general conditions; profit upon damages for delay; impact damages; cumulative impacts; or similar damages. Any effect that such alleged costs may have upon the Contractor or its Subcontractors of any tier is fully compensated through the percentage Fee on Change Orders paid through Section 7.5.6.
- .4 The Contractor shall not be entitled to any adjustment in the Contract Time or the Contract Sum, or to any additional payment of any sort, by reason of the loss or the use of any float time, including time not on the critical path or time between the Contractor's anticipated completion date and the end of the Contract Time, whether or not the float time is described as such on the Contractor's Construction Schedule.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed (i.e., more than fifty (50) percent) so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices, but not the Contract Time or any other portion of the Contract Sum, shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect at least fourteen (14) days before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Owner or Architect. At a minimum, the Work shall be itemized by Specification section or system; separate values for labor, materials, and equipment shall be provided; and line items on the schedule of values shall be tied to the Contractor's schedule. Quantities shall be provided for each section or system of the Work. The Contractor shall itemize and prepare the schedule of values for approval by the Owner with respect to form, content, and level of detail. This schedule, unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Owner and Architect and supported by such data to substantiate its accuracy as the Owner or Architect may require, and unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

- .1 Mobilization costs shall be a maximum of one-half of one percent (0.5%) of the Contract Sum, and shall be paid only if supported by an itemized breakdown of costs acceptable to the Owner.
- .2 Payment applicable to the expenses of Contractor's bond and/or any contractually required builder's risk insurance will be made only upon receipt of paid invoices from surety and/or insurance carrier.

- .3 No payment will be made for shop drawings or submittals until on-site receipt of materials, except for structural steel, fire sprinkler, automatic temperature control, and fire alarm shop drawings that have been reviewed and accepted by the Architect.
- .4 The schedule of values shall allocate at least one percent (1%) of the Contract Sum to Commissioning, as defined in the Contract Documents.
- .5 The schedule of values shall also allocate at least two percent (2%) of the initial Contract Sum as a separate line item for that portion of the Work between Substantial Completion and Final Completion to be entitled "Final Documentation and Punch list Completion," which shall include, without limitation, punch list completion and furnishing all deliverables, which will be earned and distributed as follows: half shall be allocated for the completion of the punch list work; one-quarter shall be allocated for completion of approved operations and maintenance data as defined in the Contract Documents; and one-quarter shall be allocated for completion of approved record documents, warranties and bonds, delivery of extra stock, and all other documentation or items of the Work required for Final Completion and final payment. This percentage is not the statutory retainage described in Section 9.3.4 or any other retainage, but rather requires the Contractor to recognize that the Contractor and its Subcontractors will expend significant costs in advancing the Work from Substantial Completion to Final Completion, and that this amount is not earned until Final Completion of the Work is accomplished. At its sole discretion, the Owner may release portions of these amounts progressively as items are completed.
- .6 The Contractor shall itemize separately line-item costs for permits, bonds, insurance, layout and supervision, scheduling, and temporary facilities.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Progress payments will be made monthly for Work duly certified, approved, and performed during the calendar month preceding the application. These amounts are paid in trust to the Contractor for distribution to Subcontractors to the extent and in accordance with the approved Application for Payment. The Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, shall meet the requirements of this Article 9, 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. **Draft Application:** At the last scheduled weekly on-site Project status meeting of each month, the Contractor shall submit to the Owner the reports required by the Contract Documents and a draft, itemized application for payment for Work performed during that calendar month on a form supplied or approved by the Owner. This shall not constitute a payment request. The Contractor, the Owner, and the Architect shall confer prior to the last working day of the month regarding the current progress of the Work and the amount of payment to which the Contractor is entitled. The Architect or Owner may request the Contractor to provide data substantiating the Contractor's right to payment as the Architect or the Owner may require, such as copies of invoices from Subcontractors of any tier, lien releases, and approved payrolls, and reflecting retainage as provided elsewhere in the Contract Documents. The Contractor shall not be entitled to make a payment request, nor is any payment due the Contractor, until such data is furnished.

§ 9.3.1.2 Payment Request: After the Contractor, the Owner, and the Architect have met and conferred regarding the updated draft Applications for Payment, and the Contractor has furnished all progress information required and all data requested by the Owner or the Architect, the Contractor may submit a payment request by the last working day of the month following the meeting in the agreed-upon amount, in the form of a notarized, itemized Application for Payment for Work properly performed during that calendar month on a form supplied or approved by the Owner, along with a lien release on a form furnished by the Owner from each Subcontractor for whose Work the Owner paid the Contractor for the prior month. The Applications shall also state that prevailing wages have been paid in accordance with the pre-filed statements of intent to pay prevailing wages on file with the Owner and that all payments due Subcontractors of any tier from the Owner's payment the prior month have been made. The submission of this Application constitutes a certification that the Work is current on the Contractor's Construction Schedule, unless otherwise noted on the application. If required by the Owner, the Contractor shall submit proof of payment to Subcontractors for prior months, such as lien releases or cancelled checks. Applications for Payment

shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay. A payment request shall not be valid unless it complies with the requirements of the Contract Documents.

§ 9.3.1.3 Disputed Amounts: If the Contractor believes it is entitled to payment for Work performed in addition to the agreed-upon amount, the Contractor may, also by the last working day of that month and after the meeting described in Section 9.3.1.1, submit to the Owner and the Architect along with the approved Application for Payment a separate written payment request specifying the exact additional amount due, the category in the schedule of values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due. Furthermore, for the submittal to be considered, pursuant to WAC 296-127-320, the Contractor and all Subcontractors shall file with the Owner by the same date certified copies of all payroll records relating to the additional amount sought.

§ 9.3.1.4 Validity of Payment Requests: A payment request shall not be valid unless it complies with the requirements of the Contract Documents. If a separate payment request concerning a disputed amount does not comply with the requirements of the Contract Documents, the Owner will provide a written statement to the Contractor stating why the disputed amount is not owed and/or why the separate payment request does not comply with the requirements of the Contract Documents.

§ 9.3.1.5 Payments to Subcontractors: No payment request shall include amounts the Contractor does not intend to pay to a Subcontractor because of a dispute or other reason. If, after making a request for payment but before paying a Subcontractor for its performance covered by the payment request, the Contractor discovers that part or all of the payment otherwise due to the Subcontractor is subject to withholding from the Subcontractor under the subcontract (such as for unsatisfactory performance or non-payment of Sub-subcontractors), the Contractor may withhold the amount as allowed under the subcontract, but it shall give the Subcontractor, the Owner, and the Architect written notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the Subcontractor payment, and pay the Subcontractor within eight (8) working days after the Subcontractor satisfactorily completes the remedial action identified in the notice.

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

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

§ 9.3.4 Retainage

§ 9.3.4.1 Notwithstanding any other provision of this Contract, and in accordance with chapters 39.08 and 60.28 RCW, the Owner will retain from the monies earned by the Contractor hereunder five (5) percent as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor, or materialman who will perform any labor or furnish any supplies related to the Project and the State with respect to taxes imposed pursuant to titles 50, 51, and 82 RCW which may be due from Contractor. Said retainage will be reserved in an Owner fund until sixty (60) days following Final Acceptance of the Project as completed and will not be released to Contractor until the Owner has received certification from the Washington State Department of Revenue that all taxes, increases, and penalties due from Contractor, and all taxes due and to become due with respect to the Project, have been paid in full or are readily collectible without recourse to the State's lien on the retainage, and until the requirements of the Contract Documents have been satisfied. Chapters 39.08 and 60.28 RCW, concerning the rights and responsibilities of Contractor and Owner with regard to the performance and payment bonds and retainage, are made a part of the

Contract Documents by reference as though fully set forth herein. A sum equal to five percent (5%) of each approved Application for Payment shall be retained.

§ 9.3.4.2 After award of the Contract or Work for which retained percentages are required to be reserved under the provision of Chapter 60.28 RCW, the Owner shall require the Contractor to exercise, in writing, one of the options listed below:

- 1 Retained percentages will be retained in a fund by the Owner not subject to release until sixty (60) days following the Final Acceptance of the Work as completed and as provided in Section 9.10.6; or
- 2 Deposited by the Owner in an interest-bearing account in a bank, mutual savings bank, or savings and loan association and not subject to release until sixty (60) days following Final Acceptance of the Work as completed and as provided in Section 9.10.6; or
- 3 Placed in escrow with a bank or trust company and not subject to release until sixty (60) days following the Final Acceptance of the Work as completed and as provided in Section 9.10.6.

§ 9.3.4.3 If the Contractor provides a bond in place of retainage, it shall be in an amount equal to five percent (5%) of the Contract Sum plus change orders. The minimum requirements for the bond are that it must be on a form acceptable to the Owner, with an A.M. Best rating of "A-" or better and a financial rating of no less than "VII," and signed by a surety registered by the Washington State Insurance Commissioner and on the currently authorized insurance list published by the Washington State Insurance Commissioner.

§ 9.3.4.4 The Contractor or a Subcontractor may withhold payment of not more than five percent (5%) as retainage from the monies earned by any Subcontractor or Sub-subcontractor, per Chapter 60.28 RCW, provided that the Contractor pays interest to the Subcontractor at the same interest rate it receives from its reserved funds. If requested by the Owner, the Contractor shall specify the amount of retainage and interest due a Subcontractor.

§ 9.4 Certificates for Payment

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

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Owner may, with or without the Architect's concurrence, withhold payment, and the Architect may also withhold a Certificate for Payment or, because of subsequent observations or subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to

such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third-party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials, or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- or
- .7 repeated unsatisfactory prosecution of the Work by the Contractor, including, but not limited to, failure to carry out the Work in accordance with the Contract Documents;
- .8 delay by the Contractor and/or its Subcontractor(s) of any tier, or failure to comply with the Contractor's Construction Schedule requirements;
- .9 failure to submit affidavits pertaining to wages paid as required by statute;
- .10 failure to submit a properly updated Construction Schedule;
- .11 failure to comply with a requirement of the Contract Documents in which the Owner has reserved the right to withhold payment;
- .12 liquidated damages;
- .13 failure to properly maintain and submit as-builts;
- .14 failure to properly submit daily construction records;
- .15 failure to properly submit certified payrolls; or
- .16 failure to properly submit any other documents required of the Contractor under the Contract Documents.

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

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

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

§ 9.5.5 Without limiting Contractor's obligations under Section 3.4.5, pursuant to Chapter 39.12 RCW ("Prevailing Wages on Public Works"), the Contractor shall not receive any payment until the Contractor and all Subcontractors of any tier for whom payment is sought have submitted state-approved "Statements of Intent to Pay Prevailing Wage" to the Owner. The statement must have the approval of the Industrial Statistician of the Department of Labor and Industries before it is submitted to the Owner. The statement must include the Contractor's registration number, the number of workers in each trade classification, and the applicable wage rate for each trade listed. The Contractor agrees to provide each Subcontractor of any tier with a schedule of applicable prevailing wage rates. The Contractor and the respective Subcontractors of any tier shall pay all fees required by the Department of Labor and Industries, including fees for the approval of the "Statement of Intent to Pay Prevailing Wages." Approved copies of the "Statement of Intent to Pay Prevailing Wages" must be posted where workers can easily read them.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, and said Certificate for Payment has been approved by the Owner, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. The Owner will make a progress payment within thirty (30) days of its receipt and approval of the Architect's Certificate for Payment; any payments made by or through the Office of the Superintendent of Public Instruction (OSPI) shall be made in accordance with the policies, procedures, and forms required by OSPI. The Owner shall be entitled to withhold payment to the extent provided by the Contract Documents, notwithstanding the issuance of a Certificate for Payment.

§ 9.6.2 The Contractor shall pay each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, 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. If the Contractor does not receive payment for any cause that is not the fault of a particular Subcontractor but does receive payment for materials supplied or Work performed by that Subcontractor, the Contractor shall pay that Subcontractor in accordance with its subcontract for its satisfactorily completed Work, less the retained percentage.

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

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

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

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

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

§ 9.7 Failure of Payment

If the Architect ~~does not~~ improperly fails to issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's timely, complete, and approved 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, due and owing to the Contractor~~, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. This right to stop Work does not apply in the case of the failure to issue a Certificate of Payment for amounts in dispute. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up as provided for in Section 7.5 of these General Conditions, 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 designated and approved by the Owner is sufficiently complete in accordance with the Contract Documents so that the Owner can fully occupy or utilize the Work or the designated portion thereof for its intended use, including furniture, fixtures, and equipment and student, teacher, and staff occupancy (if applicable). The fact that the Owner

may occupy the Work or a designated portion thereof does not indicate that the Work is acceptable in whole or in part. All Work other than incidental corrective or punch list Work and final cleaning shall be completed, including but not limited to the following:

- .1 Obtain applicable occupancy permits, including any fire/life safety systems and health department approval, pressure vessel permits, elevator permits, and similar approvals or certificates by governing authorities and franchised services, assuring the Owner's full access and use of completed Work.
- .2 Submit the Contractor's punch list of items to be completed or corrected and written request for inspection.
- .3 Complete final start-up, testing, and commence instruction and training sessions on all major building systems including HVAC and controls, intercom, data communications, fire alarm, telephone, fire sprinkler, security, clocks, plumbing, septic system, and establish a Date of Commissioning.
- .4 Make final changeover of locks and transmit new keys to the Owner, and advise the Owner of the changeover in security provisions.
- .5 Discontinue or change over and remove unnecessary temporary facilities and services from the Project site.
- .6 Advise the Owner on coordination of shifting insurance coverages, including proof of extended coverages as required.
- .7 Complete final cleaning.

The Work is not Substantially Complete unless the Architect reasonably judges that the Work can achieve Final Completion within thirty (30) days (or such other period of time as is specified in the Contract Documents), appropriate cleaning has occurred, all designated systems and parts are commissioned and usable, including balancing of the HVAC system, utilities are connected and operating normally and training sessions have occurred, all required temporary-occupancy permits, pressure vessel permits, elevator permits, and similar approvals or certificates by governing authorities and franchised services, assuring the Owner's full access to the Work have been issued, O&M manuals have been submitted for review, and the Work is accessible by normal vehicular and pedestrian traffic routes. The fact that the Owner may occupy the Work or a designated portion thereof does not indicate that the Work is Substantially Complete or is acceptable in whole or in part, nor does such occupation toll or change any liquidated damages due the Owner.

§ 9.8.1.1 Date of Commissioning of Selected Equipment and Systems. The equipment and systems designated in the Contract Documents as requiring commissioning are considered "Selected Equipment and Systems." When the Contractor considers that all Selected Equipment and Systems are complete, fully functional, ready for normal operation and functional performance testing, and all pre-commissioning checklists are completed, the Contractor shall so notify the Architect in writing a minimum of forty (40) days prior to the Date of Substantial Completion (or such other date as may be established in the Contract Documents). A reasonable period shall be allowed for the Architect and commissioning agent, if applicable, to schedule and observe the functional performance tests identified in the Contract Documents. If the inspection discloses that the Selected Equipment and Systems are not Substantially Complete or that any item is not in accordance with the requirements of the Contract Documents, the Contractor shall expeditiously, and before the Date of Commissioning, complete or correct such item upon notification by the Architect or commissioning agent. The Contractor shall then submit a request for another inspection to determine completion of those Selected Equipment and Systems and pay the costs associated with the re-inspection, including fees of the Architect, commissioning agent, and their consultants. When all the Selected Equipment and Systems are complete, the Owner's commissioning agent will notify the Owner in writing, which shall establish the Date of Commissioning. Training of Owner personnel shall begin immediately after the Date of Commissioning and shall be conducted by appropriate Subcontractor personnel on site who are knowledgeable with the construction and operation of each system prior to departure of the installing entity from the site. Warranties on any Selected Equipment and Systems required by the Contract Documents shall commence on the Date of Substantial Completion, unless otherwise provided, but the Contractor shall retain the responsibility to maintain the system until Final Completion. The Contractor will achieve the Date of Commissioning at least thirty (30) days prior to the Date of Substantial Completion fixed by the Contract Documents.

§ 9.8.1.2 Indemnification. The Contractor shall defend, indemnify, and hold harmless the Owner and the Architect and their agents, employees, and consultants, successors, and assigns from and against all claims, damages, losses, and expenses of third parties, direct and indirect, or consequential, including costs, design professional fees, and attorneys' fees incurred by the Owner related to such claims and in proving the right to indemnification, arising out

of or resulting from the failure of the Contractor to attain the Date of Commissioning at least thirty (30) days prior to the Date of Substantial Completion fixed by the Contract Documents.

§ 9.8.1.3 Beginning ninety (90) days before the scheduled date of Substantial Completion, the Contractor shall prepare reports weekly, identifying items to be completed in order to obtain required certificates of occupancy and make recommendations to the Owner with respect to effectuating the earliest possible completion. The Contractor shall include this report as a schedule item on its CPM schedule.

§ 9.8.1.4 The Contractor acknowledges that a 30-day period after the Date of Commissioning and prior to occupancy is specified during which all HVAC, mechanical, electrical, control, and environmental management systems are fully operational under procedures and loads intended to provide unoccupied space with positive performance for pre-occupancy environmental documentation, and the systems are scheduled to operate under a procedure intended to dissipate out-gassing that may occur from interior and other materials.

§ 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 Owner and the Architect a comprehensive list of items to be completed or corrected prior to final payment. The Contractor shall proceed promptly to complete and correct items on the list. The Contractor shall immediately clean-up any dust or debris created through punch list Work activities. 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, and upon verification by the Architect that all permits, approvals, testing, training, and other submittals and administrative actions required under the Contract Documents for obtaining Substantial Completion have been satisfied, the Architect and, at its option, the Owner 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. If the Owner or Architect determines that the Work or designated portion is not substantially complete, the Contractor shall expeditiously complete the Work or designated portion, and again request an inspection. The Contractor shall pay the costs associated with this third inspection and any further inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that upon approval shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion, except that warranties for Select Equipment and Systems shall commence with acceptance of the Commissioning Report by the Owner's Board of Directors. The Contractor shall attach and submit with the executed Certificate of Substantial Completion the Certificate of Occupancy, as well as a written list of each outstanding and unresolved Claim. Any Claim not so submitted and identified, other than retainage and the undisputed balance of the Contract Sum, shall be deemed waived and abandoned. If the Owner or Architect determines that the Work or designated portion is not Substantially Complete, the Contractor shall expeditiously complete the Work or designated portion, again request an inspection, and pay the costs associated with the re-inspection, including Architect and consultant fees.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, Any items not included by the Architect but required or necessary for Final Completion of the Contract shall be supplied and installed by the Contractor as a part of the Contract Sum, notwithstanding their not being recorded by the Architect. Upon such written acceptance of the Certificate of Substantial Completion by the Owner and the Contractor, and upon the Contractor's Application for Payment, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof, as provided in the Contract Documents. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents. No further payment will be due or owing until the payment following Final Completion.

§ 9.8.6 The Contractor shall prepare, continue to monitor with the Architect, and cause to be completed, all punch lists with respect to the activity of each Subcontractor and report weekly to the Owner on all outstanding uncompleted items.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may, upon written notice to the Contractor, take possession of, operate, occupy, or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. stage. 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. complete. Unless otherwise agreed in writing, such possession, use, or operation shall not be deemed an acceptance of any portion of the Work, nor accelerate the time for any payment to the Contractor under the Contract, nor prejudice any rights of the Owner under the Contract or under any insurance, bond, guaranty, or other requirement of the Contract, nor relieve the Contractor of the risk of loss or any of its obligations under the Contract, nor establish a Date of Substantial or Final Completion, nor establish a date for termination or partial termination of the running of liquidated damages, nor constitute a waiver of any Owner claims. If the Contractor fails to achieve Substantial Completion of the Work or designated portion thereof within the Contract Time, or fails to achieve Final Completion of the Work within sixty (60) days of Substantial Completion (or such other period of time as is specified in the Contract Documents), the Owner may take possession of, use, or operate all or any part of the Work without an increase in the Contract Sum or the Contract Time on account of such possession or use. 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 The Contractor shall cause punch list items to be completed within sixty (60) days of Substantial Completion of each phase (or such other period of time as is specified in the Contract Documents) or within such reasonable period as may be required to correct the item (in the event that the punch list items are, because of their nature, incapable of correction during that period), provided that the Contractor commences to correct the item within that period and thereafter diligently and in good faith pursues the corrective action to completion. If, at forty-five (45) days after the Date of Substantial Completion, the Owner considers that the punch list items are unlikely to be completed within the next fifteen (15) days of the Date of Substantial Completion of each phase (or such other period of time as is specified in the Contract Documents), the Owner may, upon seven (7) days' written notice to the Contractor, take over and perform some or all of the punch list items. If the Contractor fails to make reasonable progress towards the correction of the deficiencies within this seven (7) day period, the Owner may deduct the actual cost of performing this punch list Work, including any design costs, plus fifteen percent (15%) to account for the Owner's transaction costs, from the Contract Sum. Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, acceptance, the Architect will promptly make such inspection. When the Architect finds inspection accompanied by the Contractor (if requested by the Architect or Owner). If the Architect or Owner determines that some or all of the punch list items are not accomplished, the Contractor shall be responsible to the Owner for all costs, including re-inspection fees, for any subsequent Architect's inspection to determine compliance with the punch list. When the Architect finds all punch list items complete and the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment notify the Owner and the Contractor in writing stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire

~~balance found to be due the Contractor and noted in the final Certificate is due and payable.~~ The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.1.1 The Contractor is liable for, and the Owner may deduct from any amounts due the Contractor, all Architect, engineer, or other design consultant fees and all Commissioning Agent and project manager fees incurred by the Owner for services performed more than sixty (60) days after Substantial Completion of all the Work (or such other period of time as is specified in the Contract Documents), whether or not those services would have been performed prior to that date had Final Completion been achieved in a timely manner.

§ 9.10.1.2 When the Architect finds that the Work has been concluded, a final occupancy permit has been issued, any commissioning process and validation process have been successfully concluded, the Commissioning Report has been accepted by the Owner's Board of Directors, and the Contractor has submitted all the items identified in Section 9.10.1.3 to the Architect, the Contractor may submit a final Application for Payment. The Architect will then promptly issue a final Certificate for Payment stating that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Architect's final Certificate for Payment shall establish the date of Final Completion upon its execution by the Owner.

§ 9.10.1.3 "Final Completion" will be attained when the Contractor has accomplished the following:

- .1 Completed all requirements listed in Section 9.8 for Substantial Completion.
- .2 Completed all remaining punch list items and remaining Work, and obtain approval by Architect and Owner that all Work is complete.
- .3 Obtained permanent occupancy permits (if only a temporary occupancy permit was issued at Substantial Completion).
- .4 Submitted final Change Order, if any, and final Application for Payment.
- .5 Submitted Project record documents and as-built drawings and specifications, any final property survey, and paper and electronic operation and maintenance manuals required by the Contract Documents.
- .6 Delivered tools, spare parts, extra stock of material, and similar physical items to the Owner as required by the Contract Documents.
- .7 Completed final cleaning after punch list Work (in addition to the final cleaning that was required to obtain Substantial Completion).
- .8 Completed instruction and training sessions on all major building systems including HVAC, intercom, data communications, fire alarm, telephone, fire sprinkler, emergency power, plumbing, septic system, security, and clocks.
- .9 Submitted executed warranties, as well as guarantees and bonds.
- .10 Discontinued or changed over and removed temporary facilities and services from the Project site.
- .11 Advised the Owner on coordination of shifting insurance coverages, including proof of extended coverages as required.
- .12 Acceptance of the final Commissioning Report by the Owner.
- .13 All copies of Instruments of Service, except the Contractor's record set, have been returned to the Owner or are suitably accounted for by the Owner.
- .14 Submitted keys and keying schedule.
- .15 Submitted spare parts and maintenance materials, to the extent required by the Contract Documents.

§ 9.10.2 ~~Neither final payment nor any remaining-retained percentage shall become due until the Contractor submits to after the Owner's Board of Directors has formally accepted the Project ("Final Acceptance"). To achieve Final Acceptance, the Architect must have issued a final Certificate for Payment under Section 9.10.1.2, an occupancy permit must have been issued, Final Completion must have occurred, and the Contractor must have submitted to the Owner and 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, except for any claims that are specifically identified on the affidavit ("Affidavit of Payment of Debts and Claims," AIA Form G706 or equivalent), (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any and all special warranties, such as manufacturers' warranties or specific Subcontractor~~

warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of or protection against obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, by the Owner (“Contractor’s Affidavit of Release of Liens,” AIA Form G707 or equivalent), (7) pursuant to RCW 39.12.040, “Affidavit of Wages Paid” has been received from the Contractor and from each Subcontractor of any tier certified by the Industrial Statistician of the Washington State Department of Labor and Industries, with the fees paid by the Contractor or Subcontractor, (8) a letter from the Architect indicating that the Work is complete and recommending Final Acceptance of the Project by the Owner, (9) certification that the materials in the Work are “lead-free” and “asbestos-free,” (10) a certified statement that the Contractor has closed all necessary permits or otherwise met the requirements of all governing jurisdictions related to the Project, including but not limited to all city or county departments, health districts, and utility districts, and provided to Owner with a copy of all closed or signed off permits, (11) record documents, (12) all guarantees, training, manuals, operation instructions, certificates, spare parts, maintenance manuals and stock, specified excess material, as-built drawings, and other documents, training, or items required by the Contract Documents or local governmental entities, and (13) all submittals and information sufficient for the Owner to submit apprenticeship utilization data as required by Chapter 39.04 RCW. Pursuant to Chapter 60.28 RCW (“Lien for Labor, Materials, Taxes on Public Works”) completion of the Contract Work shall occur upon Final Acceptance. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys’ fees.

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

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

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

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

§ 9.10.6 Release of Retainage: The retainage will be held and applied by the Owner as a trust fund in a manner required by Chapter 60.28 RCW. Release of the retainage will be processed in ordinary course of business upon the expiration of sixty (60) days following Final Acceptance of the Work by the Owner, provided that no notice of lien shall have been given as provided in Chapter 60.28 RCW, that no claims have been brought to the attention of the Owner, and that the Owner has no claims under this Contract; and provided further that, for state-funded projects, release of retention has been duly authorized by the State of Washington. The following items must also be obtained prior to release of retainage: pursuant to Chapter 60.28 RCW, a certificate from the Department of Revenue; pursuant to Chapter 50.24 RCW, a certificate from the Department of Employment Security; and appropriate information from the Department of Labor and Industries.

§ 9.10.7 The execution of a Change Order shall constitute a waiver of Claims by the Contractor arising out of the Work to be performed or deleted pursuant to the Change Order, except as specifically described in the Change Order. Reservations of rights will be deemed waived and are void unless the reserved rights are specifically described in detail to the satisfaction of the Owner and are initialed by the Owner.

§ 9.10.8 If a Subcontractor of any tier refuses to furnish a release or waiver required by the Owner, the Owner may (1) retain in the fund, account, or escrow funds in such amount as to defray the cost of foreclosing the liens of such claims and to pay attorneys' fees, the total of which shall be no less than one-hundred-fifty percent (150%) of the claimed amount, or (2) accept a bond from the Contractor, satisfactory to the Owner, to indemnify the Owner against such lien. If any such lien remains unsatisfied after all payments from the retainage are made, the Contractor shall refund to the Owner all moneys that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.9 The Contractor and all Subcontractors of any tier shall maintain books, ledgers, records, documents, estimates, bids, correspondence, logs, schedules, emails, facsimiles, and other tangible and electronic data and other evidence relating or pertaining to the costs and/or performance of the Contract ("records") to such extent and in such detail as will properly reflect and fully support compliance with the requirements of the Contract Documents and with all costs, charges, and other amounts of whatever nature. The Contractor shall preserve such records for a period of three (3) years following the date of Final Acceptance under the Contract and for such longer period as may be required by any other provision of the Contract. Within seven (7) days of the Owner's request, the Contractor agrees to make available at the office of the Contractor during normal business hours all records for inspection, audit, and reproduction (including electronic reproduction) by the Owner or its representatives. These requirements shall also be applicable to each Subcontractor of any tier and included in each Subcontract and purchase order issued with respect to the Work, except fixed-price Subcontracts where the price is \$25,000 or less. Failure to fully comply with any requirements of this Section shall constitute a material breach of contract and shall constitute a waiver of all claims by the Contractor and any Subcontractor that does not fully comply.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall have the right to control and shall be solely and completely responsible for conditions of the Work site, including safety of all persons and property, during performance of the Work. The Contractor shall maintain the Work site and perform the Work in a manner that meets statutory and common-law requirements for the provision of a safe place to work. This requirement shall apply continuously and not be limited to working hours. Any review by the Owner, Owner's project manager, Owner's Representative, or the Architect of the Contractor's performance shall not be construed to include a review of the adequacy of the Contractor's safety measures in, on, or near the site of the Work. No action or inaction of the Architect, Owner's project manager, Owner's Representative, or Owner relating to safety, property protection, any element of the Contractor's Safety Manual or related performance, or violation thereof shall in any way:

- .1 relieve the Contractor of sole and complete responsibility for the violation and the correction thereof, or of sole liability for the consequences of said violation;
- .2 impose any obligation upon the Owner, Owner's project manager, or Architect to inspect or review the Contractor's safety program or precautions or to enforce the Contractor's compliance with the requirements of this Article 10;
- .3 impose any continuing obligation upon the Owner, Owner's project manager, or Architect to ensure the Contractor performs the Work safely or to provide such notice to the Contractor or any other person or entity;
- .4 affect the Contractor's sole and complete responsibility for performing the Work safely or the Contractor's responsibility for the safety and welfare of its employees and the employees of Subcontractors of any tier; or
- .5 affect the Contractor's responsibility for the protection of property, students, staff and the general public.

§ 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 or involved in the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

- 3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss. The Contractor shall comply with all notices and requests from the Owner regarding the safety and protection of the Owner’s students and staff. The Contractor shall comply with the safety regulations set forth in “Safety Standards for Construction,” “General Safety and Health Standards,” and any other requirements published by the Washington State Department of Labor and Industries. The Contractor shall comply with the Federal Occupational Safety and Health Act of 1970 (OSHA), including all revisions, amendments, and regulations issued thereunder, and the provisions of the Washington Industrial Safety and Health Act of 1973 (WISHA), including all revisions, amendments, and regulations issued thereunder by the Washington State Department of Labor and Industries. The WISHA regulations shall apply to all excavation, trenching, and ditching operations. In case of conflict between any such requirements, the more stringent applicable regulation or requirement shall apply.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall maintain at the work site office or other well-known place at the work site all materials (e.g., a first aid kit) necessary for giving first aid to the injured, and shall establish, publish, and make known to all employees procedures for ensuring immediate removal to a hospital or a doctor’s care, persons, including employees, who may have been injured on the site. Employees shall not be permitted to work on the site before the Contractor has established and made known procedures for removal of injured persons to a hospital or a doctor’s care. The Contractor and/or any Subcontractors shall ensure that at least one of such employees has a valid, effective first aid card.

§ 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 and explicitly permitted by the Contract Documents, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor’s obligations under Section 3.18.

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

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.2.9 At all times until the Owner’s occupancy of the Work or a designated portion of the Work, the Contractor shall protect from damage, weather, deterioration, theft, vandalism, and malicious mischief and shall bear the risk of

any uninsured loss or destruction of, or injury or damage to, all materials, equipment, tools, and other items incorporated or to be incorporated in the Work or designated portion thereof, or consumed or used in the performance of the Work or designated portion thereof, and all Work in process and completed Work or designated portion thereof. The Contractor is solely responsible for any deductible amounts related to any insurance coverage.

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

§ 10.2.11 Without limiting the foregoing, the Contractor will prepare and carry out a COVID-19 safety plan for completion of the Work ("Safety Plan.") The Safety Plan will be consistent with the then-current orders and guidance of the U.S. Centers for Disease Control and Prevention, Washington State Department of Health, Cowlitz County public health officials, and other federal, state, and local government authorities with jurisdiction. The Safety Plan will provide for implementation of protective measures to mitigate the spread of SARS-CoV-2 among and between the workers of the Contractor, Subcontractors of any tier, the District's personnel, and members of the public who may be present at the Project site. At a minimum, the Safety Plan will require workers on the Project to practice adequate social distancing, use appropriate personal protective equipment, not report to work when sick or experiencing symptoms of COVID-19, and promptly report diagnosis with COVID-19 to the Contractor. No later than the first day that the Work commences at the Project site, the Contractor will post a copy of the Safety Plan at the site where other safety notices are made available to workers and will distribute a paper and/or electronic copy of the Safety Plan to the District, each worker, and each Subcontractor of any tier (including updated copies if any subsequent amendments are made). Until the date of Final Completion, the Contractor will periodically update the Safety Plan as orders and guidance of government authorities with jurisdiction change. Should the Contractor have reasonable cause to believe that any worker of the Contractor or a Subcontractor of any tier who has worked at the Project site has COVID-19, the Contractor will immediately (1) exclude that worker from the Project site and (2) inform the District.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a hazardous material or substance, as defined by the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq., including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. The Contractor shall proceed with the Work in areas not affected.

§ 10.3.2 Upon receipt of the Contractor's notice, and with the Owner's agreement, the Owner shall obtain the services of a licensed laboratory to reasonably 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~~ verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection, but the Owner shall not be responsible for any delay resulting from the Contractor's objection to such person or entity. 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~~ may be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's demonstrated and reasonable additional costs of shutdown, delay, and ~~start-up~~ start-up, which adjustments shall be made as provided in Articles 7, 8, and 15.

§ 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 or if the removal of such material or substance was a part of the Contractor's Work.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances. The Contractor shall store all hazardous materials safely, whether or not required by Contract Documents. The Contractor shall not install hazardous materials, including, without limitation, asbestos, lead, mercury, or polychlorinated biphenyl (PCB), on the Project site.

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

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

§ 10.4 Emergencies

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

§ 10.5 Public Safety and Convenience

§ 10.5.1 The Contractor shall conduct its Work so as to ensure the least possible obstruction to vehicular traffic and inconvenience to the general public and others in the vicinity of the Work and to ensure the protection of persons, property, and natural resources. No road or street shall be closed to the public except with the permission of the Owner and the proper governmental authority. Fire hydrants on or adjacent to the Work shall be accessible to firefighting equipment at all times. Temporary provisions shall be made by the Contractor to ensure the use of sidewalks, fire lanes, and private and public driveways and proper functioning of gutters, sewer inlets, drainage ditches and culverts, irrigation ditches, and natural water courses, if any, on the Work site.

§ 10.6 Weather Protection

Temporary weather protection of the Work is the responsibility of the Contractor as necessary to proceed in accordance with the Contractor's approved schedule and environmental conditions. Weather protection shall include, but not be limited to, protection of soils, subgrade preparation, exterior concrete, masonry, sealant, gypsum sheathing, roofing, and interior finishes. Delays and costs resulting from the Contractor's failure to protect the Work from damage due to weather are the sole responsibility of the Contractor.

§ 10.7 Treatment of Assets

§ 10.7.1 Title to all property furnished by the Owner will remain in the name of the Owner. The Owner will become the owner of any improvements completed by the Contractor as part of the Project in addition to any work product and other documents, if any, prepared by the Contractor pursuant to this Contract, unless otherwise provided herein.

§ 10.7.2 Any property of the Owner furnished to the Contractor will, unless otherwise provided herein or approved by the Owner, be used only for the performance of this Contract.

§ 10.7.3 The Contractor will be responsible for any loss or damage to property of the Owner that results from the negligence of the Contractor or from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

§ 10.7.4 If any Owner property is lost, destroyed, or damaged, the Contractor will immediately notify the Owner and will take all reasonable steps to protect the property from further damage, in addition to fulfilling the other applicable requirements of the Contract Documents.

§ 10.7.5 The Contractor will surrender to the Owner all property of the Owner upon completion, termination, or cancellation of this Contract.

§ 10.7.6 All reference to the Contractor under this Section 10.7 will also include Contractor's employees, agents, and Subcontractors.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

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

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

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

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

§ 11.2 Owner's Insurance

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

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

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§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 Prior to commencement of the Work, Contractor shall obtain all the insurance required by the Contract Documents and provide evidence satisfactory to Owner that such insurance has been procured. Review of the Contractor's insurance by Owner or the specification or approval of the insurance in this Contract or of its coverage or amount shall not relieve or decrease the liability of Contractor under the Contract Documents or otherwise. Contractor shall include in its bid the cost of all insurance and bond costs required to complete the base bid Work and accepted alternates.

§ 11.1.2 The Contractor shall purchase and maintain in full force and effect the following insurance coverage without interruption from the date of commencement of the Work through the date of Final Acceptance and termination of any coverage required to be maintained after final payment, including, but not limited to, during the performance of any corrective Work required by Section 9.10. Completed Operations coverage shall remain in force for three (3) years after Final Acceptance. All coverages shall be written on an occurrence basis, reasonably acceptable to the Owner, and written for at least the minimum limits specified in Section 11.1 or required by law, whichever coverage is greater.

§ 11.1.3 Commercial General Liability (CGL)

§ 11.1.3.1 Contractor shall procure an occurrence-based Commercial General Liability (CGL) insurance policy, written on an ISO-based occurrence form or its equivalent. Such insurance shall provide coverage for personal injury, bodily injury, and property damage liability arising from Contractor's operations in connection with the Work, whether such operations are by Contractor or Subcontractors and suppliers of any tier; owned, non-owned, and hired vehicles; work the Contractor may subcontract or sublet to others; and the indemnity provisions of this Contract. Without limiting the foregoing, such insurance shall protect the Contractor and additional insureds required by this Article 11 from claims set forth below that may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor or the additional insureds may be legally liable, whether such operations are by the Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1** Claims under workers' compensation (industrial insurance), disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed in the form of Stop Gap Liability Insurance (Employer's Contingent Liability Insurance);
- .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 bodily injury or property damage arising out of completed operations;
- .7** Claims involving contractual liability insurance applicable to Contractor's obligations under Section 3.18 ("Indemnification"); and
- .8** Claims for bodily injury and property damage resulting from mold and fungus.

§ 11.1.3.2 Without limiting the foregoing, this CGL insurance shall be on a comprehensive basis and include all major divisions of coverage, including, but not limited to:

- .1** Premises and Operations;
- .2** Products and Completed Operations;

- .3 Explosion, Collapse, and Underground (XCU);
- .4 Owners and Contractors Protective;
- .5 Personal and Advertising Injury, with employment exclusion deleted;
- .6 Blanket contractual, including specific provision for Contractor's obligation under the indemnity provisions of this Contract; and
- .7 Broad Form Property Damage.

§ 11.1.4 Automobile Liability: Such insurance shall provide coverage for all owned, non-owned, and hired automobiles. It shall cover 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 (including loss of use thereof arising out of operation of automobiles), including Comprehensive Automobile Liability, Bodily Injury, and Property Damage Combined Single Limit.

§ 11.1.5 Umbrella Policy: Contractor shall procure a true umbrella policy that provides excess limits over the primary layer.

§ 11.1.6 Employer's Liability: Contractor shall provide an employer's liability policy providing coverage for liability to employees for work-related bodily injury or disease, other than liability imposed by workers' compensation law.

§ 11.1.7 Workers' Compensation: Contractor shall provide, and require Subcontractors of any tier to provide, workers' compensation insurance as required by the industrial insurance laws of the State of Washington. In addition, Contractor shall procure Stop Gap Liability Insurance (Employer's Contingent Liability Insurance).

§ 11.1.8 The Contractor's insurance obtained under this Section 11.1 will:

- .1 Name the Owner, the Architect, the Owner's consultants, as well as their directors, officers, employees, and agents, as additional insureds under CG 2010 and CG 2037 or their equivalent.
- .2 Include a severability of interest (cross liability clause) in favor of the Owner for Work performed under this Contract.
- .3 Be designated and endorsed as primary coverage for both defense and indemnity, and any Owner's policies shall be excess and non-contributory.
- .4 Provide a waiver of any rights of subrogation against the Owner.
- .5 Have per-project general aggregate provisions in accordance with the limits set forth in Section 11.1, which provisions may be modified in the Special Conditions. The insurance shall be endorsed to have the general aggregate apply to this Project only.
- .6 Without limiting the foregoing, the insurance described above shall include coverage for underground collapse and explosion exposures.

§ 11.1.9 Any company writing the insurance to be obtained pursuant to this Section 11.1 shall be authorized to do business in the State of Washington. Insurance carriers providing insurance in accordance with the Contract Documents must be acceptable to Owner and shall possess an A.B. Best's policyholder's rating of "A" or better and a financial rating of no less than "VIII."

§ 11.1.10 Losses up to the deductible amount of any insurance under this part shall be the responsibility of the Contractor.

§ 11.1.11 The Contract Sum includes an amount to pay the premium for insurance required under the Contract Documents and to name the Owner, the Architect, and others listed in the Contract Documents as additional insureds on all insurance policies required by Article 11.

§ 11.1.12 There shall be no self-insured retention without the prior written approval of the Owner.

§ 11.1.13 If the Owner is damaged by the failure of the Contractor to maintain any of the insurance in this Article 11 or to so notify the Owner, Contractor shall bear all costs attributable thereto. The Owner may withhold payment pending receipt of all certificates of insurance. Failure to withhold payment shall not constitute a waiver.

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

§ 11.2 Coverage Limits: The minimum coverage limits for Contractor's liability insurance shall be as follows:

§ 11.2.1 Commercial General Liability (CGL):

- .1** At least \$2,000,000 General Aggregate Limit (Other than Products-Completed Operations).
- .2** At least \$1,000,000 Each Occurrence Limit.
- .3** At least \$1,000,000 Products-Completed Operations Aggregate Limit.
- .4** At least \$1,000,000 Personal Injury and Advertising Liability Limit Each Occurrence.

§ 11.2.2 Automobile Liability: At least \$1,000,000 Combined Single Limit for Automobile Bodily Injury and Property Damage Liability, Each Accident or Loss.

§ 11.2.3 Umbrella Policy: Excess limits over the primary layer in an amount not less than \$5,000,000.

§ 11.2.4 Employer's Liability: At least \$1,000,000 Each Occurrence Limit.

§ 11.2.5 Workers' Compensation: Contractor shall provide workers' compensation insurance in the amounts required by the industrial insurance laws of the State of Washington for any employees not subject to the Washington State workers' compensation statute. For such employees, Contractor shall provide, and cause each Subcontractor to provide, workers' compensation insurance with a private company in an amount equivalent to that provided by the workers' compensation statute, but no less than a \$1,000,000 limit of liability for the protection of its employees not otherwise protected. Stop Gap Liability Insurance (Employer's Contingent Liability Insurance) shall be at least \$1,000,000 Each Occurrence.

§ 11.3 Proof of Insurance

§ 11.3.1 Prior to commencement of the Work, any presence on the site, or exposure to loss can occur, and in any event within seven (7) days after the Owner has issued its Notice to Proceed, the Contractor shall furnish the Owner and Architect with the following:

- .1** Two (2) copies of Certificates of Insurance evidencing all insurance required by the Contract Documents;
- .2** A written statement of the actual costs (expressed as a percentage) of the Contractors' liability insurance under Article 11;
- .3** Endorsements for additional insureds as listed in Section 11.1.8;
- .4** Two (2) copies of Department of Labor & Industries statements for state workers' compensation coverage; and
- .5** A copy of any builder's risk policy required by Section 11.4.

§ 11.3.2 All insurance policies and certificates must be signed copies. Edition dates of endorsements on policies obtained under this Article 11 shall be consistent.

§ 11.3.3 All policies shall include the premium percentage to be paid by the Contractor for increases in the Contract Sum.

§ 11.3.4 Contractor shall furnish to the Owner copies of any subsequently issued endorsements amending, modifying, altering, or restricting coverage or limits.

§ 11.3.5 Policies or certificates obtained under this part shall verify that the policy contains coverage for blanket contractual liability, including both oral and written contracts, and acknowledge the indemnification provisions and liability coverages called for by this Contract.

§ 11.3.6 Upon written request, Contractor shall provide a copy of its policies obtained under this part to the Owner.

§ 11.3.7 All insurance certificates obtained pursuant to this part will:

- .1 Name Owner's Project number and Project title.
- .2 State the insurance carrier's A.B. Best rating.
- .3 Evidence full compliance with the requirements of Sections 11.1-11.3.
- .4 Specifically require written notice by certified mail must be provided to the Owner and Architect at least forty-five (45) days before the policies expire, are cancelled, or are reduced; the limits are decreased; or the additional insureds removed, except that thirty (30) days' notice shall be required for surplus line insurance.

§ 11.3.8 Notwithstanding anything herein to the contrary, the Contractor shall provide all bonding, insurance, and permit documentation as required by governmental entities for all portions of the Project.

§ 11.3.9 The Contractor shall ensure and require that Subcontractors of any tier have insurance coverage to cover bodily injury and property damage on all operations and all vehicles owned or operated by Subcontractors of all tiers in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general aggregate limit. Also, the Subcontractors shall name the Contractor and the Owner and 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.

§ 11.3.10 Owner may withhold payment pending receipt of all certificates of insurance meeting the requirements of Section 11.3.1. Failure to withhold payment shall not constitute a waiver of any provision of the Contract.

§ 11.4 Builder's Risk Insurance:

§ 11.4.1 Owner will 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 Contract Sum including all Change Orders for the Work and cost of materials supplied or installed by others composing the total value for the entire Project on a replacement-cost basis, excluding earthquake and flood coverage, without optional deductibles. Such property insurance will be maintained, unless otherwise provided in the Contract Documents or agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided herein or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.4 to be covered, whichever is later.

§ 11.4.1.1 This insurance will include interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project.

§ 11.4.1.2 Contractor will be responsible for all losses up to the policy deductible up to a maximum deductible amount of \$10,000.

§ 11.4.1.3 If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use will not cause this insurance to be canceled or lapse on account of such partial occupancy or use. Consent of the Contractor and of the insurance company or companies to such occupancy or use will not be unreasonably withheld.

§ 11.4.1.4 This property insurance will cover all portions of the Work stored off-site and portions of the Work in transit. All tools and equipment of the Contractor and Subcontractors of any tier not intended as part of the construction or installation of the Work will be the sole responsibility of the Contractor.

§ 11.4.2 If Contractor believes it has a loss that is covered by Builder's Risk Insurance and it is likely to exceed the policy deductible, Contractor will notify the Owner as soon as practicable, but no later than forty-eight (48) hours.

§ 11.5 Waiver of Subrogation: Owner and Contractor waive all subrogation rights against each other, any Subcontractors, separate contractors described in this Contract, if any, and any of their Subcontractors (i.e., Sub-subcontractors), for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to 11.4 or otherwise applicable to the Work, except such rights as they have to proceeds of such insurance held by Owner as fiduciary. The Owner does not waive the subrogation rights to the extent of its property insurance on structures or portions of structures that do not comprise the Work. The policies will provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation will be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.6 Payment and Performance Bonds

§ 11.6.1 In accordance with Chapter 39.08 RCW ("Contractor's Bond"), Contractor will furnish to the Owner bonds, with a surety company admitted and licensed in the State of Washington and acceptable to the Owner, conditioned that Contractor will: (1) faithfully perform all provisions of this Contract (the "Performance Bond"); and (2) pay all laborers, mechanics, Subcontractors, and materialmen, and all persons who supply such person, persons, or Subcontractors, with provisions and supplies for carrying out the Project, as well as pay the taxes, increases, and penalties incurred on the Project under state law (the "Payment Bond"). Each of these two bonds will be in the full amount of the Contract Sum, and said amounts will be increased in the event that the Contract Sum increases due to an approved Change Order. Such surety company will possess an A.M. Best rating of "A" or better and a financial rating of no less than "IX." The Payment Bond and the Performance Bond will each be made using the form AIA Document A312-2010, modified only to provide that "The bonds are payable to Longview School District No. 122, State of Washington, per RCW 39.08.030(1)," and that "The surety agrees to be bound by the laws of the State of Washington and subject to the jurisdiction of the state per RCW 39.08.010(5)."

§ 11.6.2 All reinsurers that may be called upon to support or share in a surety's obligations specified in connection with the Performance Bond and Payment Bond obligations required of the Contractor by this Contract must also have an A.M. Best rating of "A" or better and financial rating of not less than "IX."

§ 11.6.3 Within seven (7) days of the issuance of Owner's Notice of Intent to Award the Contract, the Contractor will deliver evidence of its bondability to the Owner. Within seven (7) days after its execution of the Contract, the Contractor will deliver copies of the bond to the Owner and the Architect.

§ 11.6.4 THE OWNER MAY DECLINE TO ENTER INTO THE CONTRACT IF THE REQUESTED EVIDENCE OF BONDABILITY IS NOT RECEIVED. THE CONTRACTOR WILL NOT PROCEED WITH THE WORK UNTIL SUCH SURETY BOND IS RECEIVED. Evidence of bondability shall include the percentage to be paid by the Contractor for increases in the Contract Sum.

§ 11.6.5 Upon request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor will promptly furnish a copy of the bond(s) or will authorize a copy to be furnished.

§ 11.6.6 Additional Bond Security: Contractor will promptly furnish additional security required to protect Owner and persons supplying labor or materials required by this Contract if: (1) Owner has a reasonable objection to the surety; or (2) Any surety fails to furnish reports on its financial condition if required by Owner.

§ 11.6.7 Potential Subcontractors' Payment and Performance Bonds. Within ten (10) days after the issuance of the Conditional Notice to Proceed, any Subcontractors so required in the Bidding or Contract Documents or Special Conditions shall deliver evidence of their payment and performance bondability to the Owner through the Contractor. The evidence shall include a letter from the bonding company that includes the price of a payment and performance bond to be issued during the 30-day period after the Conditional Notice to Proceed. The surety company must be acceptable to the Owner and admitted and licensed in the State of Washington, with an A.M. Best rating of "A" or better and a financial rating of no less than "VIII." The bond(s) shall be in an amount equal to the full contract sum of the subcontract between the Subcontractor and the Contractor but shall not include sales tax. The bonds shall be conditioned that the Subcontractor shall faithfully perform all the provisions of its subcontract, payment of all obligations arising thereunder, and for one year's maintenance for correction of defective work. If the Owner elects to require a payment and performance bond from one or more of the Subcontractors, it will so notify the Contractor in writing within fourteen (14) days of receipt of the evidence of bondability from the respective Subcontractor, in which case the Contract Sum shall be increased by a Change Order in the amount specified in the letter, unless otherwise agreed by the parties. The Owner shall not be responsible for the costs of any Subcontractor bonds it requires until the Owner receives a copy of the bond. THE OWNER MAY DECLINE TO ENTER INTO THE CONTRACT OR MAY REQUIRE A CHANGE OF SUBCONTRACTOR AT NO INCREASE IN THE CONTRACT SUM OR CONTRACT TIME IF THIS EVIDENCE OF BONDABILITY IS NOT RECEIVED. THE OWNER MAY WITHHOLD PAYMENT TO THE CONTRACTOR UNTIL SUCH SURETY BONDS ARE RECEIVED. 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 permit a copy to be made. The Subcontractors responsible to the Contractor for the work listed in the Instructions to Bidders must comply with the above Section to the extent directed by the Owner.

§ 11.6.8 If the Owner is damaged by the failure of Contractor to maintain any of the bonds or insurance in this Article 11 or elsewhere in the Contract Documents or to so notify the Owner, then the Contractor will bear all costs attributable thereto. The Owner may withhold payment pending receipt of all certificates of insurance and bonds. Failure to withhold payment will not constitute a waiver.

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

§ 11.3 Waivers of Subrogation

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

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

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

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

~~§ 11.5 Adjustment and Settlement of Insured Loss~~

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

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

~~§ 12.1.2~~ If a portion of the Work has been covered that the Architect, Owner, or governmental authority has not specifically requested to examine prior to its being covered, the Architect covered and for which neither the Contract Documents nor governmental laws or regulations required inspection, the Architect, Owner, or governmental authority may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one (1) year after the later of 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, the Contract Documents,~~ or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it according to the requirements of this Section 12.2.2 with no change in the Contract Sum promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. ~~The Owner shall give such notice promptly after discovery of the condition. During the one year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5. If the Contractor does not promptly and in accordance with the provisions of this Section 12.2.2 begin correcting the Work designated in the notice, the Owner may proceed to correct the Work, the Owner may without further notice dispose of materials and equipment as it sees fit, and the Contractor will be liable for all associated costs. This obligation shall survive acceptance of the Work under the Contract and termination of the Contract, is in addition to other warranties provided by contract or law, and does not establish a time limit for damages.~~

- .1 If, in the Owner's opinion, the nonconforming Work prevents the use of a portion of the facility, immediate response is required to prevent further damage or to restore security to prevent external entrance, and/or there is a safety hazard (e.g., break in the waterline, sprinkler system failure, failure of the heating system, inability to close or lock exterior door, etc.), the Contractor shall initiate corrective work on site the same day if the Contractor is notified prior to noon, or by noon the following day if notified after noon, and shall complete corrective action within forty-eight (48) hours.
- .2 If, in the Owner's opinion, the nonconforming Work has the potential of becoming a safety hazard, of affecting site security, or of limiting the use of the facility (e.g., potential loss of heat in a single classroom, failure of one or more plumbing fixtures, loose carpet seam in corridor, interior door lock not working, etc.), the Contractor shall initiate corrective work on site within two (2) working days and shall complete corrective action within five (5) working days.
- .3 If, in the Owner's opinion, the nonconforming Work does not have an impact on the use of the building, but must be fixed (e.g., interior door closer broken, window cracked, wall covering seam coming loose, etc.), the Contractor shall initiate corrective work on site within fourteen (14) days and shall complete corrective action within twenty-eight (28) days.

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

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

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

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

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

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable by the greater of the (1) cost of correction, or (2) diminution of value of the Work that is not in accordance with the requirements of the Contract Documents. 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~~ state of Washington, excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.~~ The venue for any litigation relating to or arising under this Contract shall be in Cowlitz County Superior Court.

§ 13.2 Successors and Assigns

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

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

§ 13.2.3 If a majority of the ownership or the control of Contractor is acquired by a third party, and such acquisition reasonably imperils performance or creates a conflict of interest that the Owner, in its sole discretion, cannot reasonably reconcile, then the Owner may terminate this Contract at any time pursuant to Section 14.2, except that the Owner shall give the Contractor thirty (30) days' written notice of termination and the opportunity for the Contractor to cure prior to termination.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. However, the Contractor's sole remedy for claims, disputes, and other matters in question by the Contractor, whether direct or indirect, arising out of or relating to the Contract Documents or breach thereof, except claims which have been waived under the terms of the Contract Documents, is the dispute resolution procedure of Article 15.

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made at an appropriate time and as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to or provided by 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 and Owner timely notice of when and where tests and inspections are to be made so that the Architect and Owner may be present for such procedures. The independent testing agency shall prepare the test reports, logs, and certificates applicable to the specific inspections and tests and promptly and simultaneously deliver the specified number of copies of them to the designated parties. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

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

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

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

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

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall provide the Owner and Architect at least forty-eight (48) hours' notice prior to all tests and inspections.

§ 13.4.7 If the Owner is responsible under the Contract Documents, law, or regulation to pay for an inspection of any inspector, consultant, or Architect, the Owner shall be required to pay only for the first actual inspection. If the Contractor arranges for an inspection and an extra cost is incurred because the inspector is required to wait, leave without inspecting, perform a partial inspection, return to complete or reinspect, or otherwise to expend time other than for the primary inspection, the Contractor shall be responsible for all such costs to the extent caused by the Contractor. If the Contractor does not pay the charges for which it is responsible within sixty (60) days of billing, the Owner has the option to pay the charges directly and deduct from the next progress payment for the amount paid plus a ten percent (10%) handling fee.

§ 13.4.8 No acceptance by the Owner of any Work shall be construed to result from any inspections, tests, or failures to inspect or test by the Owner, the Owner's representatives, the Architect, or any other person. No inspection, test, failure to inspect or test, or failure to discover any defect or nonconformity by the Owner, the Owner's representatives, the Architect, or any other person shall relieve the Contractor of its responsibility for meeting the requirements of the Contract Documents or impair the Owner's right to reject defective or nonconforming items or right to avail itself of any other remedy to which the Owner may be entitled, notwithstanding the Owner's knowledge of the defect or nonconformity, its substantiality, or the ease of its discovery. Entities performing inspections and/or testing do not have the authority to direct the Contractor's means and methods and are not agents or representatives of the Owner or Architect. Inspections that meet the requirements of code shall not override the requirements of the Contract Documents, which may be more stringent.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest ~~from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located as specified in the A101-2017 Agreement as revised.~~

§ 13.6 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the designated representative as identified in Sections 8.3-8.4 of the A101-2017, or to an officer of the corporation for which it was intended if the designated representative no longer works for that party; or if delivered at, or sent by facsimile, email, registered or certified mail, or courier service providing proof of delivery to, the last business address known to the party giving notice. The date of written notice shall be the earlier of the date of personal delivery, actual receipt by facsimile or email, or three (3) calendar days after the date of postmark.

§ 13.7 Statutes and Other Requirements

The Contractor shall abide by the provisions of all applicable Washington statutes and regulations and applicable provisions of the Cowlitz County Code and any applicable municipal code. Although a number of statutes are

referenced in the Contract Documents, these references are not meant to be a complete list and should not be relied upon as such.

§ 13.7.1 Contractor Registration and Related Requirements. Pursuant to Chapter 39.06 RCW (“Public Works—Registration, Licensing, of Contractors”), the Contractor shall be registered and licensed as required by the laws of the State of Washington, including but not limited to Chapter 18.27 RCW (“Registration of Contractors”). The Contractor shall have: (1) a current state unified business identifier (UBI) number; (2) industrial insurance coverage for the Contractor’s employees working in Washington as required in Title 51 RCW; (3) an Employment Security Department (ESD) number as required in Title 50 RCW; (4) a state excise tax registration number as required in Title 82 RCW; and (5) not be disqualified from bidding on any public works contract under RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations).

§ 13.7.2 Provisions for Aged and Handicapped Persons. The Contractor shall comply with applicable statutory provisions relating to public works of Chapter 70.92 RCW (“Provisions in Buildings for Aged and Handicapped Persons”) and the federal Americans with Disabilities Act (ADA) and federal implementing regulations.

§ 13.7.3 Safety Standards. The Contractor shall comply with pertinent provisions of Chapter 49.17 RCW (“Washington Industrial Safety and Health Act”) and Chapter 296-155 WAC (“Safety Standards for Construction Work”).

§ 13.7.4 Unemployment Compensation. Pursuant to Chapter 50.24 RCW (“Contributions by Employers”) in general and RCW 50.24.130 in particular, the Contractor shall pay contributions for wages for personal services performed under this Contract or arrange for a bond acceptable to the Commissioner of the Employment Security Department.

§ 13.7.5 Drug-Free Workplace. The Contractor and all Subcontractors of any tier shall fully comply with all applicable federal, state, and local laws and regulations regarding maintaining a drug-free workplace, including the Drug-Free Workplace Act of 1988. Any person not fit for duty for any reason, including the use of alcohol, controlled substances, or drugs, shall immediately be removed from the Work.

§ 13.7.6 Tobacco-Free Environment. Pursuant to RCW 28A.210.310, smoking or use of any kind of lighted pipe, cigar, cigarette, vaping device, or any other lighted smoking equipment, tobacco material, or smokeless tobacco product is prohibited on all District property.

§ 13.7.7 Weapons-Free Environment. The Contractor and its employees, agents, and Subcontractors of any tier shall not bring onto the Project site or onto any Owner property any firearm or any other type of weapon described in either RCW 9.41.280(1) or RCW 9.41.250. Any person violating this Section shall immediately be removed from the Work, and such a violation shall be grounds for termination of this Contract for cause at the Owner’s discretion.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Except as provided by RCW 60.28.080, the Contractor may terminate the Contract if the Work is stopped for a period of 30 sixty (60) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped (excluding governmental orders related to COVID-19 that restrict, but do not require total stoppage, of work);
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped (excluding governmental orders related to COVID-19 that restrict, but do not require total stoppage, of work);
- .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 improperly not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work,

repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect (during which period the Owner has the opportunity to cure), terminate the Contract and recover from the Owner payment for Work ~~executed~~, properly executed for proven loss with respect to materials, equipment, tools, and construction equipment and machinery caused by such termination, as well as reasonable overhead and profit on ~~Work not the Work properly executed~~, and direct costs incurred by reason of such termination. The total recovery of the Contractor shall not exceed the unpaid balance of the Contract Sum.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect (during which period the Owner has the opportunity to cure), terminate the Contract and recover from the Owner as provided in Section 14.1.3. The total recovery of the Contractor shall not exceed the unpaid balance of the Contract Sum.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may upon seven (7) days' written notice to the Contractor terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the Work or the Contract if the Contractor

- .1 ~~repeatedly~~-refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make prompt payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 ~~repeatedly disregards~~ fails to comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority having jurisdiction; ~~or~~
- .4 fails to prosecute the Work or any portion thereof with sufficient diligence to ensure the Substantial Completion of the Work within the Contract Time;
- .5 is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency;
- .6 fails to comply with the provisions of RCW 28A.400.330 by permitting a worker on the Project having contact with children who has been convicted of or pleaded guilty to a felony crime involving children as described in Section 3.4.3; or
- .7 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, ~~and upon certification by the Architect that sufficient cause exists to justify such action~~, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor on all or a portion of the Work 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; and
- .4 Take or direct any or all of the actions in Section 14.5.1.

§ 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.~~

§ 14.2.5 If the Owner terminates a portion of the Work, the Contractor shall continue the performance of the remainder of the Work in accordance with the Contract Documents to the extent not terminated.

§ 14.2.6 If, after the Contractor has been terminated pursuant to this Section 14.2 or otherwise for cause, it is determined that none of the circumstances set forth in Section 14.2.1 exists, then such termination shall be considered a termination for convenience pursuant to Section 14.3.

§ 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~~ changes in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall ~~include profit be~~ consistent with the terms of the Contract Documents. 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 (without prejudice to any right or remedy of the Owner) the whole or any portion of the Contract for the Owner's convenience and without cause.

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor consistent with the Contract Documents for Work properly executed; costs necessarily incurred by reason of the termination, including costs attributable to termination of Subcontracts; ~~and the termination fee, if any, set forth in the Agreement~~ and reasonable profit on the Work not executed, not to exceed two and a half percent (2.5%) of the Cost of the Work not performed. The total sum to be paid to the Contractor under this Section 14.4 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made, by the larger of (1) the actual value or (2) the scheduled value of Work not terminated, and as otherwise permitted by this Contract. The amounts payable to the Contractor shall exclude the fair value of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Owner or to a buyer pursuant to Sections 14.5.1.6 or 14.5.1.7.

§ 14.5 Effects of Termination By Owner

§ 14.5.1 Unless the Owner directs otherwise, after receipt of a Notice of Termination from the Owner pursuant to Section 14.2 or 14.4, the Contractor shall promptly:

- .1 stop Work under the Contract on the date and as specified in the Notice of Termination;
- .2 place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of any portion of the Work that is not terminated;
- .3 procure cancellation of all orders and subcontracts, upon terms acceptable to the Owner, to the extent that they relate to the performance of Work terminated;
- .4 assign to the Owner all of the right, title, and interest of the Contractor under all orders and subcontracts, as directed by the Owner, in which case the Owner shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- .5 with the Owner's approval, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts not assigned to the Owner;
- .6 transfer title and deliver to the entity or entities designated by the Owner the fabricated or unfabricated parts; Work in process; partially completed supplies and equipment, materials, parts, tools, dies, jigs, and other fixtures; completed Work, supplies, and other material produced as part

- of, or acquired in connection with the performance of, the Work terminated; and the completed or partially completed plans, drawings, information, and other property related to the Work;
- .7 use commercially reasonable efforts to sell any property of the types referred to in Section 14.5.1.6. The Contractor shall not be required to extend credit to any buyer, and may acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner, and the proceeds of any such transfer or disposition may be applied in reduction of any payments to be made by the Owner to the Contractor;
- .8 take such action as may be necessary or as directed by the Owner to preserve and protect the Work and property related to this Project in the possession of the Contractor in which the Owner has an interest; and
- .9 continue performance only to the extent not terminated.

§ 14.5.2 In arriving at any amount due the Contractor after termination, the following deductions shall be made:

- .1 all unliquidated advance or other prior payments on account made to the Contractor applicable to the terminated portion of the Contract;
- .2 any claim the Owner may have against the Contractor;
- .3 an amount necessary to protect the Owner against outstanding or potential liens or claims; and
- .4 the agreed price for or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of Section 14.5.1.7, and not otherwise recovered by or credited to the Owner.

§ 14.5.3 If (and only if) the termination pursuant to Section 14.4 is partial, the Contractor may file a Claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract. Any claim by the Contractor for an equitable adjustment under this Section 14.5.3 must be asserted within sixty (60) days from the effective date of the partial Termination.

§ 14.5.4 The Contractor shall refund to the Owner any amounts paid by the Owner to the Contractor in excess of costs reimbursable under the Contract Documents.

§ 14.5.5 The Contractor shall, from the effective Date of Termination until the expiration of three (3) years after final settlement under this Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, and without charge to the Owner, all books, records, documents, photographs, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the terminated Work. The Owner may have costs reimbursable under this Article 14 audited and certified by independent certified public accountants selected by the Owner, who shall have full access to all the books and records of the Contractor.

§ 14.5.6 The damages and relief from termination by the Owner specifically provided in Article 14 shall be the Contractor's sole entitlement in the event of termination.

§ 14.6 Survival. The parties agree that Contractor's indemnification obligations under Sections 3.4.5.8, 3.18, 5.5.2, 9.6.8, 9.8.1.2, and 10.3.5 shall survive termination or expiration of this Contract for any reason.

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, adjustment, or interpretation of the Contract terms, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate Claims shall rest with the party making the Claim. Claims must be initiated in writing and include the information and substantiation required by the Contract Documents. Neither a Request for Information, nor a Construction Change Directive, nor a Change Order, nor a reservation of rights, nor minutes of a meeting, nor a Daily Report, nor any log entry, nor an Owner's request for or the Contractor's response to a Change Order proposal or a Proposal Request, nor a notice of a potential or future Claim shall constitute a Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

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

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. In an effort to reduce the incidence and costs to all parties of extended disputes, all Claims, direct or indirect, arising out of, or relating to, the Contract Documents or the breach thereof, except claims that have been waived under the terms of the Contract Documents, shall be decided exclusively by the following alternative dispute resolution procedure unless the parties mutually agree in writing otherwise. To the extent that the Owner and Contractor agree to any partnering process to help resolve disputes, such processes shall be in addition to, and not in place of, the mandatory dispute resolution procedures in the Contract Documents.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required. Except for Claims requiring notice before proceeding with the affected Work as otherwise described in the Contract Documents, the Contractor shall submit a written notice of any Claim to the Owner and the Architect within fourteen (14) days of the occurrence of the event giving rise to such Claim and shall include a clear description of the event leading to or causing the Claim. For all Claims, the Contractor shall submit a written Claim as provided herein within thirty (30) days of submitting the notice. Claims shall include a clear description of the Claim and any proposed change in the Contract Sum (showing all components and calculations) and/or Contract Time (showing cause and analysis of the resultant delay in the critical path and other information referenced in Section 8.3.2) and shall provide data fully supporting the Claim, including, without limitation, a complete explanation as to why the relief sought is not within the scope of the Contract Documents. The Contractor may delay submitting data by an additional fourteen (14) days if it notifies the Owner in its Claim that substantial data must be assembled. Failure to properly submit the notice or Claim shall constitute waiver of the Claim. The Claim shall be deemed to include all changes, direct and indirect, in cost and in time to which the Contractor (and Subcontractors of any tier) is entitled and may not contain reservations of rights without the Owner's written approval; any such unapproved reservations of rights shall be without effect. Any Claim of a Subcontractor of any tier may be brought only through, and after review by, the Contractor. For the purposes of calculating such time periods, an "event giving rise to a Claim" is not a Request for Information but rather is a response that the Contractor believes would change the Contract Sum and/or Contract Time. The fact that the Owner and the Contractor may consider, discuss, or negotiate an untimely or waived Claim shall in no way be deemed to constitute a waiver of any notice or other provisions of the Contract Documents.

§ 15.1.3.3 All notices and Claims shall be made in writing as required by the Contract and shall be addressed to the Owner's Designated Representative identified in the A101-2017 as revised. Any notice of a Claim of the Contractor against the Owner and any Claim of the Contractor, whether under the Contract or otherwise, must be made pursuant to and in strict accordance with the applicable provisions of the Contract. No act, omission, or knowledge, actual or constructive, of the Owner or the Architect shall in any way be deemed to be a waiver of the requirement for timely written notice and a timely written Claim unless the Owner and the Contractor sign an explicit, unequivocal written waiver approved by the Owner's Board of Directors. The fact that the Owner and the Contractor may consider, discuss, or negotiate a Claim that has or may have been defective or untimely under the Contract shall not constitute a waiver of the provisions of the Contract Documents unless the Owner and Contractor sign an explicit, unequivocal waiver approved by the Owner's Board of Directors. The Contractor expressly acknowledges and agrees that the Contractor's failure to timely submit required notices and/or timely submit Claims has a substantial impact upon and prejudices the Owner, including but not limited to the inability to fully investigate or verify the Claim, mitigate damages, choose alternative options, adjust the budget, delete or modify the impacted Work, and/or monitor time, cost, and quantities. For these and other reasons, the parties stipulate that the Owner is prejudiced by the Contractor's failure to timely submit notices and/or Claims as required by the Contract

Documents, and that the Owner shall not be required to establish any actual prejudice in order to enforce the notice and Claim provisions of the Contract Documents.

§ 15.1.3.4 At any time following the Owner's receipt of the written Claim, the Owner may require that an officer of the Contractor, a principal of the Architect, and the Owner's superintendent or designee (all with authority to settle) meet, confer, and attempt to resolve the Claim. If the Claim is not resolved during such meeting, the Contractor may bring no litigation against the Owner unless the Claim is first subject to nonbinding mediation as described in this Article 15. This mediation requirement cannot be waived except by an explicit written waiver by both parties.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, including the dispute-resolution process and 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 maintain the Contractor's Construction Schedule, and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 ~~The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker. [Not used.]~~

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim, and a Claim must be made in accordance with this Article 15, or it will be waived. If the Contractor believes additional cost is involved for reasons including, but not limited to, (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension, or (7) other reasonable grounds, a Claim shall be filed in accordance with this Article 15. The Contractor shall not be entitled to an increase in the Contract Sum or Contract Time arising out of an error or conflict in or among the Contract Documents where the Contractor failed adequately to review the Contract Documents or failed to report the error or conflict to the Owner's project manager and Architect in a timely manner consistent with the requirements of the Contract Documents. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided in Section 15.1.3 shall be given, and a Claim must be made in accordance with this Article 15, or it will be waived. The Contractor's Claim shall include an estimate of any cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Any adjustment in the Contract Time arising from a Change or a Claim shall be limited to the change in the actual critical path of the Project directly caused thereby. If the delay was not caused by the Owner, the Contractor, a Subcontractor of any tier, or the Architect, or anyone acting on behalf of any of them, the Contractor is entitled only to an increase in the Contract Time in accordance with the Contract Documents but not a change in the Contract Sum. If the delay was caused by the Contractor, a Subcontractor of any tier, or anyone acting on behalf of any of them, the Contractor is not entitled to an increase in the Contract Time or in the Contract Sum.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction, and that the Work was on schedule (or not behind schedule through the fault of the Contractor) at the time the adverse weather conditions occurred. Neither the Contract Time nor the Contract Sum shall be adjusted for normal inclement weather. The Contractor shall be entitled to a change in the Contract Time only (but not a change in the Contract Sum) if the Contractor can substantiate to the reasonable satisfaction of the Owner and Architect that there was materially greater than normal inclement weather considering the full term of the Contract Time and using a 10-year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) for the locale closest to the Project, and that the alleged abnormal inclement weather actually extended the critical path of the Work. The change in Contract Time shall be provisional until Substantial Completion has been achieved, at which time the change in the Contract Time shall be the extent to which the total net accumulated number of calendar days lost due to inclement weather from

commencement of the Work until Substantial Completion exceeds the total net accumulated number to be expected for the same period from the aforesaid data.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes, without limitation:

- .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 and home office overhead and expenses including, without limitation, the compensation of personnel stationed there, for losses of financing, business and reputation, for losses on other projects, for interest or financing costs, and for loss of profit, except anticipated profit arising directly from the Work, as explicitly allowed under the Contract Documents.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents, or to preclude an obligation of the Contractor to indemnify the Owner for direct, indirect, or consequential damages alleged by a third party.

§ 15.2 Initial Decision

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

~~§ 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. [Not used.]

~~§ 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. [Not used.]

~~§ 15.2.4~~ If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part. [Not used.]

~~§ 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. [Not used.]

§ 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. [Not used.]~~

§ 15.2.6.1 ~~Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision. [Not used.]~~

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, the Contract Documents, shall be subject to mediation as a condition precedent to the initiation of binding dispute resolution. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Contractor.

§ 15.3.2 ~~The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, a request for mediation shall be filed in writing with the other party to the Contract, and the parties shall promptly attempt to mutually agree upon a mediator. If the parties have not reached agreement on a mediator within thirty (30) days of the request, either party may file the request with the American Arbitration Association (AAA) or such other alternative dispute resolution service to which the parties mutually agree, with a copy to the other party, and the mediation shall be administered by the American Arbitration Association (or other agreed service) in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. then in effect. A request for mediation shall be made in writing, and 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~~ Contract. 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, mediation, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 ~~Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision. [Not used.]~~

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

§ 15.3.5 An officer of the Contractor and the Owner's superintendent or designee must attend the mediation session with authority to settle the Claim. To the extent there are other parties in interest, such as the Architect or Subcontractors, their representatives, also with authority to settle the Claim, shall also attend the mediation session. Unless the Owner and the Contractor mutually agree in writing otherwise, all unresolved Claims shall be considered at a single mediation session that shall occur after Substantial Completion but prior to Final Acceptance by the Owner.

§ 15.4 Arbitration

§ 15.4.1 ~~If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually~~

agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. [Not used.]

~~§ 15.4.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

~~§ 15.4.2~~ The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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

~~§ 15.4.4 Consolidation or Joinder~~

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

~~§ 15.4.4.2~~ Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

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

§ 15.5 Litigation. Any disputes that are not resolved through negotiations or mediation shall be resolved by litigation and not by arbitration. The Contractor may bring no litigation on Claims unless such Claims have been properly raised and considered using the procedures of this Article 15. The Contractor shall have the burden to demonstrate in any litigation that it has complied with all requirements of this Article 15. All unresolved Claims of the Contractor shall be waived and released unless the Contractor has complied with the time limits of the Contract Documents, and litigation is served and filed within the earlier of (1) one-hundred and twenty (120) days after the Date of Substantial Completion approved in writing by the Owner, or (2) ninety (90) days after Final Acceptance. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Contractor. The pendency of a mediation (the time period between the written mediation request and the date of mediation) shall toll these deadlines until the earlier of the mediator providing written notice to the parties of impasse or thirty (30) days after the date of the mediation session. Neither the Contractor nor a Subcontractor of any tier, whether claiming under a bond, lien statute, or otherwise, shall be entitled to attorneys' fees directly or indirectly from the Owner (but may recover attorneys' fees from the bond or statutory retainage fund itself, to the extent allowable under law). The Owner may join the Contractor as a party to any litigation involving the alleged fault, responsibility, or breach of contract of the Contractor or Subcontractor of any tier.

**SECTION 00 73 43
WAGE RATES REQUIREMENTS**

PART 1 GENERAL

1.01 DESCRIPTION

- A. Washington State prevailing wage rates apply to this project. Access the wage rate information as follows:
 - 1. URL to the Department of Labor & Industries Prevailing Wage Rates:
<https://fortress.wa.gov/Ini/wagelookup/prvWagelookup.aspx> for current rates.
 - 2. Select Cowlitz County for location of public works project.
- B. The Effective Date of wage rates used for this project will be based on the bid date found in Bid Form, or as modified by addenda.

END OF SECTION

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**SECTION 01 1000
SUMMARY**

PART 1 GENERAL

1.01 PROJECT

- A. Project Name: Longview School District Reroof Projects at Olympic Elementary School.
- B. The Project consists of the reroof over existing membrane roofs with new membrane roofing system. Project also includes removal and reinstallation of existing flashings and sheet metal, and replacement of counter flashings and sheet metal in some locations.

1.02 CONTRACT DESCRIPTION

- A. Contract Type: A single prime contract based on a Stipulated Price as described in Document 00 5200 - Agreement Form.

1.03 DESCRIPTION OF ALTERATIONS WORK

- A. Scope of alterations work is indicated on drawings.

1.04 OWNER OCCUPANCY

- A. Owner intends to continue to occupy portions of the existing building during the entire construction period.
- B. Although school will be out for the summer break, there will be persons in and around the school campuses and other District facilities during the summer.
- C. Cooperate with Owner to minimize conflict and to facilitate Owner's operations.
- D. Schedule the Work to accommodate Owner occupancy.

1.05 CONTRACTOR USE OF SITE AND PREMISES

- A. Construction Operations: Limited to areas noted on Drawings.
- B. Arrange use of site and premises to allow:
 - 1. Owner occupancy.
 - 2. Use of site and premises by the public.
- C. Provide access to and from site as required by law and by Owner:
 - 1. Do not obstruct roadways, sidewalks, or other public ways without permit.
- D. Time Restrictions:
 - 1. Limit conduct of especially noisy exterior work to the hours of 7:30 a.m. to 6:00 p.m..

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

**SECTION 01 2000
PRICE AND PAYMENT PROCEDURES**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Procedures for preparation and submittal of applications for progress payments.
- B. Documentation of changes in Contract Sum and Contract Time.
- C. Change procedures.
- D. Correlation of Contractor submittals based on changes.
- E. Procedures for preparation and submittal of application for final payment.

1.02 SCHEDULE OF VALUES

- A. Use Schedule of Values Form: AIA G703, edition stipulated in the Agreement.
- B. Electronic media printout including equivalent information will be considered in lieu of standard form specified; submit draft to Architect for approval.
- C. Forms filled out by hand will not be accepted.
- D. Include within each line item, a direct proportional amount of Contractor's overhead and profit.
- E. Revise schedule to list approved Change Orders, with each Application For Payment.

1.03 APPLICATIONS FOR PROGRESS PAYMENTS

- A. Payment Period: Submit at intervals stipulated in the Agreement.
- B. Use Form AIA G702 and Form AIA G703, edition stipulated in the Agreement.
- C. Electronic media printout including equivalent information will be considered in lieu of standard form specified; submit sample to Architect for approval.
- D. Forms filled out by hand will not be accepted.
- E. For each item, provide a column for listing each of the following:
 - 1. Item Number.
 - 2. Description of work.
 - 3. Scheduled Values.
 - 4. Previous Applications.
 - 5. Work in Place and Stored Materials under this Application.
 - 6. Authorized Change Orders.
 - 7. Total Completed and Stored to Date of Application.
 - 8. Percentage of Completion.
 - 9. Balance to Finish.
 - 10. Retainage.
- F. Execute certification by signature of authorized officer.
- G. Use data from approved Schedule of Values. Provide dollar value in each column for each line item for portion of work performed and for stored products.
- H. List each authorized Change Order as a separate line item, listing Change Order number and dollar amount as for an original item of work.
- I. Submit one electronic and three hard-copies of each Application for Payment.

- J. When Architect requires substantiating information, submit data justifying dollar amounts in question.

1.04 MODIFICATION PROCEDURES

- A. For minor changes not involving an adjustment to the Contract Sum or Contract Time, Architect will issue instructions directly to Contractor.
- B. For other required changes, Architect will issue a document signed by Owner instructing Contractor to proceed with the change, for subsequent inclusion in a Change Order.
 - 1. The document will describe the required changes and will designate method of determining any change in Contract Sum or Contract Time.
 - 2. Promptly execute the change.
- C. For changes for which advance pricing is desired, Architect will issue a document that includes a detailed description of a proposed change with supplementary or revised drawings and specifications, a change in Contract Time for executing the change with a stipulation of any overtime work required and the period of time during which the requested price will be considered valid. Contractor shall prepare and submit a fixed price quotation within 2 days.
- D. Contractor may propose a change by submitting a request for change to Architect, describing the proposed change and its full effect on the work, with a statement describing the reason for the change, and the effect on the Contract Sum and Contract Time with full documentation. Document any requested substitutions in accordance with Section 01 6000.
- E. Computation of Change in Contract Amount: As specified in the Agreement and Conditions of the Contract.
 - 1. For change requested by Architect for work falling under a fixed price contract, the amount will be based on Contractor's price quotation as approved by the Architect..
 - 2. For change requested by Contractor, the amount will be based on the Contractor's request for a Change Order as approved by Architect.
 - 3. For change ordered by Architect without a quotation from Contractor, the amount will be determined by Architect based on the Contractor's substantiation of costs as specified for Time and Material work.
- F. Substantiation of Costs: Provide full information required for evaluation.
 - 1. Provide the following data:
 - a. Quantities of products, labor, and equipment.
 - b. Taxes, insurance, and bonds.
 - c. Overhead and profit.
 - d. Justification for any change in Contract Time.
 - e. Credit for deletions from Contract, similarly documented.
 - 2. Support each claim for additional costs with additional information:
 - a. Origin and date of claim.
 - b. Dates and times work was performed, and by whom.
 - c. Time records and wage rates paid.
 - d. Invoices and receipts for products, equipment, and subcontracts, similarly documented.
 - 3. For Time and Material work, submit itemized account and supporting data after completion of change, within time limits indicated in the Conditions of the Contract.
- G. Execution of Change Orders: Architect will issue Change Orders for signatures of parties as provided in the Conditions of the Contract.
- H. After execution of Change Order, promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as a separate line item and adjust the Contract Sum.

1.05 APPLICATION FOR FINAL PAYMENT

- A. Prepare Application for Final Payment as specified for progress payments, identifying total adjusted Contract Sum, previous payments, and sum remaining due.
- B. Application for Final Payment will not be considered until the following have been accomplished:
 - 1. All closeout procedures specified in Section 01 7000.
 - 2. Proper completion of all punch list items.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

**SECTION 01 2300
ALTERNATES**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Description of Alternates.
- B. Procedures for pricing Alternates.
- C. Documentation of changes to Contract Price and Contract Time.

1.02 ACCEPTANCE OF ALTERNATES

- A. Alternates quoted on Bid Forms will be reviewed and accepted or rejected at Owner's option. Accepted Alternates will be identified in the Owner-Contractor Agreement.
- B. All alternates described in this Section are required to be reflected on the Form of Proposal/Bid Form as submitted by Bidders. Do not submit alternatives other than as described in this Section.
- C. Coordinate related work and modify surrounding work to integrate the Work of each Alternate.

1.03 SCHEDULE OF ALTERNATES

None currently.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

**SECTION 01 2500
SUBSTITUTION PROCEDURES**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Procedural requirements for proposed substitutions.

1.02 DEFINITIONS

- A. Substitutions: Changes from Contract Documents requirements proposed by Contractor to materials, products, assemblies, and equipment.
 - 1. Substitutions for Cause: Proposed due to changed Project circumstances beyond Contractor's control.
 - 2. Substitutions for Convenience: Proposed due to possibility of offering substantial advantage to the Project.

1.03 REFERENCE STANDARDS

- A. CSI/CSC Form 1.5C - Substitution Request (During the Bidding/Negotiating Stage) Current Edition.
- B. CSI/CSC Form 13.1A - Substitution Request (After the Bidding/Negotiating Phase) Current Edition.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 GENERAL REQUIREMENTS

- A. A Substitution Request for products, assemblies, materials, and equipment constitutes a representation that the submitter:
 - 1. Has investigated proposed product and determined that it meets or exceeds the quality level of the specified product, equipment, assembly, or system.
 - 2. Agrees to provide the same warranty for the substitution as for the specified product.
 - 3. Agrees to provide same or equivalent maintenance service and source of replacement parts, as applicable.
 - 4. Agrees to coordinate installation and make changes to other work that may be required for the work to be complete, with no additional cost to Owner.
 - 5. Waives claims for additional costs or time extension that may subsequently become apparent.
- B. Document each request with complete data substantiating compliance of proposed substitution with Contract Documents. Burden of proof is on proposer.
 - 1. Note explicitly any non-compliant characteristics.
- C. Content: Include information necessary for tracking the status of each Substitution Request, and information necessary to provide an actionable response.
 - 1. Forms indicated in the Project Manual are adequate for this purpose, and must be used.
- D. Limit each request to a single proposed substitution item.
 - 1. Submit an electronic document, combining the request form with supporting data into single document.

3.02 SUBSTITUTION PROCEDURES DURING PROCUREMENT

- A. Submittal Time Restrictions:
 - 1. Owner will consider requests for substitutions only if submitted at least 10 days prior to the date for receipt of bids.
- B. Submittal Form (before award of contract):
 - 1. Submit substitution requests by completing CSI/CSC Form 1.5C - Substitution Request. See this form for additional information and instructions. Use only this form; other forms

of submission are unacceptable.

3.03 SUBSTITUTION PROCEDURES DURING CONSTRUCTION

- A. Submittal Form (after award of contract):
 - 1. Submit substitution requests by completing CSI/CSC Form 13.1A - Substitution Request (After Bidding/Negotiating). See this form for additional information and instructions. Use only this form; other forms of submission are unacceptable.
- B. Submit request for Substitution for Cause immediately upon discovery of need for substitution, but not later than 14 days prior to time required for review and approval by Architect, in order to stay on approved project schedule.
- C. Submit request for Substitution for Convenience immediately upon discovery of its potential advantage to the project, but not later than 14 days prior to time required for review and approval by Architect, in order to stay on approved project schedule.
 - 1. In addition to meeting general documentation requirements, document how the requested substitution benefits the Owner through cost savings, time savings, greater energy conservation, or in other specific ways.
 - 2. Document means of coordinating of substitution item with other portions of the work, including work by affected subcontractors.
 - 3. Bear the costs engendered by proposed substitution of:
 - a. Owner's compensation to the Architect for any required redesign, time spent processing and evaluating the request.
 - b. Other construction by Owner.
 - c. Other unanticipated project considerations.
- D. Substitutions will not be considered under one or more of the following circumstances:
 - 1. When they are indicated or implied on shop drawing or product data submittals, without having received prior approval.
 - 2. Without a separate written request.
 - 3. When acceptance will require revisions to Contract Documents.

3.04 RESOLUTION

- A. Architect may request additional information and documentation prior to rendering a decision. Provide this data in an expeditious manner.
- B. Architect will notify Contractor in writing of decision to accept or reject request.

3.05 ACCEPTANCE

- A. Accepted substitutions change the work of the Project. They will be documented and incorporated into work of the project by Change Order, Construction Change Directive, Architectural Supplementary Instructions, or similar instruments provided for in the Conditions of the Contract.

3.06 CLOSEOUT ACTIVITIES

- A. See Section 01 7800 - Closeout Submittals, for closeout submittals.
- B. Include completed Substitution Request Forms as part of the Project record.

END OF SECTION

**SECTION 01 3000
ADMINISTRATIVE REQUIREMENTS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. General administrative requirements.
- B. Preconstruction meeting.
- C. Progress meetings.
- D. Construction progress schedule.
- E. Submittals for review, information, and project closeout.
- F. Number of copies of submittals.
- G. Requests for Information (RFI) procedures.
- H. Submittal procedures.

1.02 GENERAL ADMINISTRATIVE REQUIREMENTS

- A. Comply with requirements of Section 01 7000 - Execution and Closeout Requirements for coordination of execution of administrative tasks with timing of construction activities.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 PRECONSTRUCTION MEETING

- A. Architect will schedule a meeting after Notice of Award.
- B. Attendance Required:
 - 1. Owner.
 - 2. Architect.
 - 3. Contractor.
- C. Agenda:
 - 1. Execution of Owner-Contractor Agreement.
 - 2. Submission of executed bonds and insurance certificates.
 - 3. Distribution of Contract Documents.
 - 4. Submission of list of subcontractors, list of products, schedule of values, and progress schedule.
 - 5. Designation of personnel representing the parties to Contract and Architect.
 - 6. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders, and Contract closeout procedures.
 - 7. Scheduling.
- D. Record minutes and distribute copies within two days after meeting to participants, with PDF format copies to Architect, Owner, participants, and those affected by decisions made.
- E. Architect will record minutes and distribute copies electronically within two days after meeting to Owner and Contractor.

3.02 PROGRESS MEETINGS

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

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

3.03 CONSTRUCTION PROGRESS SCHEDULE

- A. Within 10 days after date of the Agreement, submit schedule for the work.
- B. If preliminary schedule requires revision after review, submit revised schedule within 10 days.
- C. Within 5 days after joint review, submit complete schedule.

3.04 REQUESTS FOR INFORMATION (RFI)

- A. Definition: A request seeking one of the following:
 1. An interpretation, amplification, or clarification of some requirement of Contract Documents arising from inability to determine from them the exact material, process, or system to be installed; or when the elements of construction are required to occupy the same space (interference); or when an item of work is described differently at more than one place in Contract Documents.
 2. A resolution to an issue which has arisen due to field conditions and affects design intent.
- B. Whenever possible, request clarifications at the next appropriate project progress meeting, with response entered into meeting minutes, rendering unnecessary the issuance of a formal RFI.
- C. Preparation: Prepare an RFI immediately upon discovery of a need for interpretation of Contract Documents. Failure to submit a RFI in a timely manner is not a legitimate cause for claiming additional costs or delays in execution of the work.
 1. Prepare a separate RFI for each specific item.
 - a. Review, coordinate, and comment on requests originating with subcontractors and/or materials suppliers.
 - b. Do not forward requests which solely require internal coordination between subcontractors.
 2. Prepare in a format and with content acceptable to the Architect.
 3. Combine RFI and its attachments into a single electronic file. PDF format is preferred.
- D. Reason for the RFI: Prior to initiation of an RFI, carefully study all Contract Documents to confirm that information sufficient for their interpretation is definitely not included.
 1. Include in each request Contractor's signature attesting to good faith effort to determine from Contract Documents information requiring interpretation.

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2. Unacceptable Uses for RFIs: Do not use RFIs to request the following:
 - a. Approval of submittals (use procedures specified elsewhere in this section).
 - b. Approval of substitutions (see Section - 01 6000 - Product Requirements)
 - c. Changes that entail change in Contract Time and Contract Sum (comply with provisions of the Conditions of the Contract).
 - d. Different methods of performing work than those indicated in the Contract Drawings and Specifications (comply with provisions of the Conditions of the Contract).
3. Improper RFIs: Requests not prepared in compliance with requirements of this section, and/or missing key information required to render an actionable response. They will be returned without a response, with an explanatory notation.
4. Frivolous RFIs: Requests regarding information that is clearly indicated on, or reasonably inferable from, Contract Documents, with no additional input required to clarify the question. They will be returned without a response, with an explanatory notation.
 - a. The Owner reserves the right to assess the Contractor for the costs (on time-and-materials basis) incurred by the Architect, and any of its consultants, due to processing of such RFIs.
- E. Content: Include identifiers necessary for tracking the status of each RFI, and information necessary to provide an actionable response.
 1. Official Project name and number, and any additional required identifiers established in Contract Documents.
 2. Owner's, Architect's, and Contractor's names.
 3. Discrete and consecutive RFI number, and descriptive subject/title.
 4. Issue date, and requested reply date.
 5. Reference to particular Contract Document(s) requiring additional information/interpretation. Identify pertinent drawing and detail number and/or specification section number, title, and paragraph(s).
 6. Annotations: Field dimensions and/or description of conditions which have engendered the request.
 7. Contractor's suggested resolution: A written and/or a graphic solution, to scale, is required in cases where clarification of coordination issues is involved, for example; routing, clearances, and/or specific locations of work shown diagrammatically in Contract Documents. If applicable, state the likely impact of the suggested resolution on Contract Time or the Contract Sum.
- F. Attachments: Include sketches, coordination drawings, descriptions, photos, submittals, and other information necessary to substantiate the reason for the request.
- G. RFI Log: Prepare and maintain a tabular log of RFIs for the duration of the project.
 1. Indicate current status of every RFI. Update log promptly and on a regular basis.
 2. Note dates of when each request is made, and when a response is received.
 3. Highlight items requiring priority or expedited response.
 4. Highlight items for which a timely response has not been received to date.
- H. Review Time: Architect will respond and return RFIs to Contractor within 14 calendar days of receipt. For the purpose of establishing the start of the mandated response period, RFIs received after 3:00 PM will be considered as having been received on the following regular working day.
 1. Response period may be shortened or lengthened for specific items, subject to mutual agreement, and recorded in a timely manner in progress meeting minutes.
- I. Submit RFI's in a manner to not unreasonably encumber the Architects ability to review and comment in the allowed time frame. Excessive and/or frivolous RFI's will result in extended review periods.

- J. Responses: Content of answered RFIs will not constitute in any manner a directive or authorization to perform extra work or delay the project. If in Contractor's belief it is likely to lead to a change to Contract Sum or Contract Time, promptly issue a notice to this effect, and follow up with an appropriate Change Order request to Owner.

3.05 SUBMITTALS FOR REVIEW

- A. When the following are specified in individual sections, submit them for review:
1. Product data.
 2. Shop drawings.
 3. Samples for verification.
- B. Submit to Architect for review for the limited purpose of checking for compliance with information given and the design concept expressed in Contract Documents.
- C. After review, provide copies and distribute in accordance with SUBMITTAL PROCEDURES article below and for record documents purposes described in Section 01 7800 - Closeout Submittals.

3.06 SUBMITTALS FOR INFORMATION

- A. When the following are specified in individual sections, submit them for information:
1. Design data.
 2. Certificates.
 3. Test reports.
 4. Inspection reports.
 5. Manufacturer's instructions.
 6. Manufacturer's field reports.
 7. Other types indicated.
- B. Submit for Architect's knowledge as contract administrator or for Owner.

3.07 SUBMITTALS FOR PROJECT CLOSEOUT

- A. Submit Correction Punch List for Substantial Completion.
- B. Submit Final Correction Punch List for Substantial Completion.
- C. When the following are specified in individual sections, submit them at project closeout in compliance with requirements of Section 01 7800 - Closeout Submittals:
1. Project record documents.
 2. Operation and maintenance data.
 3. Warranties.
 4. Bonds.
 5. Other types as indicated.
- D. Submit for Owner's benefit during and after project completion.

3.08 NUMBER OF COPIES OF SUBMITTALS

- A. Electronic Documents: Submit one electronic copy in PDF format; an electronically-marked up file will be returned. Create PDFs at native size and right-side up; illegible files will be rejected.

3.09 SUBMITTAL PROCEDURES

- A. General Requirements:
1. Use a separate transmittal for each item.
 2. Submit separate packages of submittals for review and submittals for information, when included in the same specification section.
 3. Transmit using approved form.
 - a. Use Contractor's form, subject to prior approval by Architect.

4. Sequentially identify each item. For revised submittals use original number and a sequential revision number suffix.
 5. Identify: Project; Contractor; subcontractor or supplier; pertinent drawing and detail number; and specification section number and article/paragraph, as appropriate on each copy.
 6. Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the work and Contract Documents.
 - a. Submittals from sources other than the Contractor, or without Contractor's stamp will not be acknowledged, reviewed, or returned.
 7. Deliver each submittal on date noted in submittal schedule, unless an earlier date has been agreed to by all affected parties, and is of the benefit to the project.
 - a. Send submittals in electronic format via email to Architect.
 8. Schedule submittals to expedite the Project, and coordinate submission of related items.
 - a. For each submittal for review, allow 10 days excluding delivery time to and from the Contractor.
 9. Identify variations from Contract Documents and product or system limitations that may be detrimental to successful performance of the completed work.
 10. Provide space for Contractor and Architect review stamps.
 11. When revised for resubmission, identify all changes made since previous submission.
 12. Distribute reviewed submittals. Instruct parties to promptly report inability to comply with requirements.
 13. Submittals not requested will not be recognized or processed.
- B. Product Data Procedures:
1. Submit only information required by individual specification sections.
 2. Collect required information into a single submittal.
 3. Do not submit (Material) Safety Data Sheets for materials or products.
- C. Shop Drawing Procedures:
1. Prepare accurate, drawn-to-scale, original shop drawing documentation by interpreting Contract Documents and coordinating related work.
 2. Do not reproduce Contract Documents to create shop drawings.
 3. Generic, non-project-specific information submitted as shop drawings do not meet the requirements for shop drawings.
- D. Samples Procedures:
1. Transmit related items together as single package.
 2. Identify each item to allow review for applicability in relation to shop drawings showing installation locations.

3.10 SUBMITTAL REVIEW

- A. Submittals for Review: Architect will review each submittal, and approve, or take other appropriate action.
- B. Submittals for Information: Architect will acknowledge receipt, but will take no other action.
- C. Architect's actions will be reflected by marking each returned submittal using virtual stamp on electronic submittals.
 1. Notations may be made directly on submitted items and/or listed on appended Submittal Review cover sheet.

END OF SECTION

**SECTION 01 4000
QUALITY REQUIREMENTS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. References and standards.
- B. Control of installation.
- C. Tolerances.
- D. Manufacturers' field services.
- E. Defect Assessment.

1.02 REFERENCES AND STANDARDS

- A. For products and workmanship specified by reference to a document or documents not included in the Project Manual, also referred to as reference standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Comply with reference standard of date of issue current on date of Contract Documents, except where a specific date is established by applicable code.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 CONTROL OF INSTALLATION

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

3.02 TOLERANCES

- A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from Architect before proceeding.
- C. Adjust products to appropriate dimensions; position before securing products in place.

3.03 MANUFACTURERS' FIELD SERVICES

- A. When specified in individual specification sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship as applicable, and to initiate instructions when necessary.

- B. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

3.04 DEFECT ASSESSMENT

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

END OF SECTION

**SECTION 01 5000 TEMPORARY
FACILITIES AND CONTROLS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Temporary utilities.
- B. Temporary sanitary facilities.
- C. Temporary Controls: Barriers.
- D. Security requirements.
- E. Vehicular access and parking.
- F. Waste removal facilities and services.

1.02 TEMPORARY UTILITIES

- A. For Remodel/Addition projects, Owner will provide the following:
 - 1. Electrical power, consisting of connection to existing facilities.
 - 2. Water supply, consisting of connection to existing facilities.

1.03 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures. Provide at time of project mobilization.
- B. Maintain daily in clean and sanitary condition.

1.04 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas, to prevent access to areas that could be hazardous to workers or the public, to allow for owner's use of site and to protect existing facilities and adjacent properties from damage from construction operations.
- B. Provide protection for plants designated to remain. Replace damaged plants.
- C. Protect non-owned vehicular traffic, stored materials, site, and structures from damage.

1.05 SECURITY

- A. Provide security and facilities to protect Work, existing facilities, and Owner's operations from unauthorized entry, vandalism, or theft.

1.06 VEHICULAR ACCESS AND PARKING

- A. Coordinate access and haul routes with governing authorities and Owner.
- B. Provide and maintain access to fire hydrants, free of obstructions.
- C. Existing parking areas may be used for construction parking.

1.07 WASTE REMOVAL

- A. Provide waste removal facilities and services as required to maintain the site in clean and orderly condition.
- B. Provide containers with lids. Remove trash from site periodically.
- C. If materials to be recycled or re-used on the project must be stored on-site, provide suitable non-combustible containers; locate containers holding flammable material outside the structure unless otherwise approved by the authorities having jurisdiction.
- D. Open free-fall chutes are not permitted. Terminate closed chutes into appropriate containers with lids.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

**SECTION 01 6000
PRODUCT REQUIREMENTS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. General product requirements.
- B. Re-use of existing products.
- C. Transportation, handling, storage and protection.
- D. Product option requirements.
- E. Substitution limitations.
- F. Maintenance materials, including extra materials, spare parts, tools, and software.

1.02 SUBMITTALS

- A. Product Data Submittals: Submit manufacturer's standard published data. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- B. Shop Drawing Submittals: Prepared specifically for this Project; indicate utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- C. Sample Submittals: Illustrate functional and aesthetic characteristics of the product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
 - 1. For selection from standard finishes, submit samples of the full range of the manufacturer's standard colors, textures, and patterns.

PART 2 PRODUCTS

2.01 EXISTING PRODUCTS

- A. Do not use materials and equipment removed from existing premises unless specifically required or permitted by Contract Documents.
- B. Existing materials and equipment indicated to be removed, but not to be re-used, relocated, reinstalled, delivered to the Owner, or otherwise indicated as to remain the property of the Owner, become the property of the Contractor; remove from site.
- C. Specific Products to be Reused: The reuse of certain materials and equipment already existing on the project site is required.

2.02 NEW PRODUCTS

- A. Provide new products unless specifically required or permitted by Contract Documents.
- B. See Section 01 4000 - Quality Requirements, for additional source quality control requirements.

2.03 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Use any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: Use a product of one of the manufacturers named and meeting specifications, no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named.

2.04 MAINTENANCE MATERIALS

- A. Furnish extra materials, spare parts, tools, and software of types and in quantities specified in individual specification sections.
- B. Deliver to Project site; obtain receipt prior to final payment.

PART 3 EXECUTION

3.01 SUBSTITUTION LIMITATIONS

- A. See Section 01 2500 - Substitution Procedures.

3.02 TRANSPORTATION AND HANDLING

- A. Package products for shipment in manner to prevent damage; for equipment, package to avoid loss of factory calibration.
- B. If special precautions are required, attach instructions prominently and legibly on outside of packaging.
- C. Coordinate schedule of product delivery to designated prepared areas in order to minimize site storage time and potential damage to stored materials.
- D. Transport and handle products in accordance with manufacturer's instructions.
- E. Transport materials in covered trucks to prevent contamination of product and littering of surrounding areas.
- F. Promptly inspect shipments to ensure that products comply with requirements, quantities are correct, and products are undamaged.
- G. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage, and to minimize handling.
- H. Arrange for the return of packing materials, such as wood pallets, where economically feasible.

3.03 STORAGE AND PROTECTION

- A. Provide protection of stored materials and products against theft, casualty, or deterioration.
- B. Designate receiving/storage areas for incoming products so that they are delivered according to installation schedule and placed convenient to work area in order to minimize waste due to excessive materials handling and misapplication. See Section 01 7419.
 - 1. Structural Loading Limitations: Handle and store products and materials so as not to exceed static and dynamic load-bearing capacities of project floor and roof areas.
- C. Store and protect products in accordance with manufacturers' instructions.
- D. Store with seals and labels intact and legible.
- E. Store sensitive products in weathertight, climate-controlled enclosures in an environment favorable to product.
- F. For exterior storage of fabricated products, place on sloped supports above ground.
- G. Protect products from damage or deterioration due to construction operations, weather, precipitation, humidity, temperature, sunlight and ultraviolet light, dirt, dust, and other contaminants.
- H. Comply with manufacturer's warranty conditions, if any.
- I. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.
- J. Prevent contact with material that may cause corrosion, discoloration, or staining.
- K. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- L. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

3.04 DAMAGED PRODUCTS

- A. Damaged or deteriorated materials shall be removed from the premises and replaced with new.

END OF SECTION

**SECTION 01 7000
EXECUTION AND CLOSEOUT REQUIREMENTS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Examination, preparation, and general installation procedures.
- B. Requirements for alterations work, including selective demolition.
- C. Cutting and patching.
- D. Cleaning and protection.
- E. Closeout procedures, including Contractor's Correction Punch List, except payment procedures.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 EXAMINATION

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

3.02 PREPARATION

- A. Clean substrate surfaces prior to applying next material or substance.
- B. Seal cracks or openings of substrate prior to applying next material or substance.
- C. Apply manufacturer required or recommended substrate primer, sealer, or conditioner prior to applying any new material or substance in contact or bond.

3.03 GENERAL INSTALLATION REQUIREMENTS

- A. Install products as specified in individual sections, in accordance with manufacturer's instructions and recommendations, and so as to avoid waste due to necessity for replacement.
- B. Make consistent texture on surfaces, with seamless transitions, unless otherwise indicated.
- C. Make neat transitions between different surfaces, maintaining texture and appearance.

3.04 ALTERATIONS

- A. Drawings showing existing construction and utilities are based on casual field observation and existing record documents only.
 - 1. Verify that construction is as indicated.
 - 2. Report discrepancies to Architect before disturbing existing installation.
 - 3. Beginning of alterations work constitutes acceptance of existing conditions.
- B. Remove existing work as indicated and as required to accomplish new work.
 - 1. Remove items indicated on drawings.
- C. Protect existing work to remain.

1. Perform cutting to accomplish removals neatly and as specified for cutting new work.
 2. Repair adjacent construction and finishes damaged during removal work.
- D. Adapt existing work to fit new work: Make as neat and smooth transition as possible.
- E. Remove demolition debris and abandoned items from alterations areas and dispose of off-site; do not burn or bury.

3.05 CUTTING AND PATCHING

- A. Whenever possible, execute the work by methods that avoid cutting or patching.
- B. Perform whatever cutting and patching is necessary to:
1. Complete the work.
 2. Fit products together to integrate with other work.
 3. Provide openings for penetration of mechanical, electrical, and other services.
 4. Match work that has been cut to adjacent work.
 5. Repair areas adjacent to cuts to required condition.
 6. Repair new work damaged by subsequent work.
 7. Remove samples of installed work for testing when requested.
 8. Remove and replace defective and non-complying work.
- C. Execute work by methods that avoid damage to other work and that will provide appropriate surfaces to receive patching and finishing. In existing work, minimize damage and restore to original condition.
- D. Restore work with new products in accordance with requirements of Contract Documents.

3.06 PROGRESS CLEANING

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
- B. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, prior to enclosing the space.
- C. Collect and remove waste materials, debris, and trash/rubbish from site periodically and dispose off-site; do not burn or bury.

3.07 PROTECTION OF INSTALLED WORK

- A. Protect installed work from damage by construction operations.
- B. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.

3.08 ADJUSTING

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

3.09 FINAL CLEANING

- A. Execute final cleaning prior to final project assessment.
- B. Clean debris from roofs, gutters, downspouts, scuppers, overflow drains, area drains, and drainage systems.
- C. Clean site; sweep paved areas, rake clean landscaped surfaces.
- D. Remove waste, surplus materials, trash/rubbish, and construction facilities from the site; dispose of in legal manner; do not burn or bury.

3.10 CLOSEOUT PROCEDURES

- A. Make submittals that are required by governing or other authorities.
1. Provide copies to Architect and Owner.

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

END OF SECTION

**SECTION 01 7800
CLOSEOUT SUBMITTALS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Project record documents.
- B. Operation and maintenance data.
- C. Warranties and bonds.

1.02 SUBMITTALS

- A. Project Record Documents: Submit documents to Architect with claim for final Application for Payment.
- B. Operation and Maintenance Data:
 - 1. Submit two copies of preliminary draft or proposed formats and outlines of contents before start of Work. Architect will review draft and return one copy with comments.
 - 2. Submit two sets of revised final documents in final form within 10 days after final inspection.
- C. Warranties and Bonds:
 - 1. Make other submittals within 10 days after Date of Substantial Completion, prior to final Application for Payment.
 - 2. For items of Work for which acceptance is delayed beyond Date of Substantial Completion, submit within 10 days after acceptance, listing the date of acceptance as the beginning of the warranty period.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 PROJECT RECORD DOCUMENTS

- A. Maintain on site one set of the following record documents; record actual revisions to the Work:
 - 1. Drawings.
 - 2. Specifications.
 - 3. Addenda.
 - 4. Change Orders and other modifications to the Contract.
 - 5. Reviewed shop drawings, product data, and samples.
 - 6. Manufacturer's instruction for assembly, installation, and adjusting.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress.
- E. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:
 - 1. Product substitutions or alternates utilized.
 - 2. Changes made by Addenda and modifications.
- F. Record Drawings and Shop Drawings: Legibly mark each item to record actual construction including:
 - 1. Field changes of dimension and detail.
 - 2. Details not on original Contract drawings.

3.02 OPERATION AND MAINTENANCE DATA FOR MATERIALS AND FINISHES

- A. For Each Product, Applied Material, and Finish:
 - 1. Product data, with catalog number, size, composition, and color and texture designations.

- B. Instructions for Care and Maintenance: Manufacturer's recommendations for cleaning agents and methods, precautions against detrimental cleaning agents and methods, and recommended schedule for cleaning and maintenance.
- C. Moisture protection and weather-exposed products: Include product data listing applicable reference standards, chemical composition, and details of installation. Provide recommendations for inspections, maintenance, and repair.
- D. Additional information as specified in individual product specification sections.
- E. Where additional instructions are required, beyond the manufacturer's standard printed instructions, have instructions prepared by personnel experienced in the operation and maintenance of the specific products.

3.03 ASSEMBLY OF OPERATION AND MAINTENANCE MANUALS

- A. Assemble operation and maintenance data into durable manuals for Owner's personnel use, with data arranged in the same sequence as, and identified by, the specification sections.
- B. Where systems involve more than one specification section, provide separate tabbed divider for each system.
- C. Binders: Commercial quality, 8-1/2 by 11 inch three D side ring binders with durable plastic covers; 2 inch maximum ring size. When multiple binders are used, correlate data into related consistent groupings.
- D. Cover: Identify each binder with typed or printed title OPERATION AND MAINTENANCE INSTRUCTIONS; identify title of Project; identify subject matter of contents.
- E. Project Directory: Title and address of Project; names, addresses, and telephone numbers of Architect, Consultants, Contractor and subcontractors, with names of responsible parties.
- F. Tables of Contents: List every item separated by a divider, using the same identification as on the divider tab; where multiple volumes are required, include all volumes Tables of Contents in each volume, with the current volume clearly identified.
- G. Dividers: Provide tabbed dividers for each separate product and system; identify the contents on the divider tab; immediately following the divider tab include a description of product and major component parts of equipment.
- H. Text: Manufacturer's printed data, or typewritten data on 20 pound paper.
- I. Drawings: Provide with reinforced punched binder tab. Bind in with text; fold larger drawings to size of text pages.

3.04 WARRANTIES AND BONDS

- A. Obtain warranties and bonds, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, within 10 days after completion of the applicable item of work. Except for items put into use with Owner's permission, leave date of beginning of time of warranty until Date of Substantial completion is determined.
- B. Verify that documents are in proper form, contain full information, and are notarized.
- C. Co-execute submittals when required.
- D. Retain warranties and bonds until time specified for submittal.
- E. Manual: Bind in commercial quality 8-1/2 by 11 inch three D side ring binders with durable plastic covers.
- F. Cover: Identify each binder with typed or printed title WARRANTIES AND BONDS, with title of Project; name, address and telephone number of Contractor and equipment supplier; and name of responsible company principal.
- G. Table of Contents: Neatly typed, in the sequence of the Table of Contents of the Project Manual, with each item identified with the number and title of the specification section in which

specified, and the name of product or work item.

- H. Separate each warranty or bond with index tab sheets keyed to the Table of Contents listing. Provide full information, using separate typed sheets as necessary. List Subcontractor, supplier, and manufacturer, with name, address, and telephone number of responsible principal.

END OF SECTION

**SECTION 07 0150.19
PREPARATION FOR RE-ROOFING**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Re-cover of existing roofing system in preparation for new roofing system in designated areas as indicated on drawings.
- B. Removal of existing flashing and counterflashing.
- C. Temporary roofing protection.

1.02 DELIVERY, STORAGE, AND HANDLING

- A. Ensure storage and staging of materials does not exceed static and dynamic load-bearing capacities of roof decking.

1.03 FIELD CONDITIONS

- A. Do not remove existing roofing membrane when weather conditions threaten the integrity of building contents or intended continued occupancy.
- B. Maintain continuous temporary protection prior to and during installation of new roofing system.

PART 2 PRODUCTS

2.01 COMPONENTS

- A. See the following sections for additional information on components relating to this work:

2.02 MATERIALS

- A. Temporary Roofing Protection Materials:
 - 1. Contractor's responsibility to select appropriate materials for temporary protection of roofing areas as determined necessary for this work.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verify that existing roof surface has been cleared of materials being removed from existing roofing system and ready for next phase of work as required.

3.02 PREPARATION

- A. Sweep roof surface clean of loose matter.
- B. Remove loose refuse and dispose of properly off-site.

3.03 MATERIAL REMOVAL

- A. Remove metal counter flashings.

3.04 INSTALLATION

- A. Coordinate scope of this work with requirements for installation of new roofing system.

3.05 PROTECTION

- A. Provide protection of existing roofing system that is not having work performed on it.
- B. Provide temporary protective sheeting over uncovered deck surfaces.
- C. Turn sheeting up and over parapets and curbing. Retain sheeting in position with weights.
- D. Provide for surface drainage from sheeting to existing drainage facilities.

END OF SECTION

**SECTION 07 5429
KETONE ETHYLENE ESTER (KEE) MEMBRANE ROOFING**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Mechanically attached system with ketone ethylene ester (KEE) roofing membrane.
- B. Fire Retardant Slip Sheet.
- C. Flashings.
- D. Roofing stack boots and roofing expansion joints.

1.02 REFERENCE STANDARDS

- A. ASTM C1549 - Standard Test Method for Determination of Solar Reflectance Near Ambient Temperature Using a Portable Solar Reflectometer 2016.
- B. ASTM D2240 - Standard Test Method for Rubber Property--Durometer Hardness 2015 (Reapproved 2021).
- C. ASTM D6754/D6754M - Standard Specification for Ketone Ethylene Ester Based Sheet Roofing 2015.
- D. NRCA (RM) - The NRCA Roofing Manual 2022.

1.03 SUBMITTALS

- A. See Section 01 3000 - Administrative Requirements, for submittal procedures.
- B. Product Data: Provide manufacturer's written information listed below.
 - 1. Product data indicating membrane materials, flashing materials, insulation, vapor retarder, surfacing, and fasteners.
 - 2. Preparation instructions and recommendations.
- C. Shop Drawings: Indicate joint or termination detail conditions and conditions of interface with other materials.
- D. Manufacturer's Field Reports: Indicate procedures followed, ambient temperatures, humidity, wind velocity during application, and supplementary instructions given.
- E. Manufacturer's Installation Instructions: Indicate membrane seaming precautions and perimeter conditions requiring special attention.
- F. Maintenance Data: Include maintenance procedures, recommended maintenance materials, and suggested procedures for cleaning.
- G. Warranty:
 - 1. Submit manufacturer warranty and ensure that forms have been completed in Owner's name and registered with manufacturer.
 - 2. Submit installer's certification that installation complies with all warranty conditions for the waterproof membrane.

1.04 QUALITY ASSURANCE

- A. Perform work in accordance with NRCA Roofing and Waterproofing Manual and manufacturer's instructions.
- B. The FiberTite roofing system can only be installed by a roofing contractor authorized by Seaman Corporation to install FiberTite Roofing Systems prior to bid or contract award.

1.05 DELIVERY, STORAGE, AND HANDLING

- A. Deliver products in manufacturer's original containers, dry, undamaged, with seals and labels intact.

- B. Protect products in weather protected environment, clear of ground and moisture.
- C. Store all adhesives and sealants between 50 degrees and 80 degrees Fahrenheit prior to use.
- D. Proceed with work so new roofing materials are not subject to construction traffic as work progresses.
- E. Do not allow grease, oil, fats, or other contaminants to come into direct contact with membrane.
- F. Refrain from roofing operations when wind velocity is sufficiently high to lift roofing membrane sheets and post a danger to workers.

1.06 FIELD CONDITIONS

- A. Do not apply roofing membrane during unsuitable weather such as extreme temperatures, high winds, or high humidity. Refer to manufacturer's recommendations for requirements and acceptable tolerances.
- B. Do not apply roofing membrane to damp or frozen deck surface or when precipitation is expected or occurring.
- C. Do not expose materials vulnerable to water or sun damage in quantities greater than can be weatherproofed the same day.

1.07 WARRANTY

- A. See Section 01 7800 - Closeout Submittals, for additional warranty requirements.
- B. Correct defective Work within a 10 year period alter Date of Substantial Completion.
- C. Provide 20 year manufacturer's material and labor warranty to cover failure to prevent penetration of water.

PART 2 PRODUCTS

2.01 GENERAL

- A. All products and components for the Roofing System, including insulation, cover board, roof vapor retarder, and accessories must be pre-approved by the Membrane Manufacturer for use as part of the overall warranted system.

2.02 MANUFACTURER

- A. Ketone Ethylene Ester (KEE) Membrane Materials:
 - 1. Seaman Corporation; FiberTite Roofing System: www.fibertite.com.
 - 2. Substitutions: Not permitted.
- B. Slip Sheet:
 - 1. Atlas Roofing: WEBTECH FR10 and FR50 Slipsheets; www.atlasroofing.com.
 - 2. Substitutions: Not permitted.

2.03 ROOFING APPLICATIONS

- A. Ketone Ethylene Ester (KEE) Membrane Roofing: One ply membrane, mechanically fastened, over slip sheet over existing roofing

2.04 ROOFING MEMBRANE AND ASSOCIATED MATERIALS

- A. Membrane: Ketone ethylene Ester; reinforced with 5.0 oz/sq yd knitted polyester fabric.; exceeding the requirements of ASTM D 6754 Standard Specification for Ketone Ethylene Ester Sheet Roofing.
 - 1. Thickness:.036 inch.
 - 2. Sheet Width: 74 inch or 100 inch, minimum; factory-fabricate into largest sheets possible.
 - 3. Solar Reflectance: 78%, minimum, 3-year, per ASTM C1549.
 - 4. Color: Off White.
 - 5. Tensile Strength: 8500 psi, measured in accordance with ASTM D882,

6. Hardness: 87, measured in accordance with ASTM D2240, using Type A durometer.
- B. Seaming Materials: As recommended by membrane manufacturer.
- C. Membrane Fasteners: As recommended and approved by membrane manufacturer.
- D. Fire Retardant Slip Sheet: Fire-retardant coated-glass fiber mats.
- E. Flexible Flashing Material: Same material as membrane.

2.05 ACCESSORIES

- A. Penetration Flashings: Prefabricated flexible molded boot and collar for pipe stacks through membrane; same material as membrane.
- B. Membrane Adhesive: As recommended by membrane manufacturer..
- C. Membrane Fasteners: A #15-13 buttress threaded, #3 Philips head fastener constructed of case hardened carbon steel with a reduced diameter drill point and corrosion resistant coating.
- D. Stress plates to anchor membrane: FiberTite anchors of type recommended by manufacturer.
- E. Prefabricated Fascia Edge System.
- F. Walkway Matting: Two-layer, flexible roll, loose laid PVC walkway matting. Provide two (2) rolls to Owner.
 1. Product:
 - a. Plastex: Crossgrip PVC; www.plastexmatting.com
 - b. Substitutions: See Section 01 6000-Product Requirements

2.06 PRE-MANUFACTURED PIPE AND CONDUIT STANDS

- A. Pre-manufactured pipe and conduit stands: UV-Resistant PVC, EPDM rubber or polypropylene pipe supports (no closed cell type (crumb rubber) will be allowed) specifically manufactured to support small conduit and piping in place on single-ply roofing without penetrations into roofing.
 1. Furnish corrosion-resistant accessories and hardware.
 2. Locate in similar locations as existing pipe supports and conduit stands.
- B. Product:
 1. Erico: www.erico.com
 2. Miro Industries: www.miroind.com
 3. Substitutions: See Section 01 6000-Product Requirements

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verify that surfaces and site conditions are ready to receive work.
- B. Verify deck is supported and secure.
- C. Verify deck is clean and smooth, flat, free of depressions, waves, or projections, properly sloped and suitable for installation of roof system.
- D. Verify deck surfaces are dry and free of snow or ice.
- E. Verify that roof openings, curbs, and penetrations through roof are solidly set, and cant strips are in place.

3.02 PREPARATION, GENERAL

- A. Clean substrate thoroughly prior to roof application.
- B. Remove all existing flashing materials.
- C. Cut a 2 foot slice every ten feet in existing membrane at each roll width of existing membrane.

3.03 INSTALLATION - GENERAL

- A. Perform work in accordance with manufacturer's instructions and NRCA (RM) applicable requirements.
- B. Do not apply roofing membrane during unsuitable weather.
- C. Do not apply roofing membrane when ambient temperature is outside the temperature range recommended by manufacturer.
- D. Do not apply roofing membrane to damp or frozen deck surface or when precipitation is expected or occurring.
- E. Do not expose materials vulnerable to water or sun damage in quantities greater than can be weatherproofed the same day.
- F. Coordinate the work with installation of associated counter flashings and expansion joints installed by other sections as the work of this section proceeds.
- G. The architectural plans do not show all roof penetrations. Coordinate the size, quantity and location of all roof penetrations as required.
- H. Coordinate the installation to ensure that the system remains 100 percent watertight at the end of each working day.
- I. When substrate preparation is responsibility of another installer, notify Architect of unsatisfactory conditions before proceeding.

3.04 FIRE RETARDANT SLIP SHEET - UNDER MEMBRANE

- A. Apply fire retardant slip sheet over existing roof in accordance with manufacturer's instructions.

3.05 MEMBRANE APPLICATION

- A. Roll out membrane, free from wrinkles or tears. Place sheet into place without stretching.
- B. Shingle joints on sloped substrate in direction of drainage.
- C. Mechanical Attachment: Apply membrane and mechanical attachment devices in accordance with manufacturer's instructions.
- D. Around roof penetrations, seal flanges and flashings with flexible flashing.
- E. Coordinate installation of roof scuppers, roof curbs and related flashings
- F. Daily Seal: Install daily seal per manufacturers instructions at the end of each work day. Prevent infiltration of water at incomplete flashings, terminations, and at unfinished membrane edges.

3.06 WALKWAY AND PROTECTION PADS

- A. Install walkway pads and protection pads. Space pad joints to permit drainage.
 - 1. Roofing membrane to receive pads to be clean and dry.
 - 2. Install pads in accordance with manufacturer's instructions.

3.07 FIELD QUALITY CONTROL

- A. See Section 01 4000 - Quality Requirements, for general requirements for field quality control and inspection.
- B. Warranty Inspection: Upon completion of the Project, schedule a review of the installation with the roofing membrane manufacturer's representative and verify that the roofing system is installed in accordance with the Contract Documents.
 - 1. Any corrections or modifications necessary for compliance are to be made at no cost to the Owner.

3.08 CLEANING

- A. In areas where finished surfaces are soiled by work of this section, consult manufacturer of surfaces for cleaning advice and conform to their documented instructions.
- B. Repair or replace defaced or damaged finishes caused by work of this section.

3.09 PROTECTION

- A. Protect installed roofing and flashings from construction operations.
- B. Where traffic must continue over finished roof membrane, protect surfaces using durable materials.

3.10 SCHEDULE

- A. Olympic Elementary School Reroof
 - 1. Remove existing flashings and sheet metal and retain gutter for reuse.
 - 2. Install FR-50 fire retardant slip sheet.
 - 3. Install roof membrane using mechanical attachment.
 - 4. Install clad metal drip edge at gutter location and reinstall gutter.

END OF SECTION

**SECTION 07 6200
SHEET METAL FLASHING AND TRIM**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Fabricated sheet metal items, including flashings, counterflashing, gutters, downspouts, and other sheet metal work required for a complete and watertight project.
- B. Sealants for joints within sheet metal fabrications.

1.02 REFERENCE STANDARDS

- A. AAMA 2605 - Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels (with Coil Coating Appendix) 2020.
- B. ASTM A653/A653M - Standard Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process 2020.
- C. ASTM C920 - Standard Specification for Elastomeric Joint Sealants 2018.
- D. ASTM D226/D226M - Standard Specification for Asphalt-Saturated Organic Felt Used in Roofing and Waterproofing 2017.
- E. ASTM D4586/D4586M - Standard Specification for Asphalt Roof Cement, Asbestos-Free 2007 (Reapproved 2018).

1.03 SUBMITTALS

- A. See Section 01 3000 - Administrative Requirements for submittal procedures.
- B. Samples: Submit two samples for verification of sheet metal to match existing color and finish.

1.04 DELIVERY, STORAGE, AND HANDLING

- A. Stack material to prevent twisting, bending, and abrasion, and to provide ventilation. Slope metal sheets to ensure drainage.
- B. Prevent contact with materials that could cause discoloration or staining.

PART 2 PRODUCTS

2.01 SHEET MATERIALS

- A. Pre-Finished Galvanized Steel: ASTM A653/A653M, with G90/Z275 zinc coating; minimum 24-gauge, 0.0239-inch thick base metal, shop pre-coated with PVDF coating.
 - 1. Polyvinylidene Fluoride (PVDF) Coating: Superior performing organic powder coating, AAMA 2605; multiple coat, thermally cured fluoropolymer finish system.
 - 2. Color: To match existing sheet metal color and finish..

2.02 FABRICATION

- A. Form sections true to shape, accurate in size, square, and free from distortion or defects.
- B. Form pieces in longest possible lengths.
- C. Hem exposed edges on underside 1/2 inch; miter and seam corners.

- D. Form material with standing seams, except where otherwise indicated; at moving joints, use sealed lapped, bayonet-type or interlocking hooked seams.
- E. Fabricate corners from one piece with minimum 18-inch long legs; seam for rigidity, seal with sealant.
- F. Fabricate flashings to allow toe to extend 2 inches over roofing gravel. Return and brake edges.

2.03 GUTTER AND DOWNSPOUT FABRICATION (ALTERNATE)

- A. Gutters and Downspouts: Match existing size, shape, configuration and attachment methods of existing as part of Alternate.
- B. Seal metal joints.

2.04 ACCESSORIES

- A. Fasteners: Stainless steel, with soft neoprene washers.
- B. Underlayment: ASTM D226/D226M, organic roofing felt, Type I, No. 15.
- C. Primer: Zinc chromate type.
- D. Concealed Sealants: Non-curing butyl sealant.
- E. Exposed Sealants: ASTM C920; elastomeric sealant, with minimum movement capability as recommended by manufacturer for substrates to be sealed; color to match adjacent material.
- F. Asphalt Roof Cement: ASTM D4586/D4586M, Type I, asbestos-free.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verify roof openings, curbs, pipes, sleeves, ducts, and vents through roof are solidly set, reglets in place, and nailing strips located.
- B. Verify roofing termination and base flashings are in place, sealed, and secure.

3.02 INSTALLATION

- A. Secure flashings in place using concealed fasteners, and use exposed fasteners only where permitted..
- B. Apply plastic cement compound between metal flashings and felt flashings.
- C. Fit flashings tight in place; make corners square, surfaces true and straight in planes, and lines accurate to profiles.
- D. Seal metal joints watertight.

END OF SECTION

**SECTION 07 9200
JOINT SEALANTS**

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Nonsag gunnable joint sealants.
- B. Joint backings and accessories.

1.02 REFERENCE STANDARDS

- A. ASTM C920 - Standard Specification for Elastomeric Joint Sealants 2018.
- B. ASTM C1193 - Standard Guide for Use of Joint Sealants 2016.
- C. ASTM C1248 - Standard Test Method for Staining of Porous Substrate by Joint Sealants 2018.
- D. ASTM C1311 - Standard Specification for Solvent Release Sealants 2014.

PART 2 PRODUCTS

2.01 JOINT SEALANT APPLICATIONS

- A. Scope:
 - 1. Exterior Joints: Seal open joints, whether or not the joint is indicated on drawings, unless specifically indicated not to be sealed. Exterior joints to be sealed include, but are not limited to:
 - a. Joints between different exposed materials.
- B. Exterior Joints: Use non-sag polyurethane sealant, unless otherwise indicated.
 - 1. Lap Joints in Sheet Metal Fabrications: Butyl rubber, non-curing.

2.02 JOINT SEALANTS - GENERAL

- A. Compatibility: Furnish and install joint sealers, joint fillers and other related materials that are compatible with one another and with joint substrates under conditions of service and application, as demonstrated by manufacturer based on testing and field experience.

2.03 ACCESSORIES

- A. Backer Rod: Cylindrical cellular foam rod with surface that sealant will not adhere to, compatible with specific sealant used, and recommended by backing and sealant manufacturers for specific application.
- B. Backing Tape: Self-adhesive polyethylene tape with surface that sealant will not adhere to and recommended by tape and sealant manufacturers for specific application.
- C. Masking Tape: Self-adhesive, nonabsorbent, nonstaining, removable without adhesive residue, and compatible with surfaces adjacent to joints and sealants.
- D. Joint Cleaner: Noncorrosive and nonstaining type, type recommended by sealant manufacturer; compatible with joint forming materials.
- E. Primers: Type recommended by sealant manufacturer to suit application; nonstaining.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Verify that joints are ready to receive work.
- B. Verify that backing materials are compatible with sealants.
- C. Verify that backer rods are of the correct size.

3.02 PREPARATION

- A. Remove loose materials and foreign matter that could impair adhesion of sealant.
- B. Clean joints, and prime as necessary, in accordance with manufacturer's instructions.

- C. Perform preparation in accordance with manufacturer's instructions and ASTM C1193.
- D. Mask elements and surfaces adjacent to joints from damage and disfigurement due to sealant work; be aware that sealant drips and smears may not be completely removable.

3.03 INSTALLATION

- A. Install this work in accordance with sealant manufacturer's requirements for preparation of surfaces and material installation instructions.
- B. Provide joint sealant installations complying with ASTM C1193.
- C. Install bond breaker backing tape where backer rod cannot be used.
- D. Install sealant free of air pockets, foreign embedded matter, ridges, and sags, and without getting sealant on adjacent surfaces.
- E. Clean adjacent surfaces free from sealant as the installation progresses. Use solvent or cleaning agent as recommended by the sealant manufacturer.
- F. Do not install sealant when ambient temperature is outside manufacturer's recommended temperature range, or will be outside that range during the entire curing period, unless manufacturer's approval is obtained and instructions are followed.
- G. Nonsag Sealants: Tool surface concave, unless otherwise indicated; remove masking tape immediately after tooling sealant surface.
- H. Protect all sealant joints until fully cured

END OF SECTION