

February 4, 2019

**KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND
MAINTENANCE PROJECT**

**PROJECT MANUAL – VOLUME 1
General Conditions
Technical Specifications**

BID SET

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KEY PEN PARKS PARKING LOT REPAIR
AND MAINTENANCE
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**KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT**

Invitation to Bid

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3
4
5
6 1. NOTICE TO BIDDERS

7
8 Key Peninsula Metropolitan Park District (Key Pen Parks) will receive sealed bids from qualified
9 bidders selected from the Key Peninsula Metropolitan Parks District's MSRC Small Works
10 Roster, for the above project at the offices the Key Peninsula Metropolitan Parks District, 5514
11 Key Peninsula Highway North, Lakebay, WA 98349 until February 28, 2019 at 12:00 pm PST.
12 Bids received after the appointed time set for receipt will be rejected.
13

14 2. BIDDING DOCUMENTS

15
16 A. The bidding documents shall consist of all required bid forms and documents provided in the
17 Project Manual, including, but not limited to:

- 18
19 a. This Invitation to Bid,
20 b. Instructions to Bidders,
21 c. Bid Proposal
22 d. Non-Collusion Affidavit
23 e. Non-Discrimination Clause
24 f. Bid Bond Form
25 g. Performance and Payment Bond Form
26 h. Certification of Non-Segregated Facilities
27 i. Project Manual – Volume 1
28 j. Bid Drawings and Specifications
29 k. Addenda and Clarifications during the Bid Period
30

31 B. Key Pen Parks shall provide bid documents free of charge to the selected bidders.
32

33 3. BID SECURITY

34
35 Each bid must be accompanied by a certified check for 5% of the total maximum amount of the
36 bid, made payable to the Key Peninsula Metropolitan Parks District, or a bid bond in the form
37 furnished by the Owner for 5% of the total maximum amount of the bid, as a guarantee that the
38 bidder will promptly execute a valid contract with the Owner in accordance with the bidding
39 documents. If a bid bond is used, the 5% may be shown in dollars and cents or the form may be
40 filled in by inserting therein, in lieu of dollars of cents, "5% of the amount of the accompanying
41 proposal." Bonds must be satisfactory to the Owner. Check or bid bond of the successful bidder
42 will be returned immediately upon execution of contract in acceptance of performance and
43 payment bond. All other checks will be returned immediately upon award of contract. The
44 Bidder acknowledges that the Owner will suffer substantial damages if Bidder refuses to enter
45 the Contract or furnish the required bonds but that such damages are difficult to determine with
46 precision. If the Bidder refuses to enter into such Contract or fails to furnish such bonds if
47 required (all within the required time), then the Owner may elect to retain and forfeit the good
48 security or Bid Bond as liquidated damages or collect actual damages from the Bidder.
49

1 4. PRE-BID CONFERENCE
2

3 There will be no Pre-Bid Conference. Bidders are welcome to submit questions via email only
4

5
6 5. REJECTION OF BIDS
7

8 The Owner shall have the right to reject any or all bids or any items of the bid and in particular to
9 reject a bid not accompanied by any required bid security or data required by the bidding
10 documents or bid in any way incomplete or irregular. Any or all bids may be rejected for good
11 cause.
12

13 6. CONTRACT AWARD
14

15 A. The contract shall be awarded to the lowest responsible bidder using a combination of the Base
16 Bid and any, all, or none of the Additive Bid Items. The Owner reserves the right to waive
17 informalities or technical defects as the interest of the Owner may require.
18

19 B. No bidder may withdraw his/her bid after the hour set for the opening of bids or before the award
20 of the contract.
21

22 C. Proposals must be made on the Bidder's Proposal Form.
23
24

25 END SECTION
26

INSTRUCTIONS TO BIDDERS

ARTICLE 1

GENERAL

1.1 This project is being bid through a Small Works Roster format in accordance with the procedures and requirements of the WA MSRC, utilizing the Small Works Roster established by the Key Peninsula Metropolitan Park District (hereinafter Key Pen Parks), for the work described in the Bid Documents, to be performed for Key Pen Parks at selected park locations.

ARTICLE 2

DEFINITIONS

2.1 All definitions set forth in the General Conditions for the Key Peninsula Metropolitan Park District, and in other Contract Documents are applicable to the Bidding Documents.

2.2 Addenda: Addenda are written or graphic instruments issued by the Owner prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

2.3 A Bid is a complete and properly signed proposal to do the Work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents.

2.4 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 Additive Bid Items.

2.5 An Additive Alternate Bid is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

2.6 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials or services as described in the Bidding Documents or in the proposed Contract Documents.

2.7 A Bidder is a person or entity selected by the Owner from the Key Pen Parks Small Works Roster to submit a bid for the work.

ARTICLE 3

BIDDER'S REPRESENTATIONS

3.1 Each Bidder by making their Bid represents that:

3.2 They have read and understands the Bidding Documents and their Bid is made in accordance therewith.

- 1 3.3 They have visited the site, has familiarized themselves with the local conditions under
2 which the Work is to be performed, made any and all investigations to determine the
3 condition and depth(s) of existing paving, aggregate surfaces, and other surfaces on
4 which the work is to be performed, determined the amount of existing materials to be
5 removed, replaced, or processed in place, and has correlated their observations with the
6 requirements of the proposed Contract Documents.
7
- 8 3.4 Their Bid is based upon the materials, systems, and equipment required by the Bidding
9 Documents, the information Bidders have obtained from physically visiting each
10 worksite, and the means and methods a Bidder proposes to complete the work described
11 in a 100% complete and operable manner, based upon the information gathered from the
12 Contract Documents and on-site investigations and measurements of the existing
13 conditions.
14
- 15 3.5 They understand the timeline for construction, the dates for major events to be held at
16 Volunteer Park, and Key Pen Parks' schedule for Little League Baseball at Volunteer
17 Park, and agree to work schedule their work so as not to conflict with those dates and
18 times, and to allow public access to all fields during those times.
19

20 ARTICLE 4

21 BIDDING DOCUMENTS

- 22
- 23
- 24 4.1 The Bid Documents include the Drawings, Specifications, and Bidding Forms and
25 Documents.
26
- 27 4.2 The Drawings are provided by the Owner to to describe the location of each work site, a
28 site plan for each work site providing the general scope of work required, photographs of
29 the existing conditions at each work site, and construction details.
30
- 31 4.3 Drawings are not scaled, and shall not be used for take-offs, calculations of materials and
32 labor, or any quantities required to price the Work.
33
- 34 4.4 Bidders shall visit each work site, measure the work areas described on the Drawings,
35 and determine the means and methods required to provide the scope of work required for
36 100% completion, in order for the Owner to utilize the work areas as intended, for
37 parking, vehicular site access, and both vehicular and pedestrian traffic. Bidders shall
38 develop their bid price solely from the actual existing conditions encountered.
39
- 40 4.5 Bidders shall promptly notify the Owner via email correspondence only, of any
41 ambiguity, inconsistency or error which they may discover upon examination of the
42 Bidding Documents or of the site and local conditions.
43
- 44 4.6 Bidders requiring clarification or interpretation of the Bidding Documents shall make a
45 request via email only which shall reach the Owner at least five (5) days prior to the date
46 for receipt of Bids.
47

1 4.7 Substitutions: *Not Applicable*

2
3 4.8 ADDENDA

- 4
5 a. Addenda will be provided via email to all Key Pen Parks MSRC Contractors and
6 Vendors who received the original Bid Advertisement.
7 b. Addenda shall include responses to Bidder questions, and clarifications requested
8 by Bidders.
9

10 ARTICLE 5

11 BIDDING PROCEDURE

12 FORMS AND STYLE OF BIDS

13
14
15
16 5.1 Bids shall be submitted on the Bid Form provided in the Bid Documents.

17
18 5.2 All blanks on the bid form shall be filled in by typewriter or manually in ink.

19
20 5.3 Where indicated on the bid form, express sums in both words and figures. In case of
21 discrepancy between the two, the written amount shall govern.
22

23 5.4 Interlineations, alterations, and/or erasures must be initialed by the signer of the Bid.

24
25 5.5 Bid all Additive Bid Items Items.

26
27 5.6 The prices in the Bid shall not include all applicable federal, state and local taxes.
28

29 5.7 Each copy of the Bid shall include the legal name of the Bidder and a statement that the
30 Bidder is a sole proprietor, a partnership, a corporation, or some other legal entity. Each
31 proposal signature sheet shall be signed by the person or persons legally authorized to
32 bind the Bidder to a contract. A bid by a corporation shall further give the state of
33 incorporation and have the corporate seal affixed. A bid submitted by an agent shall
34 have a current power of attorney attached certifying the agent's authority to bind the
35 Bidder.
36

37 5.8 Each Bid shall be accompanied by a bid security in the form and amount required by the
38 Owner pledging that the Bidder will enter into a Contract with the Owner on the terms
39 stated in his Bid and will, if required, furnish bonds as described hereunder in Article 7
40 covering the faithful performance of the Contract and the payment of all obligations
41 arising thereunder. The Bidder acknowledges that the Owner will suffer substantial
42 damages if Bidder refuses to enter the Contract or furnish the required bonds but that
43 such damages are difficult to determine the precision. If the Bidder refuses to enter into
44 such Contract or fails to furnish such bonds within ten (10) days after Notification of
45 Award, then the Owner may elect to retain and forfeit the good security of Bid Bond as
46 liquidated damages or collect actual damages from the Bidder.
47

KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT
SECTION 00030
INSTRUCTIONS TO BIDDERS

- 1
- 2 5.9 The surety bond shall be written on the Bid Bond form supplied with the Bidding
- 3 documents, and the attorney-in-fact who executes the bond on behalf of the surety shall
- 4 affix to the bond a certified and current copy of his power of attorney.
- 5
- 6 5.10 The Owner will have the right to retain the bid security of Bidders to whom an award is
- 7 being considered until either (a) the Contract has been executed and bonds, if required,
- 8 have been furnished, or (b) the specified time has elapsed so that Bids may be
- 9 withdrawn, or (c) all Bids have been rejected.
- 10
- 11 5.11 Submission of Bids
- 12 a. All copies of the Bid, the bid security, if any, and any other documents required to be
- 13 submitted with the Bid shall be enclosed in a sealed envelope. The envelope shall be
- 14 addressed to the Key Peninsula Metropolitan Park District (PenMet Parks) and shall
- 15 be identified with the Project name, the Bidder's name and address and, if applicable,
- 16 the designated portion of the Work for which the Bid submitted. If the Bid is sent by
- 17 mail the sealed envelope shall be enclosed in a separate mailing envelope with the
- 18 notation "SEALED BID ENCLOSED" on the face thereof.
- 19 b. Bids shall be deposited at the designated location prior to the time and date for
- 20 receipt of Bids indicated in the Invitation to Bid, or any extension thereof made by
- 21 Addendum. Bids received after the time and date for receipt of Bids will be returned
- 22 unopened.
- 23 c. All Bids shall be logged by the Owner upon receipt. The Bidder shall assume full
- 24 responsibility that the Bid be logged, as well as assuming full responsibility for
- 25 timely delivery at the location designated for receipt of Bids. A Bidder mailing its
- 26 Bid bears the risk of non-receipt and the risk of failure to log or inaccurate logging
- 27 d. Oral, telephonic or telegraphic Bids are invalid and will not receive consideration.
- 28
- 29 5.12 Modification or Withdrawal of Bids
- 30 a. A Bid may not be modified, withdrawn or canceled by the Bidder during the
- 31 stipulated time period following the time and date designated for the receipt of Bids,
- 32 and each Bidder so agrees in submitting his Bid.
- 33 b. Prior to the time and date designated for receipt of Bids, any Bid submitted may be
- 34 modified or withdrawn by notice to the Owner at the place designated for receipt of
- 35 Bids. Such notice shall be in writing over the signature of the Bidder or by telegram;
- 36 if by telegram, written confirmation over the signature of the Bidder shall be mailed
- 37 and postmarked on or before the date and time set for receipt of Bids, and it shall be
- 38 so worded as not to reveal the amount of the original Bid.
- 39 c. Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids
- 40 provided they are then fully in conformance with these Instructions to Bidders.
- 41 d. Bid security shall be in an amount sufficient for the Bid as modified or resubmitted.
- 42
- 43 5.13 Opening of Bids
- 44 a. Bids will not be opened and read aloud publicly.
- 45 b. Owner shall notify the three bidders of the bid results and the bid tabulations.
- 46 c. Owner shall make available to Bidders a copy of the bid results.
- 47 d. Owner shall make available to any public inquiry a copy of the bid results.

1 5.14 Rejection of Bids

2 The Owner shall have the right to reject any or all Bids or any items of the Bid and to
3 reject a Bid not accompanied by any required Bid security or by other data required by
4 the Bidding Documents, or to reject a Bid which is in any way incomplete or irregular.
5 Any or all bids may be rejected for good cause.
6

7 5.15 Acceptance of Bids

- 8 a. It is the intent of the Owner to award a Contract to the lowest responsible Bidder
9 provided the Bid has been submitted in accordance with the requirements of the
10 Bidding Documents and does not exceed the funds available.
- 11 b. The Owner shall have the right to waive any informality, irregularity, or technical
12 defect in any Bid or Bids received and to accept the Bid or Bids which, in its
13 judgment, is in its best interests.
- 14 c. In selecting the most responsible Bidder, consideration will be given to financial
15 standing and the general competency of the Bidder for the performance of the work
16 covered by the proposal.
- 17 d. The Owner shall have the right to accept Additive Bid Items in any order or
18 combination, or refuse to accept any of the Alternate Bid Items, whichever is in the
19 best interest of the Owner, and to determine the lowest and best Bidder on the basis
20 of the sum of the Base Bid and the Additive Bid Items accepted, together with
21 considerations of responsibility and compliance.
22

23 ARTICLE 6

24
25 FAITHFUL PERFORMANCE AND LABOR AND MATERIAL PAYMENT BOND
26

27 6.1 Prior to execution of the Contract, the Bidder shall furnish bonds covering the faithful
28 performance of the Contract and the payment of all obligations arising thereunder in such
29 form and amount as the Owner may prescribe. Bonds may be secured through the
30 Bidder's usual sources from a company licensed to do business in Washington State and
31 excellently rated. The cost of such bonds shall be included in the Bid.
32

33 6.2 The bidder shall deliver the required bonds to the Owner not later than the date of
34 execution of the Contract, or if the Work is to be commenced prior thereto in response to
35 a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence
36 satisfactory to the Owner that such bonds will be furnished.
37

38 6.3 The bonds shall be written on the Faithful Performance Bond and Labor and Material
39 Payment Bond forms provided by the Owner.
40

41 6.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf
42 of the surety to affix thereto a certified and current copy of his power of attorney.
43
44
45
46
47

1 ARTICLE 7

2
3 AGREEMENT BETWEEN OWNER AND CONTRACTOR

4
5 7.1 Owner shall provide a Contract for Services for the written Agreement.

6
7 7.2 A Bidder whose proposal is accepted shall sign the written Agreement Between Owner
8 and Contractor within ten(10) days from the date of receiving the Notice from Owner to
9 Bidder of acceptance of their proposal. Failure to so execute the Agreement shall result
10 in forfeiture of the Bidder's bond or certified check.

11
12 ARTICLE 8

13
14 WORK SCHEDULE AND OWNER ACCESS TO WORK SITES

15 8.1 The Work Sites will be available for work to commence May 1, 2019.

16
17 8.2 Date of Completion of All Work shall be September 20, 2019.

18
19 8.3 Bidder shall coordinate their work to allow the Owner access to the worksites for
20 specific events as follows:

- 21 a. Little League Baseball at Volunteer Park: March until June 15th, evening games
22 beginning approximately 6:00 pm, and all day on weekends.
23 b. Rental Event at Volunteer Park: June 20-23, all day, each day.
24 c. Softball Tournament at Volunteer Park: August 16-18, 2019, all day, each day.

25
26 8.4 HMA placed during the times when any of the work sites are open to traffic shall meet
27 the requirements of WSDOTSS 5-04.3(2) Paving Under Traffic.

28
29 8.5 Bidder agrees to place all construction signage and protection devices required to protect
30 the health, safety, and welfare, of all park users at each work site.

31
32 8.6 Bidder agrees that by submitting their bid, they take sole responsibility for managing the
33 schedule during inclement weather, less than minimum surface temperatures for paving,
34 and with the presence of vehicular traffic, and shall not submit claims or request
35 additional funds for idle/standby time for equipment and labor, temporary erosion and
36 sediment control measures – including ongoing maintenance, removal, and replacement
37 due to damage, and traffic control, during the work period relating to inclement weather
38 and wet, frozen, unworkable conditions, or work performed in the presence of vehicular
39 traffic.

40
41 8.7 Bidder further agrees that during times where the work must be halted due to weather or
42 temperature limitations, the work site shall be temporarily stabilized and protected from
43 traffic at Bidder's expense.

44
45 END SECTION

1
2 **BIDDER'S PROPOSAL**

3 **KEY PENINSULA METROPOLITAN PARK DISTRICT**
4 **PARKING LOT REPAIR AND MAINTENANCE PROJECT**

5 *Proposals received until 12:00 PM. (NOON) PST, February 28, 2019*

6
7
8 To: Key Peninsula Metropolitan Park District (Key Pen Parks) "Owner":

- 9
10 1. The undersigned Bidder declares that they have read and fully understands each and every other
11 published Contract Document referred to herein, and agrees to all of the terms, conditions and
12 provisions contained therein; that they have examined the site(s) of the work and has made the
13 investigations and formed the estimates as to all conditions and contingencies referred to in and
14 required by the Contract Documents, and they propose and agree that if their bid as submitted in
15 the Proposal be accepted, they will contract in the form provided to perform all of the work and in
16 the manner required by the Contract Documents and to complete the same within the time
17 stipulated; that they will accept in full payment therefor the prices named herein. Said prices are
18 to include and cover the furnishing of all materials, the performing of all labor requisite or proper,
19 supervision, overhead, profit, taxes (excluding State sales tax), and the providing of all necessary
20 machinery, tools, appurtenances, equipment and other means required to fully complete this
21 contract, except as otherwise specifically provided in the Specifications.
22
23 2. Bidder further agrees that they will sign the contract in accordance with the Proposal as accepted
24 and furnish the required bonds within ten (10) days from date of mailing of said notice of
25 acceptance to them at the address given below; upon their failure or refusal to do so within said
26 time, the certified or cashier's check or bidder's bond, accompanying the bid, and the money payable
27 thereon, shall be forfeited to and become the property of the Owner as liquidated damages for such
28 failure or refusal, provided, that if said bidder shall execute the contract and furnish the required
29 bonds within the time aforesaid, their certified or cashier's check, if furnished, shall be RETURNED
30 to them within three (3) days thereafter, and the bid bond, if furnished, shall become void.
31
32 3. Bidder agrees that their Proposal shall remain open and not withdrawn for a period of not less than
33 sixty (60) days from the date of opening bids.
34
35

36 **BID SCHEDULE:**

37
38 **Project Name:** PARKING LOT REPAIR AND MAINTENANCE PROJECT

39 **Location of Work:** Various locations described in the Bid Documents.
40

41 This certifies that the undersigned has examined the location of the above cited project and the Plans and
42 Specifications and Contract governing the work embraced in this improvement, and the method by which
43 payment will be made for said work is understood. The undersigned hereby proposes to undertake and
44 complete the work embraced in this improvement, or as much thereof as can be completed with available
45 funds, in accordance with said Plans, Specifications and Contract and the following schedule of rates and
46 prices:

47 All costs shall be "in place" costs and complete, **excluding State Sales Tax.** *The Owner reserves the right*
48 *to make mathematical corrections of multiplication or addition errors on the bid form.*
49
50

VOLUNTEER PARK AREA 1 PARKING LOT REPAIR AND MAINTENANCE

SCHEDULE A - BASE BID:

Trench Excavation Safety Provisions: If the contract contains any work which requires trenching exceeding a depth of four (4) feet, all costs for adequate trench safety systems shall be identified as a separate bid item in compliance with Chapter 39.04 RCW. The purpose of this provision is to ensure that the bidder agrees to comply with all relevant trench safety requirements of Chapter 49.17 RCW. This bid amount shall be considered part of the total base bid. **Include a lump sum dollar amount (even if the value is \$0.00) to be considered responsive to the bid solicitation.**

BASE BID ITEMS

SCHEDULE A - BASE BID - LUMP SUM

ITEM NO.	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL AMOUNT
1.	Trench Safety Provisions per RCW 39.04.180 & 49.17	1	L.S.	\$
2.	Base Bid - Volunteer Park Area 1 Parking Lot Repair and Maintenance	1	L.S.	\$
3.	Base Bid - Volunteer Park Area 1 Grassing	1	L.S.	\$
Schedule A Total Price, Not Including WA State Sales Tax				\$

SCHEDULE B - ADDITIVE BID ITEMS:

ITEM NO.	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL AMOUNT
B1	Volunteer Park Area 2 Parking Lot Repair and Maintenance	1	L.S.	\$
B2	Volunteer Park Area 2 Grassing	1	L.S.	\$
B3	Volunteer Park Area 3 Parking Lot Repair and Maintenance	1	L.S.	\$
B4	Volunteer Park Area 3 Grassing	1	L.S.	\$
B5	Home Park Parking Lot Repair and Maintenance	1	L.S.	\$
B6	Home Park Parking Lot Grassing	1	L.S.	\$

ITEM NO.	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL AMOUNT
B7	480 Parks Driveway Entrance Repair and Maintenance	1	L.S.	\$
B8	480 Parks Driveway Entrance Grassing	1	L.S.	\$
Schedule B - Total Price, Not Including WA State Sales Tax				\$

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BID TOTALS

BID SCHEDULE A SUBTOTAL \$ _____

BID SCHEDULE B SUBTOTAL \$ _____

BID SUBTOTAL \$ _____

WA STATE SALES TAX \$ _____

TOTAL BID PRICE \$ _____

BASIS OF AWARD

Basis of Award will be the lowest responsive Base Bid plus any combination, or none, of the Additive Bid Items in Schedule B.

TIME OF COMPLETION

This Project shall be complete in accordance with the following schedule:

- a. Notice to Proceed May 1, 2019
- b. 100% Project Completion: September 20, 2019

LIQUIDATED DAMAGES

The undersigned agrees to pay the Owner as liquidated damages the sum of \$500 for each consecutive calendar day that is in default after the Time of Completion. Liquidated damages shall be deducted from the Contract by change order.

RECEIPT OF ADDENDA

Receipt of the following addenda is acknowledged:

Addendum No. _____ Through Addendum No. _____

- 4. Owner will evaluate bids to determine the lowest Total Price offered by responsive, responsible bidder. The Owner reserves the right to reject a bid in the event it is determined that any price for any bid item is unreasonable, unbalanced, or otherwise not in the best interest of Owner. A contract will be awarded, if at all based on the lowest Total Price of responsive, responsible bidder.

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Owner reserves the right, without obligation, to waive irregularities and informalities. The Owner further reserves the right to reject any portion of any bid, and/or to reject all bids.

5. Attached forms *(check blank to confirm document is attached hereto)*

- 1. Bid Security Bond, Certified Check, or Cashier's Check in the Amount of 5% of Total Bid (Base Bid including WSST), see instructions to bidders. _____
- 2. Certificate of Non-Segregated Facilities _____
- 3. Non-Discrimination Clause _____
- 4. Non-Collusion Affidavit _____

Contractor's Signature

Date

SUBMITTED BY:

Contractor's Name

Firm Name

Title

Address (Street/P.O. Box)

Contractor's Excise Tax Number

City State Zip

(_____) _____
Telephone Number

NON-COLLUSION AFFIDAVIT

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STATE OF _____)
) ss.
County of _____)

_____, being first duly sworn, deposes and says:

1. He is:

the individual
 a managing general partner of the partnership named _____.

a managing general partner of the joint venture named _____,
consisting of the following joint ventures:

 the _____ (title) of _____ a corporation,
organized under the laws of the state of _____, authorized to do business in the
State of Washington, which is the party making the foregoing proposal of bid;

2. Such bid is genuine and not collusive or sham;

3. Bidder has not conspired or agreed, directly or indirectly, that another person refrain from bidding, nor by such means sought to secure any advantage for himself or for any other party;

4. Bidder has not accepted any bid from any subcontractor or material man through any bid depository, the Bylaws, Rules or Regulations of which prohibit or prevent the Bidder from considering any bid from any subcontractor or material man which is not processed through said bid depository, or which prevent any subcontractor or material man from bidding to any subcontractor who does not use the facilities of or accept bids from or through such bid depository;

5. He has been duly vested with authority to make and sign the foregoing Bidder's Proposal for:

the partnership/joint venture by _____ who
constitute the other general partners of the partnership/joint venture.
 the corporation pursuant to its bylaws or a solution of its Board of Directors.

Signature

SIGNED AND SWORN to me before this _____ day of _____, 2019.

by _____.

NOTARY PUBLIC in and for the State
of _____

My commission expires: _____

1
2
3 **NON-DISCRIMINATION CLAUSE FOR PUBLIC CONTRACTS**
4
5

6 Except to the extent permitted by a bona fide occupational qualification, the Contractor agrees as
7 follows:
8

- 9 (1) The Contractor will not discriminate against any employee or applicant for employment because of
10 race, creed, color, national origin, sex, or age. The Contractor will ensure that applicants are
11 employed, and that employees are treated during employment, without regard to their race, creed,
12 color, national origin, sex, or age.
13

14 Such action shall include, but not be limited to, the following: employment; upgrading; demotion or
15 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay of other forms of
16 compensation; and selection for training.
17

- 18 (2) The Contractor will, in all solicitations for employees or job orders for employees placed with any
19 employment agency, union or other firm or agency, state that all qualified applicants will receive
20 consideration for employment without regard to race, creed, color, national origin, sex, or age. The
21 words "equal opportunity employer" in advertisements shall constitute compliance with this section.
22

- 23 (3) The Contractor will send to each labor union or representative of workers with which he had a
24 collective bargaining agreement or other contract or understanding, a notice advising said labor
25 union or worker's representative of the Contractor's commitments under this section.
26

- 27 (4) The Contractor will include the provisions of the foregoing paragraphs (1), (2), and (3) in every
28 subcontract or purchase order for the goods or services which are the subject matter of this contract.
29

30 In the event of noncompliance by the Contractor with any of the nondiscrimination provisions of the
31 contract, the contracting agency shall have the right, at its option, to cancel the contract in whole or in
32 part. If the contract is canceled after part performance, the contracting agency shall be obligated to pay
33 the fair market value of the contract price, whichever is lower, for goods or services which have been
34 received and accepted.

35 **END OF SECTION**
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BID BOND FORM

(Not necessary when certified or cashier's check accompanies bid.)

We, the undersigned principal and surety our heirs, executors, administrators, successors and assigns, are jointly and severally held and firmly bound to the Key Peninsula Metropolitan Park District of Lakebay, Washington, a municipal corporation ["DISTRICT"], in the principal sum of:

_____ (\$ _____)

be paid and forfeited to District if the bid of the undersigned principal for

under the project entitled _____ if the principal's bid shall be accepted and the proposed Contract awarded to said principal and said principal shall fail or refuse to execute the Agreement in accordance with said bid as accepted and to furnish the bonds required in connection therewith within the time and form required; otherwise, this obligation to be void.

WITNESS our hands this _____ day of _____, 20____.

Principal

By: _____

Title

Surety

SEAL
By: _____

Attorney-in-Fact

Notarial certificate of attorney-in-fact and seal of surety must be attached. If executed by an attorney-in-fact, proof of current authority must be attached.

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENT

That we, _____, as Principal, and

_____, as Surety, are held and firmly bound to the Key Peninsula Metropolitan Park District of Lakebay, Washington, a municipal corporation ["DISTRICT"] in the sum of _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these present.

The condition of the above obligation is such that, whereas said Principal has been awarded and is about to enter into the annexed contract, with the DISTRICT _____

_____ and to which reference is hereby made for all particulars, and is required by DISTRICT to give this bond in connection with the execution of said contract;

NOW THEREFORE, if said Principal as Contractor under said contract fails to perform all of the covenants, terms, conditions and stipulations of said contract on his or its part to be done and performed at the times and in the manner specified therein, or if said Principal shall fail to pay all of his subcontractors, suppliers, material men, and laborers on said work, or if all materials used and workmanship employed in the performance of the contract shall not be free from defects, or if any defects should appear therein with a period of one year from the date of acceptance by DISTRICT of the work under the contract and the said Principal and Contractor shall fail to repair, replace and correct such defects at his or its own expense and to the satisfaction of the Owner within thirty (30) days after notice thereof by DISTRICT, said Principal and Surety will pay the DISTRICT the amount of all its loss, cost, expense, damages and liability on account of any and all of the foregoing, not exceeding, however, the sum set forth above, and in case suit is brought upon this bond said Surety shall also pay a reasonable attorney's fee to be fixed by the court.

The Said Principal and Surety agree that any change, extension of time, alterations or additions to said contract or work or materials required thereunder shall not in any manner release either the Principal or the Surety from the obligations of this bond; and said Surety hereby waives notice of any such change, extension of time, alteration or additions to said contract or performance required thereunder.

IN WITNESS WHEREOF, the Principal and the Surety have executed this instrument in duplicate this _____ day of _____, 20____.

Surety

Principal

By: _____

By: _____

Its _____

Its _____

KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT
SECTION 00141
CERTIFICATE OF NON-SEGREGATED FACILITIES

CERTIFICATION OF NON-SEGREGATED FACILITIES

The Bidder certifies that they do not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that they do not permit his/her employees to perform their services at any locations, under her/his control, where segregated facilities are maintained. The Bidder certifies further that he/she will not maintain or provide for her/his employees any segregated facilities at any of her/his establishments, and that he/she will not permit his/her employees to perform their services at any location under his/her control where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of this bid. As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that, except where he/she has obtained identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000, which not exempt from the provisions of the Equal Opportunity clause, and that he/she will retain such certifications in her/his files.

NOTE: The penalty for making false statements in offers is prescribed in 18 USV 1001.

DATE: _____, 2016

Name of Bidder

By: _____

Official Address

Title

Name of Project

City, State, Zip

MUST BE INCLUDED WITHOUT ALTERATION

KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT
SECTION 00160
RESPONSIBILITY CRITERIA

1 PART 1 - GENERAL

2 1.01 Before award of a public works contract, a bidder must meet at least the minimum qualifications
3 of RCW 39.04.350(1) to be considered a Responsible Bidder and qualified to be awarded a public
4 works contract.

5
6 1.02 A Bidder will be deemed not responsible, or non-responsive if the Bidder does not meet the
7 mandatory Bidder Responsibility Criteria in RCW 39.04.350(1) as amended; and the following
8 Supplemental Criteria:

9
10 A. At the time of bid submittal, have a certificate of registration in compliance with chapter
11 18.27 RCW.

12
13 B. Have a current state unified business identifier number.

14
15 C. If applicable, have industrial insurance coverage for the bidder's employees working in
16 Washington as required in Title 51 RCW; an employment security department number as
17 required in Title 50 RCW; and a state excise tax registration number as required in Title 82
18 RCW.

19
20 D. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or
21 39.12.065(3).

22
23 E. If bidding on a public works project subject to the apprenticeship utilization requirements in
24 RCW 39.04.320, not have been found out of compliance by the Washington state
25 apprenticeship and training council for working apprentices out of ratio, without appropriate
26 supervision, or outside their approved work processes as outlined in their standards of
27 apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the
28 date of the bid solicitation.

29
30 F. Until December 31, 2014, not have violated RCW 39.04.370 more than one time as
31 determined by the department of labor and industries.

32
33 1.03 SUPPLEMENTAL RESPONSIBILITY CRITERIA

34
35 A. In addition to the bidder responsibility criteria described in Sub-sections 1.01 and 1.02 above,
36 Bidder's must meet the following Supplemental Responsibility Criteria to be deemed a
37 Responsible Bidder.

38
39 B. Where specified herein, Bidders shall submit the required Responsibility Criteria
40 Documentation.

41
42 **1. Delinquent State Taxes**

43 a. Criterion: Bidder shall not owe delinquent taxes to the Washington State Department
44 of Revenue without a payment plan approved by the WA State Department of
45 Revenue.

KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT
SECTION 00160
RESPONSIBILITY CRITERIA

- 1 b. Documentation: Bidder, if and when required, shall not be listed on the
2 Washington State Department of Revenue’s “Delinquent Taxpayer List” website:
3 <http://dor.wa.gov/content/fileandpaytaxes/latefiling/dtlwest.aspx>, or if they are listed,
4 shall submit to the Owner a written payment plan approved by the WA State
5 Department of Revenue within five (5) days after Bid Submittal.

6 **2. Federal Debarment:**

- 7 a. Criterion: Bidder shall not currently be disbarred or suspended by the Federal
8 Government.
- 9 b. Documentation: Bidder, if and when required, shall not be listed as having an “active
10 exclusion” on the US Government’s System for Award Management database
11 (www.sam.gov).

12 **3. Prevailing Wages:**

- 13 a. Criterion: Bidder shall not have a record of prevailing wage violations, as
14 determined by WA Labor and Industries, in the five (5) years prior to the date of the
15 Bid Submittal, that demonstrates a pattern of failing to pay workers prevailing wages,
16 unless there are extenuation circumstances, and such circumstances are deemed
17 acceptable to the Contracting Agency.
- 18 b. Documentation: Bidder, if and when required, shall submit copies of all prevailing
19 wage violations as determined by Labor & Industries, for a period of five (5) years
20 prior to the date of the Bid Submittal, along with an explanation of each complaint
21 and how it was resolved. The Contracting Agency shall review each complaint and
22 attached resolution to determine if the complaints constitute a pattern of failing to pay
23 prevailing wages as required.

24 **4. Subcontractor Responsibility:**

- 25 a. Criterion: Bidder’s standard subcontract form shall include the subcontractor
26 language required by RCW 39.06.020, and the Bidder shall have an established
27 procedure which it utilizes to validate the responsibility of each of his/her
28 subcontractors.

29 The Bidder’s subcontract form shall also include a requirement that each of its
30 subcontractors shall have, and shall document, +a similar procedure to determine if
31 sub-tier subcontractors with whom it contracts are also “responsible” subcontractors
32 as identified by RCW 39.06.020.

- 33 b. Documentation: Bidder **shall submit to the Contracting Agency prior to the**
34 **signing of a Contract for the Work**, a copy of its standard subcontract agreement
35 for review by the Contracting Agency, and shall include a written description of its
36 procedure for validating the responsibility of subcontractors with which it contracts.

1 **5. Claims Against Retainage and Bonds:**

- 2 a. Criterion: The Bidder shall not have a record of excessive claims filed against
3 the retainage or payment bonds for public works projects in the three (3) years
4 prior to the date bids are submitted, that demonstrate a lack of effective
5 management by the Bidder of making timely and appropriate payments to its
6 subcontractors, suppliers, and workers, unless there are extenuating
7 circumstances that are deemed acceptable to the Contracting Agency.
- 8 b. Documentation: The Bidder, if and when required, shall submit a list of the
9 public works projects completed in the three (3) years prior to the date bids are
10 submitted that have claims against retainage and/or bonds. Include for each
11 project:
- 12 i. Name of Project
 - 13 ii. Owner and Contract Information
 - 14 iii. List of claims filed against retainage and/or payment bonds
 - 15 iv. Written explanation of the circumstances surrounding each claim and the
16 ultimate resolution.

17
18 **6. Public Bidding Crime:**

- 19 a. Criterion: The Bidder and/or its Owners shall not have been convicted of a crime
20 involving bidding on a public works contract in the five years prior to the date
21 bids are submitted.
- 22 b. Documentation: The Bidder, if and when required, shall sign a statement (on a
23 form provided by the Contracting Agency) that the Bidder and/or its Owners
24 have not been convicted of a crime involving bidding on a public works contract
25 within the five years prior to the date bids are submitted.

26 **7. Termination for Cause / Termination for Default:**

- 27 a. Criterion: Bidder shall not have had any public works contracts terminated for
28 cause or terminated for default by a government agency in the five (5) years prior
29 to the date bids are submitted, unless there are extenuating circumstances and the
30 Contracting Agency deems such extenuating circumstances acceptable.
- 31 b. Documentation: The Bidder, if and when required, shall sign a statement (on a
32 form provided by the Contracting Agency) that he/she has not had any public
33 works contracts terminated for cause or terminated for default by a government
34 agency in the five (5) years prior to the date bids are submitted.

35 **8. Lawsuits:**

- 36 a. Criterion: The Bidder and/or its Owners shall not have lawsuits with judgments
37 entered against the Bidder, on a public works contract, in the five (5) years prior
38 to the date bids are submitted, that demonstrate a pattern of failing to meet the
39 terms of Contracts, unless there are extenuating circumstances and the
40 Contracting Agency deems such extenuating circumstances acceptable.

KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT
SECTION 00160
RESPONSIBILITY CRITERIA

- 1 b. Documentation: The Bidder, if and when required, shall sign a statement (on a
2 form provided by the Contracting Agency) that the Bidder has not had any
3 lawsuits with judgments entered against the Bidder on a public works contract in
4 the five (5) years prior to the date bids are submitted, that demonstrate a pattern
5 of failing to meet the terms of Contracts, or shall submit a list of lawsuits with
6 judgments entered against the Bidder in the five (5) years prior to the date bids
7 are submitted, along with written explanation of the circumstances surrounding
8 each such lawsuit. The Contracting Agency shall evaluate these explanations to
9 determine whether the lawsuits demonstrate a pattern of failing to meet the terms
10 of construction-related contracts.

11
12 1.04 SUBMITTALS OF MANDATORY AND SUPPLEMENTAL CRITERIA

- 13
14 A. As evidence the Bidder meets the mandatory and supplemental responsibility criteria stated
15 herein, the apparent Low Bidder must submit to the Contracting Agency by 12:00 PM (noon),
16 Local Time, of the third (3rd) business day following the Bid Submittal date, a written
17 statement verifying that the Bidder meets all of the mandatory and supplemental criteria,
18 including supporting documentation (sufficient in the sole judgment of the Contracting
19 Agency) demonstrating compliance with all mandatory and supplemental responsibility
20 criteria.
21
22 B. The Contracting Agency reserves the right to request such documentation from other Bidders
23 as well, and to request further documentation as needed to assess Bidder responsibility.
24
25 C. The Contracting Agency further reserves the right to obtain information from third-parties
26 and independent sources of information concerning the Bidder's compliance with the
27 mandatory and supplemental criteria, and to use that information in their evaluation.
28
29 D. The Contracting Agency may (but is not required to) consider mitigating factors in
30 determining whether the Bidder complies with the requirements of the supplemental criteria.

31
32 1.05 EVALUATION OF MANDATORY AND SUPPLEMENTAL CRITERIA

- 33
34 A. The basis for the evaluation of Bidder compliance with these mandatory and supplemental
35 criteria shall include any documents or facts obtained by the Contracting Agency (whether
36 from the Bidder or from Third Parties) including, but not limited to:
37 1. Financial, historical, or operational data from the Bidder.
38 2. Information obtained directly by the Contracting Agency from others whom the Bidder
39 has worked, or other public agencies or private enterprises
40 3. Any additional information obtained by the Contracting Agency which is believed to be
41 relevant to the evaluation.
42
43 B. If the Contracting Agency determines the Bidder does not meet the Bidder Responsibility
44 Criteria listed herein, and is therefore not a responsible Bidder, the Contracting Agency shall
45 notify the Bidder in writing, along with the reasons for its determination.
46
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1
2 1.06 APPEAL
3

- 4 A. If the Bidder disagrees with the Contracting Agency's determination, Bidder may appeal the
5 determination within two (2) business days of receipt of the determination letter, to the
6 Contracting Agency by presenting its appeal and any additional information to the
7 Contracting Agency.
8
9 B. The Contracting Agency shall consider the appeal and any additional information provided
10 by the Bidder before issuing its final determination.
11
12 C. If the final determination affirms the Bidder is not responsible, the Contracting Agency will
13 not execute a Contract with any other bidder until at least two (2) working days after the
14 Bidder has received the Contracting Agencies final decision.
15

16
17 1.07 REQUEST TO CHANGE SUPPLEMENTAL BIDDER RESPONSIBLILITY CRITERIA
18 Prio TO BID
19

- 20 A. Bidders with concerns about the relevancy or restrictiveness of the Supplemental Bidder
21 Responsibility Criteria may make or submit requests to the Contracting Agency to modify the
22 criteria.
23
24 B. Such requests shall be in writing, describe the nature of the concerns, and propose specific
25 modifications to the criteria.
26
27 C. Bidders shall submit such request(s) to the Contracting Agency no later than four (4) business
28 days prior to the Bid Submittal Deadline, and address the request to the Owner's
29 Representative or other such person designated in the Bid Documents.
30
31

32
END OF SECTION

WASHINGTON PREVAILING WAGE RATES

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PART 1 - General

1.01 The following wage rates are in effect for the duration of this project:

- A. State of Washington
- B. Department of Labor and Industries
- C. Washington State Prevailing Wage Rates for Public Works Contracts
- D. Pierce County Rates for All Trades
- E. Effective Wage Rate Date: February 1, 2019, including any correction notices issued by Labor and Industries prior to the Bid Date.
- F. Wage Rates may be found at:

<https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>

G. Supplemental to State Wage Rates may be found at:

<http://www.wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm>

PART 2 – Products

Not Used

PART 3 – Execution

Not Used

END OF SECTION

1
2
3 **KEY PENINSULA METROPOLITAN PARK DISTRICT**
4 **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

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20

ARTICLE I

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter 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 subject to the requirements of Paragraph 7.4. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, meeting minutes, the Contractor's bid or portions of addenda relating to bidding requirements).

1.1.2 THE CONTRACT

The Contract Documents form this 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 Architect and Contractor, (2) between the Owner and a Subcontractor regardless of tier or (3) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, transportation, 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 or by separate contractors.

1.1.5 THE DRAWINGS

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

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

1
2 **1.1.6 THE PROJECT MANUAL**
3

4 The Project Manual is the volume(s) usually assembled for the Work, which may include the bidding
5 requirements, sample forms, drawings, General Conditions of the Contract and Specifications.
6

7 **1.2 EXECUTION, CORRELATION AND INTENT**
8

9 **1.2.1** The Contract Documents shall be executed by the Owner and Contractor by signing the
10 Agreement.
11

12 **.1** By executing this Contract, Contractor represents and acknowledges that it has carefully
13 examined the Contract Documents and the Project site and that it has satisfied itself as
14 to, and Contractor does hereby assume full and sole responsibility for: the nature,
15 location, character, quality and quantity of the Work; the labor, materials, equipment,
16 goods, supplies, work, services and other items to be furnished, and all other
17 requirements of this Contract, as well as the conditions and other matters that may be
18 encountered at the Project site or affect the performance of the Work or the cost or
19 difficulty thereof, including but not limited to those conditions and matters affecting:
20 transportation, access, disposal, handling and storage of materials, equipment and other
21 items; availability and quality of labor, water, electric power, utilities and fire protection;
22 availability and condition of streets; climatic conditions and seasons; physical conditions
23 at the Project site and surrounding locality; other construction work planned for the area
24 and required coordination therewith; potentially applicable governmental laws,
25 requirements and permits; potential water and air pollution conditions; topography and
26 ground surface conditions; and equipment and facilities needed preliminary to and at all
27 times during the performance of the Work.
28

29 **.2** Claims for additional compensation or extensions of time because of the failure of the
30 Contractor to so examine the Contract Documents, Project site, local conditions and
31 potentially applicable laws, regulations and permits and to familiarize itself therewith
32 will not be allowed.
33

34 **1.2.2** The intent of the Contract Documents is to include all items necessary for the proper execution
35 and completion of the Work by the Contractor. The Contract Documents are complementary, and what is
36 required by one shall be as binding as if required by all. Work not covered in the Contract Documents will
37 be required if it is reasonably inferable as being necessary to produce the results intended by the Contract
38 Documents for a completed project to the level of quality consistent with the nature and standard of such
39 Work required by the Contract Documents.
40

41 **1.2.3** In the case of inconsistency, conflicts or discrepancies among the Contract Documents, the more
42 stringent requirement shall take precedence unless waived in writing by the Owner. The more stringent
43 requirement shall be interpreted so that the higher quantity, better quality, or more costly Work be
44 provided in accordance with the Architect's interpretation.
45

46 **1.2.4** Organization of the specifications into divisions, sections and articles, and arrangement of
47 Drawings are for convenience only and shall not be construed as nor imply a division of the Work among
48 Subcontractors nor establish the extent of Work to be performed by any trade. The Contractor shall be

1 responsible for the division of Work and for coordinating the allocation of Work among its
2 Subcontractors and suppliers.

3
4 **1.2.5** Unless otherwise stated in the Contract Documents, words that have well-known technical or
5 construction industry meanings are used in the Contract Documents in accordance with such recognized
6 meanings.

7
8 **1.2.6** In the event of any conflict or inconsistency between any of the Contract Documents, the conflict
9 or inconsistency shall be resolved according to the following hierarchy of documents, with each
10 document governing those listed below it:

- 11
12 .1 Contract Amendments signed by both parties;
- 13
14 .2 Change Orders;
- 15
16 .3 General Conditions;
- 17
18 .4 Supplementary Conditions;
- 19
20 .5 Specifications;
- 21
22 .6 Drawings.

23 24 **1.3 USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

25
26 **1.3.1** The Drawings, Specifications and other documents are instruments through which the Work to
27 be executed by the Contractor is described. The Contractor may retain one contract record set. Neither the
28 Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim
29 a copyright in the Drawings, Specifications and other documents. All copies of them, except the
30 Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon
31 completion of the Work. The Drawings, Specifications and other documents and copies thereof furnished
32 to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor
33 or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for
34 additions to this Project outside the scope of the Work without the specific written consent of the Owner.
35 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a
36 limited license to use and reproduce applicable portions of the Drawings, Specifications and other
37 documents appropriate to and for use in the execution of their Work under the Contract Documents. All
38 copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings,
39 Specifications and other documents. Submittal or distribution to meet official regulatory requirements or
40 for other purposes in connection with this Project is not to be construed as publication in derogation of
41 copyright or other reserved rights.

42 43 **1.4 CAPITALIZATION**

44
45 **1.4.1** Terms capitalized in these General Conditions include those which are specifically defined
46 herein.

47 48 **1.5 INTERPRETATION**

1
2 **1.5.1** In the interest of brevity the Contract Documents frequently omit modifying words such as “all”
3 and “any” and articles such as “the” and ‘an,’ but the fact that a modifier or an article is absent from one
4 statement and appears in another is not intended to affect the interpretation of either statement.
5

6 **1.5.2** The General Conditions of the Contract Documents are modified from AIA Document A201,
7 GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION, 1997 Edition.
8

9 **1.5.3** No oral representation prior to bid concerning the Work by the Owner or its representatives shall
10 alter or limit in any way the Contractor’s responsibilities under this Contract, including, but not limited to,
11 obligations to carefully inspect the site of the work and thoroughly examine and be familiar with the
12 Contract Documents and applicable government regulations and permits pertaining to the work.
13
14

15 **ARTICLE 2**
16 **OWNER**
17

18 **2.1 DEFINITIONS AND AUTHORITY**
19

20 **2.1.1** The Owner of this project is the Si View Metropolitan Parks District (‘Parks District’ or
21 ‘Owner’) which is governed by its Board of Commissioners (‘Board’). The District shall designate a
22 representative(s) (‘Representative’) to act on its behalf. Unless specifically limited by the District, its
23 Representative(s) shall have, at (their) discretion, complete authority to transmit instruction, receive
24 information, and to interpret and define the Owner’s policies and decisions with respect to the Work. The
25 Board shall retain the final decision on acceptance of the contract and approval of any proposed Change
26 Orders,
27

28 **2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**
29

30 **2.2.1** The Owner shall furnish surveys describing legal limitations for the site of the Project, and a
31 legal description of the site upon written request of the Contractor.
32

33 **2.2.2** Information or services under the Owners control which are required to be furnished to the
34 Contractor under the terms of this agreement shall be furnished by the Owner with reasonable promptness
35 to avoid delay in orderly progress of the Work.
36

37 **2.2.3** Upon request, the Contractor will be furnished free of charge up to twenty-five (25) copies, if
38 available, of Drawings and Specifications from copies returned to Owner from the bidding procedure,
39 including up to twenty-five (25) copies of revised Drawings, Addenda, or Supplementary drawings.
40 Additional sets beyond those readily available to the Owner will be furnished at the cost of reproduction
41 and delivery.
42

43 **2.2.4** The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein
44 and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9
45 (Payments and Completion) and Article II (Insurance and Bonds).
46

47 **2.3 OWNER’S RIGHT TO STOP THE WORK**
48

1 **2.3.1** If the Contractor fails to correct Work which is not in accordance with the requirements of the
2 Contract Documents as required by Paragraph 12.2 or fails to carry out Work in accordance with the
3 Contract Documents, the Owner, by written order signed personally or by an agent specifically so
4 empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof,
5 until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall
6 not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or
7 any other person or entity, except to the extent required by Subparagraph 6.1.3. Owner will exercise the
8 right to stop work only if Contractor's performance deviates from the requirements of the Contract
9 Documents in a material way that is damaging to the interests of the Owner as determined by the Owner.

10
11 **2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

12
13 **2.4.1** If the Contractor defaults or neglects to carry out the work in accordance with the Contract
14 Documents and fails within a seven-day period after receipt of written notice from the Owner to
15 commence and continue correction of such default or neglect with diligence and promptness, the Owner
16 may, without prejudice to other remedies the Owner may have, correct such deficiencies. In the event
17 such deficiencies threaten the health or safety of Owners, employees, students or occupants, or exist
18 within fourteen calendar days of the date on which the Owner is scheduled to begin to operate school at
19 the Project the Owner may proceed to collect such deficiencies with such notice to the Contractor as is
20 reasonable under the circumstances, which notice shall not exceed 48 hours, When the Owner has
21 undertaken to carry out a portion of the work prior to final acceptance of the contract, an appropriate
22 Modification shall be issued deducting from payments then or thereafter due the Contractor the cost of
23 correcting such deficiencies, including compensation for the Architect's additional service and expenses
24 made necessary by such default, neglect or failure; and the amounts charged to the Contractor are subject
25 to the prior review of the Architect as to decisions and amounts charged. If payments then or thereafter
26 due the Contractor are not sufficient to cover such amounts, the Contractor shall promptly pay the
27 difference to the Owner.

28
29 **2.5 SUSPENSION OF WORK**

30
31 **2.5.1** Owner may, at any time and without cause, and without liability, suspend the Work or any
32 portion thereof for a period of not more than ninety (90) days by notice in writing to Contractor and
33 Architect which will fix the date on which Work will be resumed. Contractor shall resume the Work on
34 the date so fixed.

35
36 **2.5.2** In the exercise of the Owners right to carry out the Work, the Owner shall have the right to use
37 the Owner's own forces or hire another Contractor, with or without public bid, to carry out such work.

38
39 **ARTICLE 3**
40 **CONTRACTOR**

41 **3.1 DEFINITION**

42
43 **3.1.1** The Contractor is the person or entity identified as such in the Agreement and is referred to
44 throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor
45 or the Contractor's authorized representative.

46
47 **3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY**
48 **CONTRACTOR**

1
2 **3.2.1** The Contractor shall promptly and carefully study and compare the Contract Documents with
3 each other and with information furnished by the Owner pursuant to Subparagraph 2.2.2 and shall at once
4 report to the Architect and to the Owner any errors, inconsistencies or omissions discovered. Prior to and
5 during the execution of the Work, the Contractor shall check all Drawings, Specifications, and job
6 conditions and shall immediately notify the Architect and the Owner in writing of any errors,
7 discrepancies, conflicts or omissions found therein and have the same explained or corrected by the
8 Architect before proceeding with the Work. Work wrongly ordered, fabricated or constructed by the
9 Contractor without such notification shall be corrected by the Contractor at its own expense. The
10 Contractor shall perform no portion of the Work at any time without appropriate Contract Documents or,
11 where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.
12

13 **3.2.2** The Contractor shall take field measurements and verify field conditions and shall carefully
14 compare such field measurements and conditions and other information known to the Contractor with the
15 Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall
16 be reported to the Architect and to the Owner at once.
17

18 **3.2.3** The Contractor shall notify the Architect and the Owner in writing of materials, systems,
19 procedures or methods of construction, either shown on the Drawings or specified, of which it has
20 knowledge, experience or other information which supports the conclusion that they are incorrect,
21 inadequate, obsolete or unsuitable for the purpose intended and the basis therefore. The Architect will
22 respond to these matters in writing.
23

24 **3.2.4** The Contractor shall perform the Work in accordance with the Contract Documents and
25 submittals approved pursuant to Paragraph 3.13.
26

27 **3.2.5** Investigation of subsurface conditions on the site has been made for design purposes. The results
28 of such investigations are available at the Architect's office for the convenience of the prospective bidders
29 and the Contractor, but are not to be considered a part of the Contract Documents. There is no guarantee,
30 either express or implied, that the conditions indicated are representative of those existing throughout the
31 site- or that unforeseen developments may not occur. The Contractor shall be solely responsible for any
32 interpretations of the information or extrapolations beyond the location of each individual boring or test
33 pit.
34

35 **3.3 SUPERVISION AND CONSTRUCTION PROCEDURES** 36

37 **3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and
38 attention. The Contractor shall be solely responsible for and have control over safety of the Work Site,
39 for construction means, methods, techniques, sequences and procedures and for protecting and
40 coordinating all portions of the Work under the Contractor, unless the Contract Documents give other
41 specific instructions concerning these matters.
42

43 **3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's
44 employees, Subcontractors and their agents and employees, and other persons performing portions of the
45 Work under a contract with the Contractor.
46

47 **3.3.3** The Contractor shall not be relieved of obligations to perform the Work in accordance with the
48 Contract Documents either by activities or duties of the Architect in the Architect's administration of the

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1 Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

2
3 **3.3.4** The Contractor shall be responsible for inspection of portions of Work already performed under
4 this Contract to determine that such portions are in proper condition to receive subsequent Work.

5
6 **3.3.5** In performing the Work, the Contractor shall comply with all applicable federal, state and local
7 laws and regulations including, but not limited to, the following:

- 8
9 (1) Chap, I S.27 RCW relating to Contractor's registration;
10 (2) Chap. 19.27 RCW relating to the State building code;
11 (3) Chap. 27.44 RCW relating to Indian graves;
12 (4) Chap. 27.53 RCW relating to archaeological sites;
13 (5) RCW 25.21.310 relating to use of tobacco products;
14 (6) RCW 2EA.400.330 prohibiting use of employees of contractor with crimes
15 against children;
16 (7) Chap. 39.06 RCW relating to Contractor's registration;
17 (8) Chap. 39.08 RCW relating to Contractor's bonds;
18 (9) Chap. 39.12 RCW relating to prevailing wages;
19 (10) RCW 39.30.060 relating to submittal of names of subcontractors;
20 (II) Chap. 49.17 relating to industrial safety and health;
21 (12) Chap. 49.26 RCW relating to asbestos;
22 (13) Chap. 49.28 RCW relating to hours of labor;
23 (14) Chap. 49.60 RCW relating to discrimination;
24 (15) Chap. 49.70 RCW relating to hazardous materials;
25 (16) Chap. 5024 relating to unemployment compensation;
26 (I 7) Chap. 70.92 RCW relating to the provisions for the aged and physically
27 disabled; and
28 (IS) RCW 39.04.300-320 relating to apprenticeship requirements.
29

30 The foregoing list is provided only as a courtesy to the Contractor, and the Owner has not thereby
31 undertaken any obligation to provide legal advice to the Contractor. The Owner makes no representation
32 as to the currency, accuracy, or completeness of the list.
33

34 **3.4 LABOR AND MATERIALS**
35

36 **3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for a
37 sufficient labor force and shall provide and pay for materials, equipment, tools, construction equipment
38 and machinery, water, heat, utilities, transportation, hauling arrangements and other facilities and services
39 necessary for proper and timely execution and completion of the Work, whether temporary or permanent
40 and whether or not incorporated or to be incorporated in the Work.
41

42 **3.4.2** After the Contract has been executed, the Owner and the Architect may consider a formal request
43 from the Contractor for the substitution of products in place of those specified only under exceptional
44 conditions. Whether or not to grant such request shall be entirely subject to the Owner's discretion upon
45 recommendation(s) from the Architect. By making requests for substitutions, the Contractor:
46

- 47 **.1** represents that the Contractor has personally investigated the proposed substitute product
48 and determined that it is equal or superior in all respects to that specified:

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- 1
2 **.2** represents that the Contractor will provide the same or greater warranty for the
3 substitution that the Contractor would provide for that specified;
4
5 **.3** certifies that the cost data presented is complete and includes all related costs under this
6 Contract, and waives all claims for additional costs related to the substitution which
7 subsequently become apparent:
8
9 **.4** will coordinate the installation of the accepted substitute, making at Contractor's sole
10 cost such changes as may be required for the Work to be complete in all respects; and
11
12 **.5** shall pay for all the Architect's reasonable and necessary fees in reviewing the proposed
13 substitution and reviewing any resulting changes to the work.
14

15 **3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees
16 and other persons carrying out the Contract. The Contractor shall not permit employment of unfit or
17 insubordinate persons or persons not skilled in tasks assigned to them.
18

19 **3.4.4** In compliance with the requirements of 28A.400.303: The Contractor, or any of its
20 subcontractors, shall not utilize any employee at the District site or allow any contact between school
21 children and any employee when an employee has pled guilty to or been convicted of any felony crime
22 involving the physical neglect of a child under Chapter 9A.42 RCW, the physical injury or death of a
23 child under Chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under Chapter 46.61 RCW),
24 sexual exploitation of a child under Chapter 9A.44 RCW where a minor is the victim, promoting
25 prostitution of a minor under Chapter 9A.58 RCW, the sale or purchase of a minor child under 9A.64.030
26 RCW, or violation of similar laws of another jurisdiction. Any failure to comply with this section shall be
27 grounds for the District's immediate termination of this agreement.
28

29 Any Contractor who will have unsupervised access to children pursuant to this agreement, shall be
30 required to have successful completion of a background record check through the Washington State Patrol
31 Criminal Identification System, under RCW 43.43.830-834, RCW 10.97.30 & .50, and through the
32 Federal Bureau of Investigation, prior to contracting with District and prior to unsupervised access to
33 children. When necessary, contracts may commence on a conditional basis pending completion of the
34 background record check of the Contractor.
35

36 **3.4.5** The Contractor shall take all reasonable steps to prevent any labor disputes involving the
37 Contractor and any of its Subcontractors or suppliers of any products or services from: (1) disrupting the
38 work under this Contract; (2) interfering with access to the Owner's property by the Owner, including its
39 agents, representatives, employees and officials; (3) interfering with access and work by any other
40 contractors engaged in construction activities; and (4) interfering with access to property by invitees or
41 licensees of the Owner.
42

43 In the event any picketing or other activity by employees involved in a labor dispute with the Contractor
44 or its Subcontractors or suppliers interferes in any way with access to the Owner's property or to the site
45 of the work by any persons, the Contractor shall promptly and expeditiously take all reasonable actions to
46 eliminate or minimize such interference, including but not limited to: (1) utilizing all reasonable means of
47 restricting any picketing to a single entrance to the property or site of the work; (2) posting notices or
48 signs which advise interested persons and labor organizations that a particular entrance to the property or

1 site of the work is for the employees of “primary” or as the case may be “neutral” employers (3) policing
2 entrances; (4) notifying all interested labor organizations of the primary or ‘neutral’ status of particular
3 entrances; and (5) in the event any such picketing or concerted activity is unlawful or has a secondary
4 impact upon the employees of neutral employers, promptly and expeditiously taking appropriate action to
5 seek recourse through the appropriate governmental agency or state or federal courts to limit the location
6 of such picketing so as to reduce the impact thereof upon neutral employers.
7

8 The Owner will cooperate with the Contractor to accomplish the foregoing actions and will render
9 assistance as may be in the best interests of the Owner. However, the Owner shall have the right to direct
10 the Contractor to modify any of the foregoing actions the Contractor has taken or plans to take or to
11 overrule such actions, to designate the entrances to be used as primary’ or neutral entrances, and to take
12 appropriate legal action in order to protect the Owner’s property and interests. In any event, the
13 Contractor shall be liable for all costs, including costs to the Owner, and actual damages resulting from
14 the relocation, rerouting, delays or actions required to maintain the uninterrupted progress of the work.
15 Failure by the Contractor to take the actions described above or to comply with the directives of the
16 Owner shall be considered a material breach of this Contract and the Owner may terminate the Contractor
17 suspend the Contractor as provided in this Contract,
18

19 Whenever Contractor has knowledge of any actual or potential labor dispute which may in any way
20 affect, delay or arise in connection with or as a result of the performance of this Contract, Contractor will
21 immediately notify and submit relevant information to Owner.
22

23 **3.5 WAGES AND BENEFITS**

24
25 **3.5.1** This Contract is subject to the wage and hour requirements of RCW 39.12 and RCW 49.28 (as
26 amended or supplemented). The Contractor, each Subcontractor and other person doing any work under
27 this Contract shall pay laborers, workmen or mechanics not less than the prevailing rate of wage for an
28 hour’s work in the same trade or occupation in the locality within the state of Washington where such
29 labor is performed. If the state and federal wage rates differ for similar kinds of labor, the Contractor,
30 each Subcontractor and other person, as applicable, shall pay not less than the higher rate. Wages and
31 benefits higher than the minimums required by law may be paid. It is the contractor’s sole responsibility
32 to determine the wage rates it will actually have to pay. In the event rates of wages and benefits change
33 while this Contract is in force, the Contractor shall bear the cost of such changes and shall have no claim
34 against the Owner on account of such changes. No claim for additional compensation will be allowed
35 which is based upon a lack of knowledge or a misunderstanding of any such requirements by the Bidder
36 Contractor or a failure to include in the Bidder’s bid price adequate increases in such wages over the term
37 of this Contract.
38

39 **3.5.2** All determinations of the prevailing rate of wage shall be made by the industrial statistician of
40 the Department of Labor and Industries of the state of Washington. The schedule of prevailing wage rates
41 as determined by the industrial statistician for the locality or localities where this Contract will be
42 performed are by this reference made a part of this Contract. The state schedule of prevailing wage rates
43 applicable to the Work, as most recently provided by the state, may be set forth in the Project Manual. If
44 or to the extent employing labor is not listed, the Contractor shall request the industrial statistician to
45 determine the correct wage rate for that class and locality. To obtain a listing of current minimum wages
46 for any county contact:
47
48

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Department of Labor and Industries
201- 11th Avenue
Olympia, Washington 98504 (Telephone: **(360)** 902-5335

1
2
3
4
5 **3.5.3** In case any dispute arises as to what are the prevailing rates of wages for work of a similar
6 nature and such dispute cannot be adjusted by the parties in interest, including labor and management
7 representatives, the matter shall be referred for arbitration to the director of the Department of Labor and
8 Industries of the State of Washington and his or her decision therein shall be final and conclusive and
9 binding on all parties involved in the dispute.

10
11 **3.5.4** The Contractor, each Subcontractor and other person required to pay the prevailing rate of wage
12 shall post in a location readily visible to workers at the job site: (1) a copy of the statement of intent to
13 pay prevailing wages approved by the industrial statistician of the Department of Labor and Industries
14 under ROW 39. 2.040; and. (2) the address and telephone number of the industrial statistician of the
15 Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be
16 made.

17
18 **3.5.5** Apprentice workmen employed hereunder for whom an apprenticeship agreement has been
19 registered and approved with the state apprenticeship council pursuant to Chapter 49.04 RCW must be
20 paid at east the prevailing hourly rate for an apprentice for that trade, Any workman for whom an
21 apprenticeship agreement has not been registered and approved by the state apprenticeship council shall
22 be considered to be a fully qualified journeyman and, therefore, shall be paid at the prevailing hourly rate
23 for journeymen.

24
25 **3.5.6** Pursuant to RCW 39.12, the Contractor and each Subcontractor from the Contractor or a
26 Subcontractor shall submit the following documents to the Owner:

- 27
28 .1 Before payment is made by Owner, the Contractor and each Subcontractor shall submit
29 a "Statement of Intent to Pay Prevailing Wages" which has been approved by the
30 industrial statistician of the Department of Labor and Industries,
31
32 .2 With each request for payment, the Contractor shall submit a statement that prevailing
33 wages have been paid in accordance with the 'Statement of Intent to Pay Prevailing
34 Wages" filed with Owner.
35
36 .3 Following final acceptance of the work and before funds retained according to RCW
37 6028.010 are released to the Contractor, the Contractor and each Subcontractor shall
38 submit an "Affidavit of Wages Paid" which has been approved by the industrial
39 statistician of the Department of Labor and Industries.

40
41 Any fees charged by the department of labor and industries for filing the 'Statement of
42 Intent to Pay Prevailing Wages" and the "Affidavit of Wages Paid" shall be paid by the
43 Contractor and each Subcontractor, as applicable. If, for any reason, Owner pays such
44 fees, then the Contractor shall be charged the amounts thereof.

45
46 **3.5.7** Owner may inspect or audit the Contractor's wage and payroll records at any time while the
47 Contract is in force and for at least three (3) years after the date of final acceptance. The Contractor shall
48 maintain such records for that period. The Contractor shall also guarantee that wage and payroll records

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1 of all his Subcontractors and agents shall be open to similar inspection and auditing for the same period of
2 time. Owner will give the Contractor reasonable notice of the starting date if an audit will begin more
3 than sixty (60) days after the final acceptance date.
4

5 **3.5.8** The Contractor shall make all payments required for unemployment compensation under Title
6 50 RCW and for industrial insurance and medical aid required under Title SI RCW, The Contractor shall
7 also obey all federal, state and local laws, ordinances, and regulations establishing safety standards for the
8 protection of employees, if any payment required by Title 50 or Title SI is not made when due, Owner
9 may retain such payments from any money due the Contractor and pay the same into the appropriate fund.
10 The Public Works Contract Division of the Department of Labor and Industries will provide the
11 Contractor with applicable industrial insurance and medical aid classification and premium rates. Before
12 release of any funds retained according to RCW 60.28.010, the Contractor shall provide to the Owner
13 such reasonable documentation as the Owner shall require that demonstrates the Contractor has paid such
14 premiums, and Owner shall be entitled to verify the accuracy of such documentation.
15

16 **3.5.9** Pursuant to RCW 49.28.0 0, eight(8) hours of labor shall constitute a legal days work, The
17 Contractor or any Subcontractor shall not require more than eight (8) hours of labor in a day from any
18 person employed in the performance of the Work under this Contract except as may otherwise be allowed
19 by law. Failure of the Contractor to perform the Work in accordance with the hours of labor policies of
20 the State of Washington shall be deemed a failure on his part to comply with the provisions of this
21 Contract.
22

23 **3.5.10** Subject to applicable laws and governmental permits, overtime and shift work may be
24 established as a regular procedure by the Contractor with reasonable advance written notice to both the
25 Architect and the Owner, Notice must be given a minimum of seventy-two (72) hours prior to the start of
26 overtime and shift work. No work other than overtime and shift work established as a regular procedure
27 shall be performed during weekdays between the hours of 6:00 p.m. and 7:00 am, nor on Saturdays or
28 Sundays, except such work as is necessary for the proper care and protection of the Work already
29 performed in ease of an emergency or as necessary to recover schedule delays.
30

31 The additional cost of Work performed after regular working hours shall be borne by the Contractor. No
32 claim for additional compensation shall be allowed for failure of Bidder/Contractor to include in the bid
33 price adequate reserves for overtime work.
34

35 The Contractor shall pay the costs of overtime inspection by the Architect and the Owner except those
36 occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection
37 shall include inspection required during weekdays between the hours of 6:00 p.m. and 7:00 am, and on
38 Saturdays or Sundays. Costs of overtime inspection will cover engineering, inspection, general
39 supervision and overhead expenses that are directly chargeable to the overtime work. Contractor agrees
40 that the Owner may deduct such charges from payments due the Contractor. In the event of circumstances
41 beyond the Contractor's control which could not be reasonably foreseen and which require the Contractor
42 to work at other than normal weekday working hours, the Architect may, without obligation and only in
43 writing, waive the requirement that the Contractor pay such overtime inspection costs, in the event of a
44 change order requiring the Contractor to work in excess of the established schedule of working hours, the
45 Contractor will not be charged for inspection costs of the Owner or the Architect associated therewith,
46
47
48

1 **3.6 WORKMANSHIP**

2
3 **3.6.1** The Contractor warrants to the Owner that materials and equipment furnished under the Contract
4 will be of good quality and new unless otherwise specifically required or permitted by the Contract
5 Documents, that the Work will be of good quality and free from faults or defects and that the Work will
6 conform with the requirements of the Contract Documents. The standard of care for any Work performed
7 by or under the direction of the Contractor shall be the care and skill ordinarily used by members of the
8 trades or professions practicing under similar conditions at the same time and locality. Work not
9 conforming to these requirements, including substitutions not properly approved and authorized, may be
10 considered defective. The Contractor's responsibility excludes remedy for damage or defect caused by
11 abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper
12 operations, or normal wear and tear under normal usage. If required by the Architect, the Contractor
13 shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is
14 not limited by the provisions of Paragraph 12.2 and does not abrogate any warranty or guarantee that may
15 be imposed by law or that may be otherwise provided by the Contractor.

16
17 **3.6.2** Warranty work shall remedy defective Work resultant damage to other Work and include any
18 incidental work related to or required for proper correction.

19
20 **3.7 TAXES**

21
22 **3.7.1** The Work to be performed under this Contract constitutes a "retail sale" as such term is defined
23 in RCW 82.04.050, and the contract price is subject to the State of Washington and local retail sales taxes.
24 The bid price shall not include such retail sales taxes. Based on the Contract Sum, Owner will pay retail
25 sales taxes on each progress payment and final payment to the Contractor for transmittal by the
26 Contractor to the State of Washington Department of Revenue,

27
28 All other applicable taxes that the Contractor is required to pay, excepting State and local retail sales tax
29 as specified above, shall be deemed included in the Contractor's proposed prices for the Work under this
30 contract. No adjustment will be made in the amount to be paid by Owner under this contract because of
31 any misunderstanding by the bidder/Contractor as to its liability for or the amount of any taxes or because
32 of any increases in tax rates imposed by any federal, state or local government.

33
34 **3.8 PERMITS, FEES AND NOTICES**

35
36 **3.8.1** Contractor shall secure all governmental licenses and inspections necessary for the proper
37 execution and completion of the Work, including Occupancy Permit(s), which are customarily secured
38 after execution of the Contract and which are legally required for and during the prosecution of the work
39 and the subsequent warranty period. Owner will secure and purchase the building permit.

40
41 **3.8.2** The Contractor shall comply with and give notices required by laws, ordinances, rules,
42 regulations and lawful orders of public authorities bearing on performance of the Work.

43
44 **3.8.3** If the Contractor observes that the Contract Documents are not in accordance with applicable
45 laws, statutes, ordinances, building codes, and rules and regulations or that portions of the Contract
46 Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in
47 writing, and necessary changes shall be accomplished by appropriate Modification.

1 **3.8.4** If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building
2 codes, and rules and regulations without such notice to the Architect and Owners the Contractor shall
3 assume full responsibility for such Work and shall bear the attributable costs, including, but not limited to,
4 fines, penalties, and interest.

5
6 **3.9 ALLOWANCES**
7

8 **3.9.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract
9 Documents. Items covered by allowances shall be supplied for such amounts and by such persons or
10 entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities
11 against which the Contractor makes reasonable objection.

- 12
13 .1 Materials and equipment under an allowance shall be selected promptly by the Owner to
14 avoid delay in the Work;
15
16 .2 Allowances shall cover the cost to the Contractor of materials and equipment delivered
17 at the site, less applicable trade discounts;
18
19 .3 Contractors costs for unloading and handling at the site, labor, installation costs,
20 overhead, profit and other expenses contemplated for stated allowance amounts shall be
21 included in the Contract Sum and not in the allowances.
22
23 .4 Whenever costs are more than or less than allowances, the Contract Sum shall be
24 adjusted accordingly by Change Order. The amount of the Change Order shall reflect the
25 difference between actual costs and the allowances under Clause 3.9.1.2.
26

27 **3.10 SUPERINTENDENT**
28

29 **3.10.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in
30 attendance at the Project site during performance of the Work. The superintendent shall represent the
31 Contractor, and communications given to the superintendent shall be as binding as if given to the
32 Contractor. Important communications shall be similarly confirmed on written request in each case.
33

34 **3.10.2** The Contractor's Superintendent shall remain on the job at all times during progress of the Work
35 until the Date of Substantial Completion as determined pursuant to Paragraph 9.8. The Contractor shall
36 give the name of the Superintendent to the Owner and the Architect at the time of execution of the
37 Contract. The Superintendent shall not be changed without the approval of the Owner, which shall not be
38 unreasonably withheld, The Superintendent shall not be employed on any other project during the course
39 of the Work,
40

41 **3.10.3** The Contractor shall employ a Project Engineer who shall be in attendance at the Project site
42 during the progress of the Work, The Project Engineer shall be familiar with the quality control aspects of
43 projects similar to the Project. The Project Engineer shall review initial pay draw requests for consistency
44 with the Project schedule of values. The Project Engineer shall review submittals and mock-ups prior to
45 submission to the Architect; coordinate shop drawings with major Subcontractors and review shop
46 drawings for consistency with Project specifications prior to submission.
47

48 **3.10.4** The Contractor shall employ a Project Manager who shall be assigned [full time] to the Project

1 during the progress of the Work. The Project Manager shall not be changed without the approval of the
2 Owner, which shall not be unreasonably withheld.

3
4 **3.10.5** The Owner reserves the right, after consultation with the Contractor, to require the Contractor to
5 replace a Superintendent, Project Engineer, Project Manager or other assistants if the Owner determines
6 that such replacement is in the best interests of the Project. The Owner shall exercise such right in a
7 reasonable manner, The Owner shall be entitled to exercise the same rights concerning any replacement.

8 9 **3.11 CONTRACTOR'S CONSTRUCTION SCHEDULES**

10
11 **3.11.1** The Contractor, promptly after being awarded the Contract, shall prepare and submit for the
12 Owners and Architect's information a Contractor's time-scaled, cost loaded critical path network
13 construction schedule for the Work. The initial and any revisions of the Project Schedule shall be
14 submitted to the Owner and Architect in both a paper copy and a data format on a diskette using a
15 computer program approved in advance by the Owner. The schedule shall not exceed time limits current
16 under the Contract Documents and shall be: (i) updated monthly to show progress; (ii) revised at
17 appropriate intervals as required by the conditions of the Work and Project; (iii) related to the entire
18 Project, including work to be performed by others such as utilities and Owner's Subcontractors and
19 inspectors and (iv) provide for expeditious and practicable execution of the Work.. The Contractor may
20 list for its convenience milestone dates in addition to dates of completion specified in the contract
21 documents However, such milestone dates shall be labeled "For Contractor's Information Only." Review
22 by the Owner or Architect of the Contractor's Progress Schedule shall not constitute approval or
23 acceptance of the Contractor's schedules, means, methods, sequencing, or milestone dates or Contractor's
24 ability to complete the Work in a timely manner.

25
26 **3.11.2** The Contractor shall prepare and keep current, for the Architect's approval, a schedule of
27 submittals that is coordinated with the Contractor's construction schedule and allows the Architect
28 reasonable time, which normally will be fifteen (15) days to review submittals.

29
30 **3.11.3** The Contractor shall perform its work according to the schedule it submits to the Owner and shall
31 conform its Work to the Contractor's most recent schedule. The schedule shall not indicate more than two
32 critical paths. Float time indicated in the Contractor's schedule shall be for the joint use and benefit of the
33 Owner and Contractor.

34
35 **3.11.4** The Contractor shall prepare a Schedule of Values, which is coordinated with the Contractor's
36 construction schedule. The Schedule of Values serves to break down the Contract Sum in sufficient detail
37 to facilitate continued evaluation of payment requests and progress reports. The Schedule of Values shall
38 indicate at east 3% shall be earned through completion of all Contract closeout and punchlist activities
39 and other proportional amounts for completion of all landscape maintenance and for technology cabling
40 The Contractor shall earn said amounts only when said tasks are fully completed; no payments shall be
41 earned for partial completion of said tasks. Said 3% is for closeout and punchlist activities and is distinct
42 and different from statutory retainage. Covered play areas, building demolition and hazardous materials
43 abatement shall be indicated separately. Line items shall correspond with categories required by the
44 Owner, which shall at least include the divisions of work listed in the table of contents in the
45 Specifications and any additional requirements imposed by a third-party governmental entity with
46 authority.

1 **3.12 DOCUMENTS AND SAMPLES AT THE SITE**
2

3 **3.12.1** The Contractor shall maintain at the site for the Owner one reproducible, record copy of the
4 Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked
5 currently to record changes and selections made during construction, and in addition approved Shop
6 Drawings, Product Data, Samples and similar required submittals. These shall be available to the
7 Architect and Owner during the course of the Work. The location of all existing or new underground
8 piping, valves, and utilities, as located during the course of construction, shall be appropriately marked
9 until the actual field location dimensions and coordinates are incorporated on the record drawings. Upon
10 completion of the Work, the Contractor shall certify that the record documents reflect complete and
11 accurate “as-built” conditions and shall deliver the documents as well as the approved permit set of plans
12 in good condition to the Architect for submittal to the Owner in accordance with the provisions of the
13 Contract Documents. Satisfactory maintenance of up-to-date record drawings will be a requirement for
14 approval of progress payments.
15

16 **3.13 SHOP DRAWINGS, PRODUCT DATA, SAMPLES, AND REQUEST FOR**
17 **INFORMATION**
18

19 **3.13.1** Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work
20 by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate
21 sonic point of the Work.
22

23 **3.13.2** Product Data are illustrations, standard schedules, performance charts, instructions, brochures
24 diagrams and other information furnished by the Contractor to illustrate materials or equipment for some
25 portion of the Work.
26

27 **3.13.3** Samples are physical examples, which illustrate materials, equipment and workmanship and
28 establish standards by which the Work will be judged.
29

30 **3.13.4** Shop Drawings, Product Data, Samples and other similar submittals are not Contract Documents.
31 The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are
32 required the way the Contractor proposes to conform to the information given and the design concept
33 expressed in the Contract Documents. Review by the Architect is subject to the limitations of
34 Subparagraph 4.2.7.
35

- 36 **.1** The mechanical systems shown are essentially diagrammatic. Provide dimensioned shop
37 drawings for all plumbing piping, ductwork, heating system piping, underground hot
38 water piping, hot water boilers, and accessories to indicate complete systems, and details.
39 Shop drawings shall be to $\frac{1}{4}''=1'-0''$ minimum scale in all mechanical rooms, boiler
40 rooms, and where accuracy or location is necessary for coordination or installation
41 purposes. Ductwork shop drawings shall include a separate drawing to not less than $\frac{1}{2}'' =$
42 $1'-0''$ scale showing all duct penetrations through structure (floors, roof, and walls)
43 dimensioned, and all equipment locations, weights and pad details for all HVAC
44 equipment. Critical dimensions of all equipment pads, and pipe or duct penetrations
45 through structure shall be included.
46

47 **3.13.5** After checking and verifying field measurements, specified performance criteria, installation and
48 materials requirements, catalogue information and the like, the Contractor shall review, approve and

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1 submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the
2 Contract Documents, with reasonable promptness, hearing the Contractor's certification that the
3 submittals comply with the requirements of the Contract Documents, and in such sequence as to cause no
4 delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the
5 Contractor which are not required by the Contract Documents may be returned without action. If Shop
6 Drawings, Product Data, Samples and similar Submittals presented to the Architect by the Contractor
7 contain deviations from requirements of the Contract Documents, the Contractor shall, in writing,
8 designate such deviations at the time of submittal and subsequent resubmittals.
9

10 **3.13.6** The Contractor shall perform no portion of the Work requiring submittal and review of Shop
11 Drawings, Product Data, Samples or similar submittals until the respective submittal has been reviewed
12 by the Architect as provided in Subparagraph 4.2.7. Such Work shall be in accordance with accepted
13 submittals.
14

15 **3.13.7** By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the
16 Contractor represents that the Contractor has determined and verified materials, field measurements and
17 field construction criteria related thereto, or will do so, and has checked and coordinated the information
18 contained within such submittals with the requirements of the Work and of the Contract Documents.
19 Corrections required to bring Shop Drawings into conformance with the terms of the Contract Documents
20 shall not be cause for extension of time or cost.
21

22 **3.13.8** The Contractor shall not be relieved of responsibility for deviations from requirements of the
23 Contract Documents by the Architect's review of Shop Drawings, Product Data, Samples or similar
24 submittals unless the Contractor has specifically informed the Architect and Owner in writing of such
25 deviation at the time of submittal and the Owner has given written approval to the specific deviation. The
26 Contractor shall not be relieved of responsibility for errors or omissions in the Shop Drawings, Product
27 Data, Samples or similar submittals by the Architect's review thereof. Any corrections or modifications to
28 Shop Drawings made by the Architect shall be deemed accepted by the Contractor, without change in
29 Contract Sum or Time, unless the Contractor provides the Architect with written notice before
30 commencing any work from such Shop Drawings. The Contractor shall make all corrections requested by
31 the Architect and provide a corrected Submittal without change in Contract Sum or Contract Time.
32

33 **3.13.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product
34 Data Samples or similar submittals to revisions other than those requested by the Architect on previous
35 submittals.
36

37 **3.13.10** Informational submittals upon which the Architect is not expected to take responsive action may
38 be so identified in the Contract Documents.
39

40 **3.13.11** When professional certification of performance criteria of materials, systems or equipment is
41 required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and
42 completeness of such calculations and certifications. The Contractor shall make any required corrections
43 and shall resubmit the required number of corrected shop drawings, samples or submittals. Resubmittals
44 necessitated by required corrections shall not be a cause for extension in time.
45

46 **3.13.12** The Contractor may submit to the Architect requests for clarification or information concerning
47 the Contract Documents. However, if a clarification or information request is unnecessary because the
48 information is clearly provided in the Contract documents, the Contractor shall reimburse (the Owner for

1 the costs of the Architect's (and or subconsultant's) time spent responding to the request.
2

3 **3.14 USE OF SITE**

4

5 **3.14.1** The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits
6 and the Contract Documents and shall not unreasonably encumber the site or areas adjacent to the site
7 with materials, equipment or debris. Damage to areas of the Site not scheduled for Work shall be
8 remedied, repaired or replaced at Contractor's expense. The Contractor shall coordinate all of its
9 operations with and secure approval of the Owner before using any portion of the site,
10

11 **3.15 CUTTING AND PATCHING**

12

13 **3.15.1** The Contractor shall be responsible for coning, fitting or patching required to complete the Work
14 or to make its parts fit together properly.
15

16 **3.15.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially
17 completed construction of the Owner or separate contractors by cutting, patching or otherwise altering
18 such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by
19 the Owner or a separate contractor except with written consent of the Owner and of such separate
20 contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably
21 withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering
22 the Work.
23

24 **3.15.3** Existing structures and facilities, including but not limited to buildings, utilities, topography,
25 streets, curbs, and walks, that are damaged or removed due to excavations or other construction work,
26 shall be patched, repaired or replaced by the Contractor to the satisfaction of the Architect, the owner of
27 such structures and facilities, and governmental authorities having jurisdiction. In the event the
28 governmental authorities require that the repairing and patching be done with their own labor and/or
29 materials, the Contractor shall abide by such regulations and it shall pay for such work.
30

31 **3.16 CLEANING UP**

32

33 **3.16.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste
34 materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor
35 shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction
36 equipment, machinery and surplus materials and shall perform all cleaning necessary to make premises
37 ready for occupancy and use. Contractor shall submit, and if approved by Owner, follow a waste
38 management/recycle program.
39

40 **3.16.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so
41 and the cost thereof shall be charged to the Contractor.
42

43 **3.17 ACCESS TO WORK**

44

45 **3.17.1** The Contractor shall provide the Owner and Architect access to the Work in preparation and
46 progress wherever located.
47

48 **3.18 ROYALTIES, PATENTS, COPYRIGHTS, AND OTHER INTELLECTUAL PROPERTY**

1
2 **3.18.1** The costs involved in fees, royalties or claims for any patented invention, article, process or
3 method, or any copyright or other intellectual property right that may be used upon or in a manner
4 connected with the work under this Contract or with the use of completed work by the Owner shall be
5 paid by the Contractor. The Contractor and its sureties shall protect and hold Owner together with its
6 officers, agents and employees, harmless against any and all demands made for such fees or claims
7 brought or made by the holder of any such right. Before final payment is made on the account of this
8 Contract, the Contractor shall, if requested by the Owner, furnish acceptable proof of a proper release
9 from all such fees or claims.

10
11 Should the Contractor, his agent, servants or employees, or any of them be enjoined from furnishing or
12 using any invention, article, material or appliances, or any copyrighted item or other item of intellectual
13 property supplied or required to be supplied or used under the Contract, the Contractor shall promptly
14 substitute other articles, materials or appliances in lieu thereof of equal efficiency, quality, finish,
15 suitability, and market value, and satisfactory in all respects to the Owner and Architect. In the event that
16 the Owner elects, in lieu of such substitution, to have supplied and to retain and use any such invention,
17 article, material or appliances, or any copyrighted item or other item of intellectual property as may be
18 required to be supplied by the Contract, the Contractor shall pay such royalties and secure such valid
19 licenses as may be requisite and necessary for the Owner, its officers, agents, servants and employees. or
20 any of them to use such invention, article, material or appliance or any copyrighted item or other item of
21 intellectual property without being disturbed or in any way interfered with by any proceeding in law or
22 equity on account thereof. Should the Contractor neglect or refuse to make the substitution promptly or to
23 pay such royalties and secure such licenses as may be necessary, then in that event the Owner shall have
24 the right to make such substitution or the Owner may pay such royalties and secure such licenses and
25 charge the Contractor even though final payment under the Contract may have been made.

26 27 **3.19 INDEMNITY AND DEFENSE**

28
29 **3.19.1** To the maximum extent permitted by law, the Contractor shall be liable for all damages and
30 injury which shall be caused to owners of property on or in the vicinity of the work or which shall occur
31 to any person or persons or property whatsoever arising out of the performance of this Contract whether
32 or not such damage or injury be caused by negligence of the Contractor and whether or not such damage
33 or injury be caused by the inherent nature of the work specified.

34
35 **3.19.2** To the maximum extent permitted by law, the Contractor shall indemnify and hold the Owner
36 and Architect and all of their officers, principals, agents and employees harmless from any liability
37 whatsoever for any injuries to persons or property arising out of the performance of this Contract;
38 provided, however, that if (and only if) the provisions of RCW 424.115 apply to the work and any such
39 injuries to persons or property arising out of performance of this Contract are caused by or result from the
40 concurrent negligence of Contractor or its subcontractors, agents or employees, Architect, and the Owner
41 or its agents or employees, the indemnification applies only to the extent of the negligence of the
42 Contractor, its subcontractors, agents or employees. The Contractor specifically assumes potential
43 liability for actions brought by the Contractor's own employees against the Owner and the Architect and
44 for that purpose the Contractor specifically waives any immunity under the workers compensation act,
45 RCW Title 5]. By executing the Agreement, the Contractor recognizes and confirms that this waiver was
46 specifically entered into pursuant to the provisions of RCW 4.24. 115 and was the subject of mutual
47 negotiation.

1 **3.19.3** In case any suit or legal proceedings shall be brought against the Owner, the Architect, or any of
2 their officers, principals, agents or employees on account of loss or damage sustained by any person or
3 property as a result of the performance of this Contract, whether or not such injuries or damage be caused
4 by the inherent nature of the work specified, the Contractor agrees to assume the defense thereof and to
5 pay all expenses connected therewith and all judgments that may be obtained against the Owner, the
6 Architect, or any of their officers, principals, agents or employees in such suits. In the event that any lien
7 is placed upon the property of the Owner or any of its officers, principals, agents or employees as a result
8 of such suits, the Contractor agrees to at once cause the same to be dissolved and discharged by giving
9 bond or otherwise.

10
11 In addition to the amounts required by Chapter 60.28 RCW to be withheld from the progress payments to
12 the Contractor, the Owner may, in its sole discretion, withhold amounts sufficient to pay any property
13 damage claim of which the Owner may have knowledge, regardless of the informalities of notice of such
14 claim, arising out of the performance of this Contract, provided that the total amounts withheld for such
15 purpose shall not exceed one percent of the Contract Price. The term “property damage claim” shall not
16 include any claim for personal injuries or any claim by persons furnishing supplies or materials or
17 performing labor for the Contractor. The amount withheld will not be paid to the claimant by the Owner
18 but will be held until either the Contractor secures a written release from the claimant, obtains a court
19 decision that such claim is without merit or satisfies any judgment in favor of the claimant on such
20 claims.

21
22 **3.19.4** In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the
23 Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts
24 they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a
25 limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a
26 Subcontractor under workers’ or workmen’s compensation acts, disability benefit acts or other employee
27 benefit acts.

28
29 **3.19.5** The obligations of the Contractor under this Paragraph 3.19 shall not extend to the liability of the
30 Architect, the Architect’s consultants, and agents and employees of any of them.

31
32 **ARTICLE 4**
33 **ADMINISTRATION OF THE CONTRACT**
34

35 **4.1 ARCHITECT**
36

37 **4.1.1** The Architect is the person lawfully licensed to practice architecture or an entity lawfully
38 practicing architecture identified as such in the Agreement and is referred to throughout the Contract
39 Documents as if singular in number. The term “Architect” means the Architect or the Architect’s
40 authorized, representative,
41

42 **4.2 ARCHITECT’S ASSISTANCE IN ADMINISTRATION OF THE CONTRACT**
43

44 **4.2.1** The Architect will assist the Owner in administration of the Contract as described in the Contract
45 Documents, and may, as specifically authorized by the Owner, serve as the Owners representative (1)
46 during construction. (2) until final payment is due and (3) from time to time during the correction period
47 described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect may
48 have authority to act on behalf of the Owner only to the extent provided in the Contract Documents or the

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1 agreement between the Owner and the Architect, unless otherwise modified by written instrument in
2 accordance with other provisions of the Contract Documents. The Authority of the Architect is separate
3 from that of the Owners Representative.
4

5 **4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction to become
6 familiar with the progress and quality of the completed Work and to determine in general if the Work is
7 being performed in a manner indicating that the Work, when completed, will be in accordance with the
8 Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-
9 site inspections to check quality or quantity of the Work. On the basis of on-site observations as an
10 architect, the Architect will keep the Owner informed of progress of the Work, and will use its best efforts
11 to guard the Owner against defects and deficiencies in the Work. The Architect shall not exercise
12 prerogatives or perform duties in a manner that will increase the cost of construction or increase
13 construction time without Owner's prior written approval. It is the Contractors responsibility to inform
14 Owner, in writing, of direction by Architect that may affect Contract Sum or Contract Time prior to
15 proceeding with that work.
16

17 **4.2.3** The Architect will not have control over or charge of and will not be responsible for construction
18 means, methods, techniques, sequences or procedures, or for safety precautions and programs in
19 connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph
20 3.3. The Architect will not have control over or charge of and will not be responsible for acts or omissions
21 of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing
22 portions of the Work.
23

24 **4.2.4** Except as otherwise provided in the Contract Documents or when direct communications have
25 been specially authorized, the Owner and Contractor shall endeavor to communicate through the
26 Architect. Communications by and with Subcontractors and material suppliers shall be through the
27 Contractor. Communications by and with separate contractors shall be through the Owner. The Contractor
28 additionally shall PROVIDE THE OWNER WITH A DIRECT COPY OF ALL IMPORTANT
29 WRITTEN COMMUNICATIONS TO THE ARCHITECT, including all notices, claims, and potential
30 changes in the Contract Sum or Time.
31

32 **4.2.5** Based on the Architect's observations and evaluations of the Contractor's Applications for
33 Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates
34 for Payment in such amounts.
35

36 **4.2.6** The Architect will have the authority to reject Work which does not conform to the Contract
37 Documents. If the Contractor disputes the rejection of any Work and the correction thereof shall involve
38 additional costs or time, the Contractor shall inform the Owner of the correction in writing and it shall be
39 the Owner's option to accept such Work whether it is conforming or nonconforming. The Owner will not
40 exercise this option with respect to nonconforming Work that the Architect certifies as presenting a threat
41 to the durability of the building, a threat to human health or life or that violates any applicable code
42 requirement. Whenever the Architect considers it necessary or advisable for implementation of the intent
43 of the Contract Documents the Architect will have authority to require additional inspection or testing of
44 the Work in accordance with Subparagraphs 13.5.2 and 3.5.3, whether or not such Work is fabricated,
45 installed or completed. However, neither this authority of the Architect nor a decision made in good faith
46 either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the
47 Architect to the Conti-actor, Subcontractors, material and equipment suppliers, their agents or employees,
48 or other persons performing portions of the Work.

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1
2 **4.2.7** The Architect will review and take appropriate action upon the Contractor's submittals such as
3 Shop Drawings, Product Data and Samples, but only for the limited purposes of checking for
4 conformance with information given and the design concept expressed in the Contract Documents. The
5 Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in
6 the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the
7 Architect's professional judgment to permit adequate review. Review of such submittals is not conducted
8 for the purpose of determining the accuracy and completeness of other details such as dimensions and
9 quantities, or for substantiating instructions for installation or performance of equipment or systems, all of
10 which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's
11 review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs
12 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless
13 otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences
14 or procedures. The Architect's review of a specific item shall not indicate approval of an assembly of
15 which the item is a component.

16
17 **4.2.8** The Architect will prepare Change Orders and Construction Change Directives, and may
18 authorize minor changes in the Work as provided in paragraph 7.4.

19
20 **4.2.9** The Architect will conduct inspections to determine the date or dates of Substantial Completion
21 and the date of final completion, will receive and forward to the Owner for the Owner's review and
22 records written warranties, operations and maintenance manuals, record drawings and related documents
23 required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment
24 upon compliance with the requirements of the Contract Documents.

25
26 **4.2.10** If the Owner and Architect agree, the Architect will provide one or more project representatives
27 to assist in carrying out the Architect's responsibilities at the site.

28
29 **4.2.11** The Architect will interpret and decide matters concerning performance under and requirements
30 of the Contract Documents on written request of either the Owner or Contractor. The Architect's response
31 to such requests will be made with reasonable promptness and within any time limits agreed upon, if no
32 agreement is made concerning the time within which interpretations required of the Architect shall be
33 furnished in compliance with this Paragraph 4.2, then delay, if any, shall not be recognized on account of
34 failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made
35 for them or after the Architect has received from the Owner or Contractor all of the information necessary
36 for the Architect to respond to the request, whichever is later.

37
38 **4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of and reasonably
39 inferable from the Contract Documents and will be in writing or in the form of drawings. When making
40 such interpretations and decisions, the Architect will endeavor to secure faithful performance by
41 Contractor.

42
43 **4.2.13** As between the Architect and the Contractor, the Architect's decisions on matters relating to
44 aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

45
46 **4.2.14** The Architect shall conduct meetings at least once weekly with the Contractor and such
47 Subcontractors as may be requested by the Architect to review the progress of the work and the status of
48 schedules. The Architect shall prepare and circulate minutes of such meetings.

1
2 **4.3 INITIAL NOTICES AND CLAIMS**
3

4 **4.3.1** All claims for additional costs and/or time (regardless of how described) must be made in
5 accordance with the requirements of this Article or they will be waived.
6

7 **4.3.2** An “Initial Notice” is the mechanism the Contractor must use to provide the Owner with initial
8 notice of events that have or may result in a Claim. At a minimum, initial Notices must be in writing and
9 describe the event, identify persons with knowledge of the event, qualitatively describe the likely or
10 potential impacts of the event, and identify provisions of the Contract Documents that are implicated by
11 the event.
12

13 **4.3.3** A “Claim” is a substantiated demand or assertion by the Contractor seeking, as a matter of right,
14 adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with
15 respect to the terms of the Contract. The term Claim’ also includes other disputes and matters in question
16 between the Owner and Contractor arising out of or relating to the Contract.
17

18 **4.3.4** Claims must be made in writing and substantiated by detailed information. The responsibility to
19 substantiate Claims rests solely with the Contractor. The substantiation of a Claim shall include, at a
20 minimum, the following:
21

- 22 **.1** A written narrative explaining the factual basis of the claim and the bases for the claim
23 under the Contract Documents;
- 24 **.2** A written and/or graphic explanation of how the alleged acts or failure to act by the
25 Owner under the Contract directly caused the damages or delay complained of;
- 26 **.3** Full documentation of the additional costs or damages allegedly resulting in such detail
27 as may be requested by the Owner, including original bid and budget records;
- 28 **.4** Schedule analyses which demonstrate that the alleged acts or failure to act caused delays
29 to the critical path activities of the Contractor; and
30
- 31 **.5** Such other job records, reports, documents, calculations and bid or estimate information
32 as the Owner may reasonably require to evaluate the Claim.
33
34
35
36

37 In the event the Contractor believes that a change in the Work that is the responsibility of the Owner has
38 caused, or may cause, an increase in the Contractor’s costs in the form of labor and equipment
39 inefficiencies or lost productivity, such alleged costs must be specifically identified in the Claim, In
40 addition, the Contractor must establish that the alleged cost increases result directly from such change and
41 must demonstrate the impact by utilizing comparisons of the Work performed during the impacted period
42 with Work performed during a non-impacted period or on a closely similar but different part of the Work
43 if such comparisons are reasonably available or feasible.
44

45 **4.3.5** Claims, including those alleging an error or omission by the Architect, shall be submitted to the
46 Owner. A decision by the Owner, shall be required as a condition precedent to litigation of a Claim
47 between the Contractor and Owner as to all such matters arising prior to the date final payment is due,
48 regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to

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1 which the Work has been completed. If the Owner takes fails to issue such a decision within thirty (30)
2 days of Owners receipt of a Claim, the Claim shall be deemed denied,
3

4 **4.3.6** Pending final resolution of a Claim, unless otherwise agreed in writing, the Contractor shall
5 proceed diligently with performance of the Contract and the Owner shall continue to make payments that
6 are not in dispute in accordance with the Contract Documents.
7

8 **4.3.7** If conditions are encountered at the site which constitute subsurface or otherwise concealed
9 physical conditions which differ materially Iron) those indicated in the Contract Documents, then Initial
10 Notice by the Contractor shall be given to the Owner promptly before such conditions are disturbed and
11 in no event later than three (3) days after first observance of such conditions. The Architect will promptly
12 investigate such conditions and if they differ materially and cause an increase or decrease in the
13 Contractor's cost of, or rime required for, performance of any part of the Work. will recommend an
14 equitable adjustment in the Contract Sum or Contract Time, or both, to the Owner for consideration lithe
15 Architect and Owner determine that the conditions at the site are not materially different from those
16 indicated in the Contract Documents and that no change in the terms of the Contract is justified, the
17 Owner shall so notify the Contractor in writing, stating the reasons. Protests in opposition to su.ch
18 determination must be set forth in writing within fourteen (14) days after the Owner has given notice of
19 the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract
20 Time, any claim by the Contractor arising there front shall be made in accordance with the dispute
21 resolution procedure in Paragraph 44.
22

23 **4.3.8** If the Contractor claims that an additional cost is involved because of conflicts or omissions
24 within a particular type of Contract Document (e.g. Drawings), the Contractor and Subcontractors will be
25 deemed to have carefully reviewed all of the Contract Documents, including drawings, schedules, and
26 specifications, and the most expensive work indicated on the particular type of Contract Document within
27 which a conflict or omission is claimed shall be provided with no change in the Contract Sum or Time. In
28 the event that work is shown on Drawings but not contained in Specifications, it will be assumed the work
29 as shown shall be provided at no change in the Contract Sum or Time, according to specifications to be
30 issued by the Architect. The Contractor shall not be entitled to an increase in the Contract Sum or Time
31 arising out of an error or conflict where the Contractor failed adequately to review the Contract
32 Documents and timely report the en-or or conflict to the Architect.
33

34 **4.3.9** If the Contractor wishes to make a Claim for an increase it, the Contract Sum. Initial Notice as
35 provided herein timely filed as provided in this Article shall be given before proceeding to execute the
36 related Work, and a timely Claim shall be submitted as provided in this Article. Prior Initial Notice is not
37 required only for Claims relating to an emergency endangering life or property arising under Paragraph
38 10.3.
39

40 **4.3.10** If the Contractor wishes to make Claim for an increase in the Contract Time, Initial notice as
41 provided herein timely filed as provided in this Article shall be given and a Claim timely submitted as
42 provided in this Article. In the case of a continuing delay, only one Initial Notice and one Claim are
43 necessary, provided, they state that the delay and the conditions causing such delay are continuing.
44 Subject to the provisions of Subparagraph 8.3.3 herein limiting the Contractor's right of recovery to time
45 extensions only for reasonable delays, the Contractor's daily cost of any change in Contract Time
46 associated with a delay for which the Contractor is entitled to damages or an adjustment in the Contract
47 Sum shall be limited for each day of such delay to the lesser of the Contractor's actual costs or five
48 percent (5%) of the Contract Sum divided by the number of calendar days in the Contract Time.

1
2 **4.3.11** If adverse weather conditions are the basis for a Claim for additional time or cost, such Claim
3 shall also be documented by data substantiating that weather conditions were abnormal for the period of
4 time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on
5 the critical path of the current submitted construction schedule.

6
7 Neither Contract Time nor the Contract Sum will be adjusted for normal inclement weather. The
8 Contractor shall be entitled to a change in the Contract Time only if the Contractor can substantiate to the
9 reasonable satisfaction of the Owner and Architect that there was materially greater than normal
10 inclement weather considering the full term of the Contract Time and using a ten-year average of
11 accumulated record mean values from climatological data compiled by the US. Department of Commerce
12 National Oceanic and Atmospheric Administration for the locale closest to the Project, and that the
13 alleged abnormal inclement weather actually extended the critical path of the Work. To preclude the
14 difficulties of actual measurement, the parties hereto agree that weather data at the site of the work shall
15 be expressly deemed to be the same as that measured at the Seattle-Tacoma International Airport by the
16 Environmental Data and Information Service of the National Oceanic and Atmospheric Administration
17 (NOAA) of the U.S. Department of Commerce. If the total net accumulated number of calendar days lost
18 due to inclement weather from commencement of the Work until Final Completion exceeds the total net
19 accumulated number to be expected for the same period from the aforesaid data, and the Owner grants the
20 Contractor a time extension, the Contract Time will be extended by the corresponding number of calendar
21 days indicated on the critical path of the Contractor's approved Construction schedule.

22
23 For the purposes of this subparagraph, a "month" shall mean a calendar month and a "week" shall mean a
24 calendar week of Sunday through Saturday.

25
26 **4.3.12** If either party to the Contract suffers injury or damage to person or property because of an act or
27 omission of the other party, of any of the other party's employees or agents, or of others for whose acts
28 such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given
29 to the other party within a reasonable time not exceeding fourteen (14) days after first observance. The
30 notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for
31 additional cost or time related to such events is to be asserted, it must comply with the provisions of this
32 Article.

33 34 **4.4 DISPUTE RESOLUTION**

35
36 **4.4.1** All Claims, disputes and other matters in question of the Contractor arising out of, or relating to,
37 the project or the Contract Documents or the breach thereof, except Claims which have been waived
38 under the terms of the Contract Documents shall be decided exclusively by the following dispute
39 resolution procedure specified in Paragraph 4.4 unless the parties mutually agree in writing otherwise.

40
41 **4.4.2** Except as provided in paragraph 4.3.7 regarding concealed conditions, the Contractor shall give
42 Initial Notice to the Owner of all Claims within seven (7) days of the event giving rise to them. Claims
43 must be submitted to Owner within thirty (30) days of Owner's receipt of the applicable Initial Notice.
44 Failure to timely and properly give such Initial Notice and submit a Claim shall constitute waiver of the
45 Claim. The Contractor shall not be entitled to any change in the Contract Sum or the Contract Time, nor
46 any other compensation, for any events or costs that occurred more than seven (7) days before the
47 applicable Initial Notice. Each Claim must be substantiated in accordance with Subparagraph 4.3.4 above.
48 Each Initial Notice and Claim shall be deemed to include a statement that the Claim covers all changes in

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1 cost and in time (direct, indirect, impact, consequential, and otherwise) to which the Contractor (and
2 Subcontractors and Suppliers) is entitled. The Owner or its representative shall have the right to audit the
3 books and records of the Contractor and/or of any Subcontractor of any tier making a Claim.
4

5 **.1** If a Claim is not resolved, the Contractor may bring no Claim against the Owner in
6 litigation unless the Claim is first subject to nonbinding mediation before a single
7 mediator under the Voluntary Construction Mediation Rules of the American Arbitration
8 Association. This requirement can be waived only by an explicit written waiver signed
9 by the Owner. An officer of the Contractor and the Representative or designee of the
10 Owner, both having full authority to settle the claim, must attend the mediation session.
11 To the extent there are other parties in interest, such as the Architect, Engineers,
12 Consultants, Subcontractors or Suppliers, their representatives, or others deemed
13 necessary by the Owner, with full authority to settle the Claim, may also attend the
14 mediation session. Unless the Owner and the Contractor mutually agree in writing,
15 otherwise, all unresolved Claims shall be considered at a single mediation session that
16 shall within 60 days following Final Acceptance by the Owner.
17

18 **.2** The Contractor may bring no litigation on Claims unless such claims have been properly
19 raised and considered in the procedures of this Article. All unresolved Claims shall be
20 waived and released unless the Contractor has strictly complied with the time limits of
21 the Contract Documents, and litigation is served and filed within 20 days following Final
22 Acceptance. This requirement can be waived only by an explicit written waiver signed
23 by the Owner.
24

25 **4.4.3** The Contractor shall diligently carry on the Work and maintain the progress schedule during any
26 dispute resolution proceedings, unless otherwise agreed by it and the Owner in writing.
27

28 **4.4.4** The Contractor agrees that the Owner and Architect may join the Contractor as a party to any
29 litigation/arbitration/mediation involving the Project in any way. All disputes unresolved after mediation
30 shall be decided by litigation in accordance with the Contract Documents,
31

32 **4.4.5** Notwithstanding the above, the Owner may demand arbitration, before a single arbitrator
33 appointed by the American Arbitration Association under the Expedited Procedure of the Construction
34 Industry Arbitration Rules within five (5) days of the demand, for the purpose of seeking a declaratory
35 judgment regarding the propriety of the Owner's prospective termination of the Contractor. The hearing
36 shall occur within seven days of the appointment of the arbitrator, and the award shall be made within two
37 days of the close of the hearing and shall be final and binding.
38

39 **4.5 INITIAL NOTICES AND CLAIMS**

40
41 **4.5.1** Any Claim of the Contractor against the Owner for damages, additional payment for any reason
42 or extension of time, whether under the Contract or otherwise, shall be conclusively deemed to have been
43 waived by the Contractor unless a timely Initial Notice is provided followed by timely submission of a
44 Claim in strict accordance with this Article. No act, omission, or knowledge, actual or constructive, of the
45 Owner or the Architect shall in any way be deemed to be a waiver of the requirement for timely written
46 notice unless the Owner provides the Contractor with an explicit, written waiver of timely Initial Notice
47 and/or timely submission of a Claim.
48

1
2 **4.5.2** All Initial Notices and Claims shall be addressed to:

3
4 Scott Gallacher, Executive Director
5 Key Peninsula Metropolitan Parks District
6 5514 Key Peninsula Highway North
7 Lakebay, WA 98349
8

9 **4.6 RETENTION OF RECORDS AND AUDIT**

10
11 The Contractor shall maintain and retain for a period of not less than three (3) years after the date of
12 acceptance of Work all documents related to the Contractor's bid for this Contract (e.g., estimating sheets,
13 take-offs, etc.) and all records pertaining to the performance of the Work under this Contract, including
14 Work performed as extra work. The Contractor shall ensure each of his Subcontractors maintains and
15 retains for said period all records pertaining to performance of Subcontractor Work under this Contract,
16 including Work performed as extra work. Upon twenty-one (21) days' notice to Contractor, all such
17 documents and records shall be open to inspection and audit by Owner or others designated or authorized
18 by Owner or under applicable law and regulations. If an audit is to be commenced more than sixty (60)
19 calendar days after the acceptance of Work, Owner will give reasonable notice of the time when the audit
20 is to begin.
21

22 **ARTICLES**
23 **SUBCONTRACTORS**

24
25 **5.1 DEFINITIONS**

26
27 **5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a
28 portion of the Work at the site. The term 'Subcontractor' is referred to throughout the Contract
29 Documents as if singular in number and means a Subcontractor or an authorized representative of the
30 subcontractor. The term 'Subcontractor' does not include a separate contractor or Subcontractors of a
31 separate contractor.
32

33 **5.1.2** A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor
34 to perform a portion of the Work at the she. The tern' Sub-subcontractor' is referred to throughout the
35 Contract Documents as if singular in number and means a Sub-subcontractor or an authorized
36 representative of the Sub-subcontractor.
37

38 **5.1.3** A Supplier is a person or entity who has a direct or indirect, contract with the Contractor or a
39 Subcontractor of any tier to furnish materials or equipment to be incorporated in the Work,
40

41 **5.2 AWARD OF SLBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE**
42 **WORK**

43
44 **5.2.1** Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor
45 within (10) days of Owner's Conditional Notice to Proceed, shall furnish in writing to the Owner through
46 the Architect the names of persons or entities (including those who are to furnish materials or equipment
47 fabricated to a special design) proposed for each principal portion of the Work, consistent with the listing
48 requirements on the Bid. The Architect will promptly reply to the Contractor in writing stating whether or

1 not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed
2 person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no
3 reasonable objection. The Owner shall have the right to reject any proposed Subcontractor when the
4 Owner reasonably believes the Subcontractor is not qualified or responsible to perform the Work or if the
5 Subcontractor is different from one listed on or with the Bid.

6
7 **5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or
8 Architect has made reasonable objection. The Contractor shall not be required to contract with anyone to
9 whom the Contractor has made reasonable objection.

10
11 **5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the
12 Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable
13 objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such
14 change which is fully documented to the Owner's and Architect's reasonable satisfaction and an
15 appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for
16 such change unless the Contractor has acted promptly and responsively in submitting names as required.
17 The Owner shall not be responsible for any increased cost for any change involving a person or entity
18 who or which was not in all respects qualified, competent and sufficiently experienced to perform
19 proposed Work.

20
21 **5.2.4** The Contractor shall not change a Subcontractor, person or entity previously selected if the
22 Owner or Architect makes reasonable objection to such change. The Owner may require the Contractor to
23 change any Subcontractor previously approved for reasonable cause. Actions by the Owner or Architect
24 pursuant to this subparagraph shall not be deemed to make either responsible for the performance or
25 future performance of a Subcontractor.

26 27 **5.3 SUBCONTRACTUAL RELATIONS**

28
29 **5.3.1** The Contractor shall require each Subcontractor, to the extent of the Work to be performed by
30 the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume
31 toward the Contractor all the obligations and responsibilities which the Contractor, by these Contract
32 Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and
33 protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to
34 be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall
35 allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement the
36 benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract
37 Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to
38 enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each
39 proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract
40 Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor,
41 identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be
42 at variance with the Contract Documents, Subcontractors shall similarly make copies of applicable
43 portions of such documents available to their respective proposed Sub-subcontractors.

44
45 **5.3.2** Any part of the Work performed for the Contractor by a Subcontractor shall be pursuant to a
46 written subcontract agreement between the Contractor and such Subcontractor, which shall be available to
47 the Owner for review upon request. The Contractor shall schedule, supervise, and, coordinate the
48 operations of all Subcontractors and Suppliers of any tier and pay to them when due all amounts they earn

1 in connection with the Work. No subcontracting of any of the Work shall relieve the Contractor from its
2 responsibility for the performance of the Work or its obligations under the Contract Documents. Each
3 such Subcontractor Agreement shall:

- 4
- 5 **.1** Require that such Work be performed in accordance with all of the requirements of the
6 Contract Documents and applicable laws and regulations;
 - 7
 - 8 **.2** Waive all rights the contracting parties and their insurers may have against one another
9 or that the Subcontractor may have against the Owner for damages caused by fire or
10 other perils covered by the property insurance described in the Contract Documents;
 - 11
 - 12 **.3** Require the Subcontractor to carry and maintain insurance in accordance with the
13 Contract Documents;
 - 14
 - 15 **.4** Require the Subcontractor to furnish such certificates and waivers as may be reasonably
16 requested to the extent Subcontractor has been paid for Work performed under the
17 Subcontract Agreement;
 - 18
 - 19 **.5** Require the Subcontractor to incorporate EEO statements in accordance with the
20 Contract Documents;
 - 21
 - 22 **.6** Require payment of prevailing wages in accordance with the Contract Documents.

23

24 **5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

25

26 **5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner
27 provided
28 That:

- 29
- 30 **.1** Assignment is effective only after termination of the Contract by the Owner for cause
31 pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner
32 accepts by notifying the Subcontractor in writing: and
 - 33
 - 34 **.2** Assignment is subject to the prior rights of the surety, if any, obligated under a bond
35 relating to the Contract.

36

37 **5.5 LIENS**

38

39 The Contractor shall defend, indemnify and hold harmless the Owner from any liens arising out of the
40 work.

41

42 **ARTICLE 6**

43 **CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

44

45 **6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE**
46 **CONTRACTS**

47

48 **6.1.1** The Owner reserves the right to perform construction or operations related to the Project with the

1 Owners own forces, and to award separate contracts in connection with other portions of the Project or
2 other construction or operations on the site under conditions of the Contract identical or substantially
3 similar to these including those portions related to insurance and waiver of subrogation. The Contractor
4 shall coordinate its Work with that of separate contractors lithe Contractor claims that delay or additional
5 cost is involved because of such action by the Owner; the Contractor may file and document a Claim
6 subject to the Claim provisions in the Contract Documents
7

8 **6.1.2** When separate contracts are awarded for different portions of the Project or other construction or
9 operations on the site, the term “contractor” in the Contract Documents in each case shall mean the
10 Contractor that executes each separate Owner-Contractor Agreement.
11

12 **6.1.3** The Owner shall provide for coordination of the activities of the Owner’s own forces and of each
13 separate contractor with the Work of the Contractor, who shall fully cooperate with them. The Contractor
14 shall participate with other separate contractors and the Owner in reviewing their construction schedules
15 when directed to do so. The Contractor shall make any revisions to the construction schedule and
16 Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules
17 shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner unless
18 and until subsequently revised.
19

20 **6.1.4** Occupancy or use of any portion of the Work site by Owner shall not be construed as Substantial
21 Completion.
22

23 **6.2 MUTUAL RESPONSIBILITY**

24

25 **6.2.1** The Contractor shall afford the Owner and separate contractors reasonable opportunity for
26 introduction and storage of their materials and equipment and performance of their activities and shall
27 connect and coordinate the Contractors construction and operations with theirs as required by the Contract
28 Documents,
29

30 **6.2.2** If part of the Contractor’s Work depends for proper execution or results upon construction or
31 operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that
32 portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other
33 construction that would render it unsuitable for such proper execution and results. Failure of the
34 Contractor so to report shall constitute an acknowledgment that the Owners or separate contractors
35 completed or partially completed construction is fit and proper to receive the Contractor’s Work, except
36 as to defects not then reasonably discoverable.
37

38 **6.2.3** Costs caused by delays or by improperly timed activities or defective construction shall be borne
39 by the party responsible therefore.
40

41 **6.2.4** The Contractor shall promptly remedy damage caused by the Contractor to completed or
42 partially completed construction or to property of the Owner or separate contractors as provided in
43 Subparagraph 10.2.5.
44

45 **6.2.5** Claims and other disputes and matters in question between the Contractor and a separate
46 contractor shall be subject to the provisions of Paragraphs 4.3 and 4.4 provided the separate contractor has
47 reciprocal obligations.
48

1 **6.2.6** The Owner and each separate contractor shall have the same responsibilities for cutting and
2 patching as are described for the Contractor in Paragraph 3.15.
3

4 **6.3 OWNER'S RIGHT TO CLEAN UP**

5

6 **6.3.1** If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility
7 under their respective contracts for maintaining the premises and surrounding area free from waste
8 materials and rubbish as described in Paragraph 3.6, the Owner may clean up and allocate the cost among
9 those responsible as the Owner determines to be reasonable.
10

11 **ARTICLE 7**

12 **CHANGES IN THE WORK**

13

14 **7.1 CHANGES**

15

16 **7.1.1** Changes in the Work may be accomplished after execution of the Contract, and without
17 invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change
18 in the Work subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.
19 The Contractor shall be responsible for notifying the bonding and insurance company (ies) of any changes
20 in the Work; provided that neither the number nor quality of changes nor Contractor's failure to provide
21 notice shall release or impair bonding or insurance obligations or coverages.
22

- 23 **.1** Before effectuating a change in the Work, the Owner may request the Contractor to
24 propose the amount of change in the Contract Sum, if any, and the amount of change in
25 the Contract Time, if any, arising from a proposed change in the Work. The Contractor
26 shall submit its responsive proposal within no more than 14 days and shall in good faith
27 specify the amounts by which the contract Sum and/or Time would change. The Owner
28 may accept the proposal in writing, in which case it will be included in a future Change
29 Order, and the change in the Work may commence immediately. The Owner may reject
30 the proposal, in which case the Owner may either not effectuate the change or may order
31 the change through a Construction Change Directive.
32

33 **7.1.2** A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a
34 Construction Change Directive requires agreement by the Owner and Architect and may or may not be
35 agreed to by the Contractor; an order for a minor change in the Work, for which there is no change in the
36 Contract Sum or Time, may be issued by the Architect alone.
37

38 **7.1.3** Changes in the Work shall be performed under applicable provisions of the Contract Documents,
39 and the
40 Contractor shall proceed upon receipt of written Notice to Proceed from the Owner, unless otherwise
41 provided in the
42 Change Order, Construction Change Directive or order for a minor change in the Work.
43

44 **7.1.4** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities
45 originally contemplated are so changed in a proposed Change Order or Construction Change Directive
46 that application of such unit prices to quantities of Work proposed will cause substantial inequity to the
47 Owner or Contractor, the applicable unit prices shall be equitably adjusted.
48

1 **7.2 CHANGE ORDERS**

2
3 **7.2.1** A Change Order is a written instrument prepared by the Architect and signed by the Owner,
4 Contractor and Architect stating their agreement upon all of the following:

- 5
6 .1 A change in the Work;
7
8 .2 The amount of the adjustment in the Contract Sum, if any; and
9
10 .3 The extent of the adjustment in the Contract Time, if any.
11

12 **7.2.2** A Change Order shall constitute final resolution of the matter addressed by the Change Order.

13
14 **7.2.3** Methods used in determining adjustments to the Contract Sum may include those listed in
15 Subparagraph 7.3.3
16

17 **7.3 CONSTRUCTION CHANGE DIRECTIVES**

18
19 **7.3.1** A Construction Change Directive is a written order prepared by the Architect and signed by the
20 Owner and Architect, directing a change in the Work and stating a proposed basis for adjustment, if any,
21 in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive,
22 without invalidating the Contract, order changes in the Work within the general scope of the Contract
23 consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted
24 accordingly.
25

26 **7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of
27 a Change Order.
28

29 **7.3.1** If the Construction Change Directive provides for an adjustment to the Contract Sum, the
30 adjustment shall be based on one of the following methods:

- 31
32 .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient
33 substantiating data to permit evaluation;
34
35 .2 Unit prices stated in the Contract Documents or subsequently agreed upon:
36
37 .3 Cost to be determined in a manner agreed upon by the parties (accompanied by an
38 itemized estimate of probable cost) and a mutually acceptable fixed or percentage fee: or
39
40 .4 As provided in Subparagraph 7.3.6.
41

42 **7.3.4** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the
43 change in the Work involved. As soon as possible, and within seven (7) days of receipt, the Contractor
44 shall advise the Architect in writing of the Contractor's agreement or disagreement with the proposed
45 adjustment or the method, if any, provided in the Construction Change Directive for determining the
46 proposed adjustment in the Contract Sum or Contract Time. The Contractor's response shall reasonably
47 specify the reasons for its disagreement and the amount or other terms that it proposes. Without such
48 timely written response, the Contractor shall conclusively be deemed to have accepted the Owner's

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1 adjustment. The Contractors disagreement shall not relieve the Contractor of its obligation to comply
2 promptly with any written notice issued by the Owner or the Architect. The adjustment shall then be
3 determined by the Architect in strict accordance with the provisions of the Contract Documents.
4

5 **7.3.5** A Construction Change Directive signed by the Contractor indicates the agreement of the
6 Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for
7 determining them. Such agreement shall be effective immediately and shall be incorporated into a Change
8 Order.
9

10 **7.3.6** If the Contractor does not respond promptly or disagrees with the method for adjustment in the
11 Contract Sum, or if cost is to be determined under Clause 7.3.3.3, the Contractor shall keep and present
12 within fourteen (14) days' written demand from the Owner, in such form as the Owner may prescribe, an
13 itemized accounting of the time and material expended, together with supporting data. In order to
14 facilitate checking of such quotations, all proposals, except those so minor that their propriety can be seen
15 by inspection, shall be accompanied by complete itemization of costs, including labor, materials,
16 equipment and subcontract costs. Labor, equipment and materials shall be itemized in the manner
17 described in Paragraph 7.5. When major cost items arise from Subcontractors of any tier, these items shall
18 also be itemized, and the Contractor must include a statement that the Contractor has reviewed the
19 Subcontractors' costs and believes them to be accurate. Approval may not be given without such
20 itemization. Failure to provide data within 14 days of the Owner's request shall constitute waiver of any
21 Claim for changes in the Contract Time or Contract Sum. The total cost of any change, including a Claim
22 under Paragraph 4.3 or 4.4, shall be limited to the reasonable value, as determined by the Owner (subject
23 to appeal through the dispute resolution procedure of Paragraph 4.4), of the items in Paragraph 7.5.
24 Unless otherwise agreed in writing by the Owner, the cost shall not exceed the lower of the prevailing
25 cost for the work in the locality of the Project or the cost of the work in the current edition of R. S. Means
26 Company, Inc., Building Construction Cost Data as adjusted to local costs and conditions. The Architect
27 and the Owner may confer directly with Subcontractors of any tier concerning any item chargeable
28 directly or indirectly to the Owner under this article to confirm contract balances due and to obtain
29 statements or lien waivers.
30

31 **7.3.7** Pending final determination of the total cost of a Construction Change Directive to the Owner,
32 and provided that any reservations of rights in respect to the Construction Change Directive have been
33 initialed by the Owner, amounts not in dispute for such changes in the Work may be included in
34 Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or
35 all of such costs. If the Contractor adds a reservation of rights that has not be initialed by the Owner, all
36 the amounts of the Construction Change Directive shall be considered disputed unless costs are
37 renegotiated or the reservation is withdrawn or changed in a manner satisfactory to the Owner. The
38 amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a
39 net decrease in the Contract Sum shall be the largest of (1) the reasonable value of the deletion or change.,
40 (ii) the line item value in the Schedule of Values, or (iii) the actual net cost as confirmed by the Architect.
41 When both additions and credits covering related Work or substitutions are involved in a change, the
42 allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that
43 change,
44

45 **7.3.8** If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for
46 determining it, the adjustment or the method shall be referred to the Architect for determination. Any
47 adjustment in the Contract Time arising from a Change or a Claim shall be limited to the change in the
48 actual critical path of the Contractor's Construction Schedule directly caused thereby.

1
2 **7.3.9** When the Owner and Contractor agree with the determination made by the Architect concerning
3 the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the
4 adjustments, such agreement shall be effective immediately and shall be recorded by preparation and
5 execution of an appropriate Change Order.

6
7 **7.4 MINOR CHANGES IN THE WORK**

8
9 **7.4.1** The Architect will have authority to order minor changes in the Work not involving adjustment
10 in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract
11 Documents, such changes shall be effected by written order and shall be binding on the Owner and
12 Contractor. The Contractor shall carry out such written orders promptly even if the Contractor intends to
13 file a Claim, in which case the notice of claim must be filed in advance of any such Work pursuant to the
14 provisions of Paragraph 4.3.

15
16 **7.5 PRICING COMPONENTS**

17
18 **7.5** The total cost of any changed Work or of any other increase or decrease in the Contract Sum,
19 including without limitation a Claim or a Change, shall be limited to the following components. The
20 Owner shall not be obliged to pay for Claim pricing on a basis different from that bid.

21
22 **7.5.1** Direct labor costs: These are the on-site labor costs determined by either an agreed estimate or
23 actual number of additional craft hours and the hourly cost necessary to perform directly the change in the
24 Work, or the unit labor costs applied to the reasonably incurred and necessary material quantities and
25 extended, provided the unit labor costs are developed from the above craft hour cost, whichever is
26 applicable, according to industry practice.

27
28 The hourly cost shall be based upon the following:

- 29
30 **.1** Basic wages: The hourly wage (without markup, fringe benefits or labor burden and not
31 to exceed that specified in the applicable "Intent to Pay Prevailing Wages") for the
32 laborers, apprentices, journeymen, and foremen performing and/or directly supervising
33 the changed Work on the site. The premium portion of overtime wages is not included
34 unless pre-approved by the Owner.
- 35
36 **.2** Fringe benefits: Fringe benefits paid by the Contractor as established by the Washington
37 Department of Labor and Industries, or contributed to labor trust funds as itemized fringe
38 benefits, whichever is applicable. Cost paid or incurred by the Contractor for vacations,
39 per diem, bonuses, stock options or discretionary payments to employees are not
40 reimbursable.
- 41
42 **.3** Workers' insurances: Direct contributions to the State of Washington as industrial
43 insurance; medical aid; and supplemental pension by class and rates established the
44 Washington Department of Labor and Industries.
- 45
46 **.4** Federal insurances: Direct contributions required by the Federal insurance Compensation
47 Act (FICA); Federal Unemployment Tax Act (FUTA); and State Unemployment
48 Compensation Act (SUCA).

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1
2 **7.5.2** Direct material costs: This is an itemization, including material invoices, of the quantity and cost of
3 additional materials reasonable and necessary to perform the change in the Work. These costs shall be by
4 the unit cost applied to the quantity and extended. The unit cost shall be based upon the net cost after all
5 discounts or rebates, freight costs, express charges, or special delivery costs when applicable. No lump
6 sum costs will be allowed except when approved in advance by the Owner,
7

8 **7.5.3** Construction equipment usage costs: This is an itemization of the actual length of time that
9 construction equipment appropriate for the Work will be used solely on the change in the Work at the site
10 times the applicable rental cost as established by the lower of the local prevailing rate published in The
11 Rental Rate Blue Book by Data Quest, San Jose, California, as modified by the AGC: WSDOT agreement
12 or the actual rate paid to unrelated third parties as evidenced by rental receipts. Actual, reasonable
13 mobilization costs are permitted if the equipment is brought to the site solely for the change in the Work.

14 If more than one rate is applicable, the lowest rate will be utilized. The rates in effect at the time
15 of the performance of the Change work are the maximum rates allowable for equipment of modern design
16 and in good working condition and include full compensation for furnishing all fuel, oil, lubrication
17 repairs, maintenance, and insurance. Equipment not of modern design and/or not in good working
18 condition will have lower rates. Hourly, weekly, and/or monthly rates, as appropriate, will be applied to
19 yield the lowest total cost. The rate for equipment necessarily standing by for future use on the changed
20 Work shall be 50% of the rate established above. The total cost of rental allowed shall not exceed the cost
21 of purchasing the equipment outright.
22

23 If equipment is required, for which a rental rate is not established by The Rental Rate Blue Book,
24 an agreed rental rate shall be established for that equipment, which rate and use must be approved by the
25 Owner prior to performing the changed Work.
26

27 **7.5.4** Cost of change in insurance or bond premium. This is defined as:
28

- 29 **.1** Contractors' liability insurance: The cost (expressed as a percentage) of any changes in
30 the Contractor's liability insurance arising directly from the changed Work; and
31
32 **.2** Public works bond: The cost (expressed as a percentage) of the change in the
33 Contractor's premium for performance and payment bonds required by the Owner and
34 arising directly from the changed Work.
35

36 Upon request, the Contractor shall provide the Owner with supporting documentation from its
37 insurer or surety.
38

39 **7.5.5** Subcontractor costs: These are payments the Contractor makes to Subcontractors for changed
40 Work performed by Subcontractors. The Subcontractors' cost of changed Work shall be determined in the
41 same manner as prescribed in Subparagraphs 7.5.1 through 7.5.4.
42

43 **7.5.6** Fee; The Fee is the allowance for all combined overhead, profit and other costs, including all
44 office, home office and site overhead (including project manager, project engineer, other engineers,
45 project foremen, estimator, and superintendent and their vehicles), facilities, taxes (except for sales tax),
46 engineering, estimating, purchasing, quality control or assurance, clerical, preparation and safety costs,
47 hand and small tools and expendable charges, change order or claim preparation, preparation of as-built
48 drawings, impact on unchanged Work, and delay, acceleration and impact costs of any kind, added to the

1 total cost to the Owner of any Change Order. Construction Change Directive, Claim, or any other claim of
2 any kind. It shall be limited in all cases to the following schedule.

- 3
- 4 **.1** The Contractor shall receive 15% of the costs prescribed in Subparagraphs 7.5.1 through
5 7.5.4 of any materials properly supplied or work satisfactorily performed by the
6 Contractor's own forces,
7
- 8 **.2** The Contractor shall receive 8% of the amount owed directly to a Subcontractor for
9 materials properly supplied or work satisfactorily performed by that Subcontractor as
10 prescribed in Subparagraph 7.5.5.
11
- 12 **.3** Each Subcontractor of any tier shall receive 12% of the costs prescribed in
13 Subparagraphs 7.5.1 through 7.5.4 of any materials properly supplied or work
14 satisfactorily performed by its own forces.
15
- 16 **.4** Each Subcontractor of any tier shall receive 8% of the amount it properly incurs for
17 materials properly supplied or Work satisfactorily performed by its suppliers or
18 subcontractors of any lower tier as prescribed in Subparagraph 7.5.5.
19
- 20 **.5** The total summed Fee of the Contractor and all Subcontractors of any tier shall not
21 exceed 30%.
22
- 23 **.6** None of the fee percentages authorized in this paragraph 7.5.6 may be compounded with
24 any other fee percentage or percentages authorized in this paragraph.
25

26 If a change in the Work involves both additive and deductive items, the appropriate Fee allowed will be
27 added to the net difference of the items. If the net difference is negative, no Fee will be added to the
28 negative figure as a thither deduction.
29

30 **ARTICLE 8**
31 **TIME**

32
33 **8.1 DEFINITIONS**

34
35 **8.1.1** Unless otherwise provided, the Contract Time is the period of time allotted in the Contract
36 Documents from notice to Proceed to date of Substantial Completion of the Work as defined in
37 subparagraph 8.1.3. The only adjustments thereto are by Change Order.
38

39 **8.1.2** The date of commencement of the Work is the date established in the Agreement unless
40 otherwise provided by written conditional Notice to Proceed. The date shall not be postponed by the
41 failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.
42

43 **8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with
44 Paragraph 9.8
45

46 **8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise
47 specifically defined.
48

1 **8.1.5** “Conditional Notice to Proceed” is the written notice issued by the Owner identifying the date of
2 commencement of the Work and identifying conditions to be satisfied before execution of the Contract
3 and Work on site flay commence.
4

5 **8.2 PROGRESS AND COMPLETION**

6
7 **8.2.1** Within ten days of Owner’s written notification to the Contractor of its Conditional Notice to
8 Proceed, the Contractor shall submit an executed contract, surety bond, preliminary progress schedule,
9 certificates of insurance, any documents required by state or local authorities, and all other documents
10 required by the Contract. Failure to make such a submission shall constitute a material breach of the
11 conditions of the bid and bid bond; and, at Owner’s sole discretion, Owner may void the bid award and
12 forfeit contractors bid bond.
13

14 **8.2.2** Time is of the essence for commencement and completion of the Work. The Owner is relying
15 materially on a specific construction period and will suffer serious direct, indirect and consequential
16 damages should the established dates not be met The Contractor shall promptly start the Work as soon as
17 possible after the date of the Notice to Proceed and, shall prosecute the Work so that the various portions
18 of the Work shall be complete in accordance with any intermediate and final completion date(s) set forth
19 in the Contract Documents and the Contractor’s schedule. During periods when weather or other
20 conditions are unfavorable for construction, the Contractor shall pursue only such portions of the Work as
21 will not be damaged thereby; no portions of the Work shall be constructed while those conditions exist if
22 acceptable quality or efficiency will be adversely affected. It is expressly understood and agreed by and
23 between the Contractor and the Owner that the Contract Time for completion of the Work described
24 herein is a reasonable time taking into consideration the weather conditions and other factors prevailing in
25 the locality of the Work.
26

27 **8.2.3** The Contractor shall provide progress schedules, cash flow projections and additional reports, as
28 may be specified in the Contract Documents or as reasonably requested by the Owner, demonstrating the
29 Contractor’s logic and sequencing plan for scheduling and completing the Work within the Contract
30 Time. Contract Time extensions approved by the Owner shall be incorporated into updated schedules
31 reflecting their effect at the time of occurrence. Progress payments will not be considered by the Owner
32 until the Contractor complies with these requirements.
33

34 The Contractor shall promptly notify the Architect and the Owner in writing of any facts or
35 conditions that would affect the Contractor’s ability to meet the intermediate or final completion date(s)
36 for the Work. If the Contractor fails to maintain the progress necessary for the completion of the
37 intermediate or final completion date(s) as required under this Contract, the Owner shall have all of the
38 rights and remedies provided by law and under this Contract. Notwithstanding such rights and remedies,
39 the Contractor shall, upon written notice by the Owner and at no additional cost to the Owner, work such
40 hours as allowed by applicable permits and other such constraints, and furnish such additional personnel,
41 equipment and construction plant for such a period of time as necessary to regain and thereafter maintain
42 the progress required by the Contract. If the Contractor fails to comply with the Owners notice or fails to
43 regain and thereafter maintain the progress required by the Contract, the Owner shall have all the rights
44 and remedies provided by law and provided by this Contract, including those set forth in Paragraph 14.2
45 herein.
46

47 **8.2.4** In the event the Work is delayed, the Owner will suffer losses and damages that may be
48 impossible or impracticable to calculate. Should the Contractor fail to perform the work within the

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1 Contract Time as stipulated in the Contract Documents, Contractor shall pay to Owner, as liquidated
2 damages and not as a penalty, the amount of \$1,000 per day of delay in achieving Substantial Completion
3 for either the entire project or a particular phase, and
4 \$500 per day for each day beyond sixty (60) days after Substantial Completion during which the Project
5 is not finally complete, unless extensions of time granted by Owner specifically provide for the waiving
6 of liquidated damages. The Owner shall have the right to deduct the liquidated damages from any money
7 otherwise due, or to become due, to Contractor. The liquidated damages amounts are not intended to
8 preclude the Owner from pursuing claims and causes of action for other damages to the Owner resulting
9 from the failures or defaults of the Contractor unrelated to delay in the Work.

10
11 **8.2.5** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing,
12 prematurely commence operations on the site or elsewhere prior to the effective date of insurance
13 required by Article 11 to be furnished by the Contractor. Neither the date of commencement of the Work
14 nor the date of completion of the Work shall be changed by the effective date of such insurance.

15
16 **8.2.6** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial
17 Completion within the Contract Time.

18
19 **8.3 DELAYS AND EXTENSIONS OF TIME**

20
21 **8.3.1** If the Contractor is unavoidably delayed at any time in progress of the Work by an act or neglect
22 of the Owner or Architect or of a separate contractor employed by the Owner, or by changes ordered in
23 the Work, or by labor disputes, fire, unavoidable casualties or other causes which are both beyond the
24 Contractor's control and could not be reasonably anticipated, or by other unavoidable causes which the
25 Architect determines may justify delay, then the Contract Time shall be extended by Change Order for
26 such reasonable time as the Owner may determine after considering the recommendations of the
27 Architect,

28
29 **8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Paragraphs
30 4.3, 4.4 and
31 4.5.

32
33 **8.3.3** For delays concerning which the Contractor has given proper and timely notice pursuant to
34 Paragraphs 4.3, 4.4 and 4.5, the Contractor shall submit to the Owner and Architect a substantiated Claim.
35 The Owner may grant an extension of time to the extent that unavoidable and reasonable delays
36 necessarily affect controlling operations in the construction schedule. During such extension of time, no
37 damages for delay will be charged to the Contractor. It is understood and agreed by the Contractor and
38 Owner that time extensions due to unavoidable and reasonable delays necessarily involve controlling
39 operations that would prevent completion of Work within the Contract Time. To the extent that any such
40 extension of time is caused by act(s) or omission(s) of someone other than the Owner or persons acting
41 for the Owner, or to the extent that the extension of time arises from a reasonable delay, the Contractor's
42 sole remedy shall be the extension of time and it may not recover any damages whatsoever arising in any
43 manner from such delay. For purposes of this paragraph, any individual delay of up to the greater of 5
44 days or one percent of the Contract Time (as extended) shall be deemed reasonable and any individual
45 delay of up to the greater often (10) days or five percent (5%) of the Contract Time (as extended) shall be
46 presumed reasonable.

47
48 **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.

9.2 SCHEDULE OF VALUES

9.2.1 At least fourteen (14) days before the Contractor submits its first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work as required in subparagraph 3.11.4, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 APPLICATION FOR PAYMENT

9.3.1 Contractor shall submit to Architect an itemized Application for Payment for Work completed during the monthly application period and not covered in a preceding Application for Payment. Such application shall be in the form required by the Owner, and shall be supported by such data substantiating Contractor's right to payment as Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers and any EEO compliance forms. Such applications shall reflect any retainage amount required herein, shall contain the statements required herein, and shall be accompanied by an updated progress schedule per Section 3.11. and by partial lien releases executed by all Subcontractors, mechanics and materialmen who supplied labor or materials or both in the performance of Work for which progress payments were previously made. Such application may not include a request for payment of any amount Contractor does not intend to pay to a Subcontractor, mechanic or materialman because of a dispute or other reason.

- .1** At the last weekly meeting each calendar month, the Contractor shall submit to the Architect a report on the current progress of the Work as compared to the Contractors Construction Schedule, and a draft, itemized application for payment for Work performed during the prior month to the date of submission, This shall not constitute a payment request. The Contractor and Architect shall confer at the meeting regarding the current progress of the Work and the amount of payment to which the Contractor is entitled.
- .2** The Architect or Owner may request the Contractor to provide data substantiating the Contractor's right to payment, including, without limitation:
 - .1** Copies of requisitions from Subcontractors:
 - .2** Lien releases (see subparagraph 5.3.2.4):
 - .3** Certified payroll records for Contractor and all major Subcontractors, including sitework and utilities, mill work, framing, electrical, mechanical, painting and drywall, and masonry;

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1 .4 Retainage documentation: and

2
3 .5 Other documentation as provided elsewhere in the Contract Documents.

4
5 .3 The Contractor shall not be entitled to make a payment request, nor is any payment due
6 the

7
8 Contractor, until data requested by Architect or Owner is furnished.

9
10 .4 After the Contractor and the Architect have met and conferred regarding the draft
11 application, and the Contractor has furnished all progress information required and all
12 data requested by the Architect under Subparagraphs 9.3.1.1 and 9.3.1.2 above, the
13 Contractor may submit a payment request in the agreed-upon amount, in the form of a
14 signed, itemized Application for Payment for Work performed during the prior month to
15 the date of the last weekly meeting referenced above, on a form supplied or approved by
16 the Owner. Among other things the Application shall state that prevailing wages have
17 been paid in accordance with the prefiled statement(s) of intent to pay prevailing wages
18 on file with the Owner and that all payments due Subcontractors and Suppliers of any tier
19 from the Owners payment the prior month have been made. THE SUBMISSION OF
20 THIS APPLICATION CONSTITUTES A CERTIFICATION THAT THE WORK IS
21 CURRENT ON THE CONTRACTOR'S CONSTRUCTION SCHEDULE, unless
22 otherwise noted on the application.

23
24 .5 If the Contractor believes it is entitled to payment for Work performed during the prior
25 calendar month in addition to the agreed-upon amount, the Contractor may, within the
26 same five-day time period, submit to the Owner and the Architect a separate written
27 payment request specifying the exact additional amount due, the category in the Schedule
28 of Values in which the payment is due, the specific Work for which the additional
29 amount is due, and why the additional payment is due. Furthermore, the Contractor and
30 all Subcontractors shall file with the Owner within the five-day time period certified
31 copies of all payroll records relating to the additional amount due.

32
33 .6 A payment request shall not be valid unless it complies with the requirements of the
34 Contract Documents. If a separate payment request concerning a disputed amount does
35 not comply with the requirements of the Contract, the Owner will provide a written
36 statement to the Contractor.

37
38 .7 No payment request shall include amounts the Contractor does not intend to pay to a
39 Subcontractor or Supplier because of a dispute or other reason. If after making a request
40 for payment but before paying a Subcontractor or Supplier for its performance covered
41 by the payment request, the Contractor discovers that part or all of the payment otherwise
42 due to the Subcontractor or Supplier is subject to withholding from the Subcontractor or
43 Supplier under the subcontract for unsatisfactory performance, the Contractor may
44 withhold the amount as allowed under the subcontract, but it shall give the
45 Subcontractor, the Owner and the Architect written notice of the remedial actions that
46 must be taken as soon as practicable after determining the cause for withholding but
47 before the due date for the Subcontractor/Supplier payment, and pay the
48 Subcontractor/Supplier within eight working days after the Subcontractor/Supplier

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1 satisfactorily completes the remedial action identified in the notice.
2

3 **9.3.2** If Architect has received the Contractors Application for Payment in a timely manner, Architect
4 will issue to Owner a Certificate for Payment, with a copy to Contractor, for such amount as Architect
5 and Owner determine is properly due against the pending application for payment. Owner shall make a
6 progress payment to Contractor, in accordance with paragraph 9.6.1.
7

8 **9.3.3** Unless otherwise provided in the Contract Documents, payments shall be made on account of
9 materials and equipment delivered and suitably stored at the site for subsequent incorporation in the
10 Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment
11 suitably stored off the site at an insured and secure location agreed upon in writing. Payment for materials
12 and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with
13 procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or
14 otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation
15 to the site for such materials and equipment stored off the site.
16

17 **9.3.4** The Contractor warrants that title to all Work covered by an Application for Payment will pass to
18 the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an
19 Application for Payment all Work for which Certificates for Payment have been previously issued and
20 payments received from the Owner shall, to the best of the Contractor's knowledge, information and
21 belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor,
22 Subcontractors, material suppliers, or other persons or entities making a claim by reason of having
23 provided labor, materials or equipment relating to the Work.
24

25 **9.3.5** Owner shall retain from any amount otherwise earned by Contractor hereunder a sum equal to
26 five percent (5%) of the amount earned by Contractor in accordance with RCW Chapter 60.28. If the
27 Contractor elects to submit a retainage bond in accordance with Chapter 60.28 RCW, the bond must be
28 issued by a surety licensed to do business in the state where the Work is located with an AM. Best rating
29 of A+/IX or better. The Contractor may withhold from Contractor's payments to its Subcontractors and
30 Suppliers not more than 5% as retainage from moneys earned by such persons or entities.
31

32 **.1** The retainage shall be held as a trust fund for the protection and payment of any person
33 or persons, mechanic, Subcontractor, or materialman who shall perform any labor under
34 this Contract, as provided by Chapter 60.28 Revised Code of Washington (RCW) and all
35 persons who shall supply such person or persons of Subcontractors with provisions, and
36 supplies for the carrying on of such Work, and the State with respect to taxes imposed
37 pursuant to RCW Title 82 which may be due from Contractor. In accordance with the
38 provisions of Chapter 60.28 RCW, said trust fund shall be retained for the statutory
39 period, and every person performing labor or furnishing supplies toward the completion
40 of said Work shall have a lien upon said fund provided that proper notice of the lien shall
41 be given as required by law. After the expiration of the statutory notice period, and after
42 receipt of a clearance of the Department of Revenue, Department of Employment
43 Security, and Department of Labor & Industries, the reserve in excess of a sum sufficient
44 to discharge the taxes certified as due or to become due by the Department of Revenue,
45 the Department of Labor & Industries, and the claims of materialmen and laborers who
46 have filed their claims, together with a sum sufficient to defray the cost of foreclosing the
47 liens of such claims, and to pay attorneys' fees, shall be paid to Contractor. The
48 provisions of this subparagraph shall supersede any other conflicting provision in this

1 Contract,

2
3 **.2** Monies reserved under provisions of Chapter 60.28 RCW shall, at the option of the
4 Contractor, be:

5 a. Retained in a fund by the Owner with no interest paid thereon to the Contractor;
6 or

7
8 b. Deposited by the Owner in an interest-bearing account in a bank, mutual savings
9 bank, or savings and loan association, not subject to withdrawal until after final
10 acceptance of all work, or a portion thereof, as may be approved by the Owner;
11 or

12
13 c. Placed in escrow in a bank or trust company by the Owner. When the monies
14 reserved are to be placed in escrow, the Owner will issue a check representing
15 the sum of the monies reserved payable to the bank or trust company and the
16 Contractor jointly. Such check shall be converted into bonds and securities
17 chosen by the Contractor and approved by the Owner, and the bonds and
18 securities held in escrow. Interest on the bonds and securities shall be paid to the
19 Contractor as the interest accrues.
20

21 Under option h and c above, interest will be paid to the Contractor as the interest accrues. The
22 Contractor shall designate the option desired on a form as may be provided by the Owner, This form shall
23 be submitted no later than with the Contractor's first partial payment request. The Contractor in choosing
24 option b or c agrees to assume full responsibility to pay all costs that may accrue from escrow services,
25 brokerage charges, or both, and further agrees to assume all risks in connection with the investment of the
26 retained monies.
27

28 **9.4 CERTIFICATES FOR PAYMENT**

29
30 **9.4.1** The Architect will, within seven days after receipt of the Contractors Application for Payment,
31 either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the
32 Architect and Owner determine is properly due, or notify the Contractor and Owner in writing of the
33 Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.
34

35 **9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the
36 Owner, based on the Architect's observations at the site and the data comprising the Application for
37 Payment, that the Work has progressed to the point indicated and that, to the best of the Architects
38 knowledge, information and belief, quality of the Work is in accordance with the Contract Documents.
39 The foregoing representations are subject to an evaluation of the Work for conformance with the Contract
40 Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor
41 deviations from the Contract Documents correctable prior to completion and to specific qualifications
42 expressed by the Architect.
43

44 **9.5 CERTIFICATION AND PAYMENTS WITHHELD**

45
46 **9.5.1** The Architect may decide not to certify payment and may withhold a Certificate for Payment in
47 whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the
48 representations to the Owner required by Subparagraph 9.4.2 cannot be made or if the Contractor's

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1 Application for Payment does not comply with the requirements of the Contract. If the Architect is unable
2 to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as
3 provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the
4 Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to
5 make such representation to the Owner. The Owner may, with or without the Architect's concurrence,
6 withhold payment. and the Architect may also decide not to certify payment or, because of subsequently
7 discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for
8 Payment previously issued, to such extent as may be necessary in the Owner's or Architect's opinion to
9 protect the Owner from loss because of:

- 10
11 .1 Defective Work or unsatisfactory performance not remedied;
- 12
13 .2 Third party claims filed against the Owner relating to the Work or reasonable evidence
14 indicating probable filing of such claims;
- 15
16 .3 Failure of the Contractor to make payments properly to Subcontractors or for labor,
17 materials or equipment; or failure to submit affidavits pertaining to wages paid as
18 required by the Contract Documents;
- 19
20 .4 Damage to the Owner or another contractor;
- 21
22 .5 Reasonable evidence that the Work will not be completed within the Contract Time, and
23 that the unpaid balance would not be adequate to cover liquidated damages for the
24 anticipated delay;
- 25
26 .6 Failure to carry out the Work in accordance with the Contract Documents;
- 27
28 .7 If Owner or Architect, in its good faith judgment, determines that the portion of the
29 Contract Sum then remaining unpaid will not be sufficient to complete the Work in
30 accordance with the Contract Documents, then the Owner shall make no additional
31 payments and none will become due to the Contractor unless and until the Contractor, at
32 its sole cost, performs a sufficient portion of the Work so that the Contract Sum then
33 remaining unpaid is determined by the Owner or Architect to be sufficient to so complete
34 the Work;
- 35
36 .8 Failure of the Contractor to submit timely schedule updates; or delay by the Contractor
37 and/or its Subcontractor(s) of any tier, or failure to comply with Contractor's Progress
38 Schedule; or
- 39
40 .9 Liquidated damages.

41
42 **9.5.2** When the above reasons for withholding certification are removed, certification will be made for
43 amounts previously withheld,
44

45 **9.5.3** Owner shall not be deemed to be in breach of this Contract by reason of the withholding of any
46 payment if the Work in question shall have been rejected by any governmental authority. The Owner shall
47 have no obligation to make payments for defective Work and unsatisfactory performance until such Work
48 and performance is corrected or replaced as provided herein and compensation is thereby earned.

1
2 **9.5.4** Pursuant to RCW39.12, the Contractor will not receive any payment until the Contractor and all
3 Subcontractors of any tier have submitted a ‘Statement of Intent to Pay Prevailing Wage’ to the Owner.
4 The statement must have the approval of the Industrial Statistician of the Department of Labor and
5 Industries before it is submitted to the Owner. The statement must include the Contractor’s registration
6 number, the number of workers in each trade classification, and the applicable wage rate for each trade
7 listed. The Contractor agrees to provide each Subcontractor with a schedule of applicable prevailing wage
8 rates. The Contractor and the respective Subcontractors shall pay all fees required by the Department of
9 Labor and Industries, including fees for the approval of the “Statement of Intent to Pay Prevailing
10 Wages.” Approved copies of the “Statement of Intent to Pay Prevailing Wages” must be posted where
11 workers can easily read them.

12
13 **9.6 PROGRESS PAYMENTS**
14

15 **9.6.1** After the Architect has issued a Certificate for Payment, the Owner shall make payment in the
16 manner and within the time provided in the Contract Documents, and shall so notify the Architect. The
17 Owner will make a progress payment within thirty (30) days of its receipt of the Architect’s Certificate
18 for Payment, but shall be entitled to withhold payment according to subparagraph 9.5, notwithstanding
19 the issuance of a Certificate for Payment.

20
21 **9.6.2** The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner,
22 out of the amount paid to the Contractor on account of such Subcontractors portion of the Work, the
23 amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to
24 the Contractor on account of such Subcontractor’s portion of the Work, The Contractor shall, by
25 appropriate agreement with Subcontractors require each Subcontractor to make payments to Sub-
26 subcontractors in similar manner. If the Contractor does not receive payment for any cause that is not the
27 fault of a particular Subcontractor, the Contractor shall pay that Subcontractor on demand, made at any
28 time after which such payment to the Contractor would have been made, for its work to the extent
29 completed, less the retained percentage.

30
31 **9.6.3** The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding
32 percentages of completion or amounts applied for by the Contractor and action taken thereon by the
33 Architect and Owner on account of portions of the Work done by such Subcontractor.

34
35 **9.6.4** Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of
36 money to a Subcontractor except as may otherwise be required by law.

37
38 **9.6.5** Payment to material suppliers shall be treated in a manner similar to that provided in
39 Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

40
41 **9.6.6** A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the
42 Project by the Owner shall not constitute acceptance of Work.
43
44

1 **9.7 LITIGATION DELAY COSTS**

2
3 **9.7.1** In the event of delays primarily due to litigation that qualifies under RCW 60.28080, the parties
4 hereto agree that the reasonable costs of such litigation delay shall consist only of the following:
5

- 6 .1 Actual and necessary direct costs to the Contractor directly attributable to the period of
7 delay for wages, wage taxes and labor costs other than wages; provided, that such costs
8 could not be otherwise avoided by layoffs or employment on other projects during the
9 period of delay. The wage rates shall not exceed those listed on the Contractor's
10 "Statement of Intent to Pay Prevailing Wages on Public Works Contract" as approved by
11 the Industrial Statistician of the State of Washington.
12
13 .2 Additional and necessary direct costs for materials and equipment rentals actually
14 incurred and paid by the Contractor directly attributable to the period of delay.
15
16 .3 Actual equipment standby costs established by rental agreements or, if Contractor
17 owned, by the lowest rate utilized by the Contractor for purposes of its project
18 accounting.
19
20 .4 Additional and necessary direct costs of insurance premiums and bonds actually incurred
21 and paid by the Contractor directly attributable to the period of delay.
22
23 .5 Additional and necessary costs for sub contracts actually incurred and paid by the
24 Contractor directly attributable to the period of delay; provided, that such additional costs
25 could not be avoided by cancellation or renegotiation of such subcontracts.
26
27 .6 To such costs shall be added an amount equal to ten percent (10%) thereof as a
28 reasonable amount for overhead, profit, and all other costs not specifically accounted for
29 above.
30

31 Within three days after notice of litigation delay under this paragraph, the Contractor shall notify the
32 Owner and Architect in writing of the Contractor's estimated weekly litigation delay costs as described
33 above; provided, however, that in no event will payment for actual litigation delay costs exceed one
34 hundred twenty-five percent (125%) of the said estimated costs, The Contractor shall submit to the
35 Architect no later than the fifth day of each month a request for such litigation delay costs incurred during
36 the previous calendar month. The request for payment shall be in a form satisfactory to the Architect and
37 Owner and shall include copies of invoices, correspondence and such other verifiable evidence of delay
38 costs actually and necessarily incurred by the Contractor as the Owner or Architect may require. This
39 paragraph shall be the Contractor's exclusive remedy for litigation delay costs.
40

41 **9.8 SUBSTANTIAL COMPLETION**

42
43 **9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated
44 portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can
45 occupy or utilize the Work for its intended purpose, as determined by Owner and Architect. All of the
46 Project's parts and systems shall be accessible, operable, and commissioned to be usable by the Owner,
47 including site Work. The Project shall be clean. Preliminary training of personnel must take place. Only
48 incidental corrective Work under 'Punch lists' and final cleaning (if required) may remain to be done.

1
2
3 **9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to
4 accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a
5 comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to
6 complete and correct items on the list. Failure to include an item on such list does not alter the
7 responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon
8 receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or
9 designated portion thereof is substantially complete to assist the Contractor in completing the Work. If
10 the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is
11 not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance
12 of the Certificate of Substantial Completion, complete or correct such item upon notification by the
13 Architect. The Contractor shall then submit a request for another inspection by the Architect to determine
14 Substantial Completion. The cost of this and any additional inspections by the Architect shall be at
15 Contractor's expense in accordance with subparagraph 9.8.2.1 below. When the Work or designated
16 portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial
17 Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the
18 Owner and Contractor for security, maintenance, utilities, damage to the Work and insurance, and shall
19 fix the time within which the Contractor shall finish all items on the list accompanying the Certificate.
20 The general Project warranty and all other warranties required by the Contract Documents shall
21 commence on the date of Final Completion and Acceptance by Owner of the Work or designated portion
22 thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of
23 Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of
24 responsibilities assigned to them in such Certificate.

25
26 The Architect and Owner will make one Punch List check and perform one back check
27 of the Punch List to determine Final Completion in accordance with Section 9.10. Added
28 inspections or meetings shall be at Contractor's expense at Architect's applicable rates.
29 Such inspection meetings may be required because of:

- 30
31 **.1** Failure on the part of Contractor to satisfactorily complete all items on Punch
32 List prior to Back Check of the Punch List, or
33
34 **.2** Additional inspections required by defective installations or equipment.
35

36 **9.8.3** Upon Substantial Completion of the Work or designated portion thereof and upon application by
37 the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in
38 retainage, if any, for such Work or portion thereof as provided in the Contract Documents
39

40 **9.8.4** Contractor's acceptance of Substantial Completion payment shall constitute a waiver of all
41 claims by the Contractor except those previously made in writing and identified in writing by the
42 Contractor as unsettled at the time of the application for payment for the substantial Completion payment,
43 and except for the Contract Sums due at Final Acceptance.
44

45 **9.9 PARTIAL OCCUPANCY OR USE**

46
47 **9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any
48 stage when such portion is designated by separate agreement with the Contractor, provided such

1 occupancy or use is consented to by the insurer as required under Subparagraph 11.3.3 and authorized by
2 public authorities having jurisdiction over the Work. Such partial occupancy or use may commence
3 whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in
4 writing the responsibilities assigned to each of them for payment, retainage if any, security, maintenance,
5 utilities, damage to the Work and insurance, and have agreed in writing concerning the period for
6 correction of the Work and commencement of warranties required by the Contract Documents. When the
7 Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the
8 Architect as provided under Subparagraph 9.82. Consent of the Contractor to partial occupancy or use
9 shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written
10 agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.
11

12 **9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall
13 jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record
14 the condition of the Work,
15

16 **9.9.3** Use by Owner of any finished part of the Work, which has specifically been identified in the
17 Contract Documents, or which Owner, Architect and Contractor agree constitutes a separately functioning
18 process, facility or portion of the Work that can be used by Owner without significant interference with
19 Contractor's performance of the remainder of the Work may be accomplished prior to Substantial
20 Completion of all the Work subject to the following:
21

22 Owner at any time may request Contractor in writing to permit Owner to use any such part of the
23 Work that Owner believes to be ready for its intended use and substantially complete. If
24 Contractor agrees, Contractor will certify to Owner and Architect that said part of the Work is
25 substantially complete and request Architect to issue a Certificate of Substantial Completion for
26 that part of the Work. Contractor at any time may notify Owner and Architect in writing that
27 Contractor considers any such part of the Work ready for its intended use and substantially
28 complete and request Architect to issue a Certificate of Substantial Completion for that part of
29 the Work. Within a reasonable time after either such request, Owner, Contractor and Architect
30 shall make an inspection of that part of the Work to determine its status of completion. If
31 Architect does not consider that part of the Work to be substantially complete, Architect will
32 notify Owner and Contractor in writing giving the reasons therefore. If Architect considers that
33 part of the Work to be substantially complete, the provisions of subparagraphs 9.8.1 and 9.8.2
34 will apply with respect to certification of Substantial Completion of that part of the Work and the
35 division of responsibility in respect thereof and access thereto.
36

37 **9.9.4** Unless otherwise agreed, Owners partial occupancy or use of a portion or portions of the Work
38 shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.
39

40 **9.10 FINAL COMPLETION AND FINAL PAYMENT**

41
42 **9.10.1** Upon receipt of written notice that the Work is ready for final inspection and acceptance and
43 upon receipt of a final Application for Payment, the Architect and Owner will promptly make such tests
44 and inspection and, when the Architect and Owner find the Work acceptable under the Contract
45 Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for
46 Payment stating that to the best of the Architect's knowledge, information and belief and on the basis of
47 the Architect's observations and inspections, the Work has been completed in accordance with terms and
48 conditions of the Contract Documents and that the balance found to be due the Contractor and noted in

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1 said final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a
2 further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being
3 entitled to final payment have been fulfilled.
4

5 **9.10.2** Final Acceptance will not be granted until Owner has received and accepted Record Documents,
6 Operations and Maintenance Manuals, staff training on all operable equipment, final certificates of
7 occupancy from local jurisdictions and all required certificates or other evidence of warranties. Final
8 Completion must be achieved within sixty (60) days of the scheduled Substantial Completion date as
9 described in Paragraph 9.8.
10

11 **9.10.3** Neither final payment nor any remaining retained percentage shall become due until the
12 Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and
13 other indebtedness connected with the Work for which the Owner or the Owner's property might be
14 responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a
15 certificate evidencing that insurance required by the Contract Documents to remain in force after final
16 payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) days'
17 prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no
18 reason that the insurance will not be renewable to cover the period required by the Contract Documents,
19 (4) consent of surety to final payment, (5) other data establishing payment or satisfaction of obligations,
20 such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of
21 the Contract, to the extent and in such form as may be designated by the Owner or as may be required by
22 applicable laws and regulations, and (6) all claims by the Contractor have been waived or resolved. Such
23 forms and filings shall include:
24

- 25 .1 Certificates approved by the Washington State Department of Labor and Industries,
26 Washington State Employment Security Department, and all other departments and
27 agencies having jurisdiction over the activities of the Contractor have been provided to
28 the Owner;
- 29 .2 A release obtained from the Washington State Department of Revenue that state taxes
30 have been paid; and
- 31 .3 "Affidavits of Wages Paid" for the Contractor and each Subcontractor approved by the
32 Industrial Statistician of the Washington State Department of Labor and Industries have
33 been provided to the Owner.
34
35
36

37 If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the Owner
38 shall either retain in its funds. or in an interest bearing account, or retain in escrow, at the option of the
39 Contractor, an amount equal to such unpaid taxes and unpaid claims together with a sum sufficient to
40 defray the costs and attorney fees incurred in foreclosing the lien of such claims, and shall pay, or release
41 from escrow, the remainder to the Contractor.
42

43 **9.10.4** If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor
44 may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien
45 remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the
46 Owner may be compelled to pay in discharging such lien, including all costs and attorneys' fees. Lien
47 notices shall be delivered to:
48

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1 Scott Gallacher, Executive Director
2 Key Peninsula Metropolitan Parks District
3 5514 Key Peninsula Highway North
4 Lakebay, WA 98349
5

6 **9.10.5** The making of final payment shall not constitute a waiver of any claims by the Owner, including,
7 but not limited to, those arising from:

- 8
9 .1 Unsettled liens;
10 .2 Faulty or defective Work appearing after Substantial completion;
11 .3 Failure of the Work to comply with the requirements of the Contract Documents; or
12 .4 Terms of any warranties or guarantees required by the Contract Documents or
13 supplemental agreements between the Owner and Contractor.
14

15 **9.10.6** If, after Substantial Completion of the Work, final completion thereof is materially delayed
16 through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the
17 Architect so confirms, the Owner shall, upon application by the Contractor and certification by the
18 Architect, and without terminating the Contract, make payment of the balance due for that portion of the
19 Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is
20 less than retainage stipulated in the Contract Documents, and if bonds have been finished, the written
21 consent of surety to payment of the balance due for that portion of the Work fully completed and accepted
22 shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment
23 shall be made under terms and conditions governing final payment, except that it shall not constitute a
24 waiver of claims.
25

26 **9.10.7** Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall
27 constitute a waiver of claims by that payee except those previously made in writing and identified in
28 writing by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in
29 addition to any waivers of Claims resulting from the operation of Paragraphs 4.3, 4.4, 4.5 and 9.8.4,
30

31 **9.10.8** The Owner reserves the right pursuant to Chapter 60.28 RCW to withhold from any retainage
32 funds remaining after the clearance of claims for liens and taxes an amount necessary to satisfy claims by
33 the Owner against the Contractor, and the remainder of the retainage shall be released to the Contractor.
34

35 **ARTICLE 10**
36 **PROTECTION OF PERSONS AND PROPERTY**
37

38 **10.1 SAFETY PRECAUTIONS AND PROGRAMS**
39

40 **10.1.1** The Contractor shall be solely and completely responsible for conditions of the work site,
41 including safety of all persons and property, during performance of the Work. The Contractor shall
42 maintain the Work site and perform the Work in a manner that meets statutory and common law for the
43 provision of a safe place to work. This requirement shall apply continuously and not be limited to normal
44 working hours. That the Architect or Owner conducts construction review of the Contractor's
45 performance does not and shall not be intended to include review of the adequacy of the Contractor's
46 safety measures in, on or near the site of the Work. The Contractor shall be responsible for initiating,
47 maintaining and supervising all safety precautions and programs in connection with the performance of
48 the Contract.

1
2 **10.2 SAFETY OF PERSONS AND PROPERTY**
3

4 **10.2.1** The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable
5 protection to prevent damage, injury or loss to:

- 6
7 .1 Employees on the Work and other persons who may be affected thereby:
8
9 .2 The Work and materials and equipment to be incorporated therein, whether in storage on
10 or off the site, under care, custody or control of the Contractor or the Contractors
11 Subcontractors or Sub-subcontractors; and
12
13 .3 Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks,
14 pavements, roadways, structures and utilities not designated for removal, relocation or
15 replacement in the course of construction.
16

17 **10.2.2** The Contractor shall give all notices and comply with all applicable laws, ordinances, rules,
18 regulations and lawful orders of public authorities bearing on safety of persons or property or their
19 protection from damage, injury or loss.
20

21 The Contractor shall comply with the safety regulations set forth in “Safety Standards for Construction”
22 and “General Safety Standards” and any other requirements published by the Washington State
23 Department of Labor and Industries.
24

25 The Contractor shall comply with the Federal Occupational Safety and Health Act of 1970 (OSHA),
26 including all revisions, amendments and regulations issued thereunder, and the provisions of the
27 Washington Industrial Safety Act of 1973 (WISHA), including all revisions, amendments and regulations
28 issued thereunder by the Washington State Department of Labor and Industries. The WISHA regulations
29 shall apply to all excavation, trenching and ditching operations. In case of conflict between any such
30 requirements, the more stringent regulation or requirement shall apply,
31

32 **10.2.3** The Contractor shall erect and maintain, as required by existing conditions and performance of
33 the Contract, reasonable safeguards for safety precaution, including posting danger signs and other
34 warnings against hazards promulgating safety regulations and notifying owners and users and adjacent
35 sites and utilities. The Contractor shall maintain at the work site office or other well known place at the
36 work site all materials (e.g., a first aid kit) necessary for giving first aid to the injured, and shall establish,
37 publish and make known to all employees procedures for ensuring immediate removal to a hospital or a
38 doctor’s care, persons, including employees, who may have been injured on the site. Employees shall not
39 be permitted to work on the site before the Contractor has established and made known procedures for
40 removal of injured persons to a hospital or a doctor’s care. The Contractor’s auditor and Subcontractors
41 shall ensure that at least one of such employees has a valid, effective first aid card.
42

43 **10.2.4** When use or storage of explosives or other hazardous materials or equipment or unusual methods
44 are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such
45 activities under supervision of properly qualified personnel.
46

47 **10.2.5** The Contractor shall promptly remedy damage and loss to property referred to in Subparagraphs
48 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, Subcontractor, a Sub-subcontractor, or

1 anyone directly or indirectly employed by any of them. or by anyone for whose acts they may be liable
2 and for which the Contractor is responsible under Subparagraph 10.2.1, except damage or loss attributable
3 to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of
4 them, or by anyone for whose acts either of them may be liable, and not attributable to the fault of
5 negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the
6 Contractors obligations under Paragraph 3.19.

7
8 **10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site
9 whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent
10 unless otherwise designated by the Contractor in writing to the Owner and Architect.

11
12 **10.2.7** At all times until the Owner's occupancy of the Work or a designated portion of the Work, the
13 Contractor shall protect from damage, weather, deterioration, theft, vandalism and malicious mischief all
14 materials, equipment, tools, and other items incorporated or to be incorporated in the Work or designated
15 portion, or consumed or used in the performance of the Work or designated portion, and all Work in
16 process and completed Work or designated portion.

17
18 **10.2.8** The Contractor shall not load or permit any part of the construction or site to be loaded so as to
19 endanger its safety.

20 21 **10.3 HAZARDOUS MATERIALS**

22
23 **10.3.1** If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to
24 persons resulting from a material or substance, including but not limited to asbestos or polychlorinated
25 biphenyl (PCB) encountered on the site by the Contractor, the Contractor shall, upon recognizing the
26 condition, immediately stop Work in the affected area and report the condition to the Owner and
27 Architect in writing.

28
29 **10.3.2** The Owner shall obtain the services of a licensed or accredited laboratory to verify the presence
30 or absence of the material or substance reported by the Contractor and in the event such material or
31 substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required
32 by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names
33 and qualifications of persons or entities who are to perform tests verifying the presence or absence of such
34 material or substance or who are to perform the task of removal or safe containment of such material or
35 substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether
36 or not either has reasonable objection to the persons or entities proposed by the Owner. If either the
37 Contractor or Architect has a reasonable objection to a person or entity proposed by the Owner, the
38 Owner shall propose another to whom the Contractor and the Architect have no reasonable objection.
39 When the material or substance has been rendered harmless, Work in the affected area shall resume upon
40 written agreement of the Owner and Contractor. The Contract Time may be extended appropriately and
41 the Contract Sum may be increased in the amount of the Contractor's demonstrated, reasonable additional
42 costs of shutdown, delay and start-up, which adjustment shall be accomplished as provided in Article 7.

43
44 **10.3.3** The Contractor shall not install in the Work any hazardous material. The Owner shall not be
45 responsible under Paragraph 10.3 for materials or substances brought to the site by the Contractor unless
46 such materials or substances were required by the Contract Documents.

1 **10.4 PUBLIC SAFETY AND CONVENIENCE**

2
3 **10.4.1** The Contractor shall conduct its Work so as to ensure the least possible obstruction to vehicular
4 traffic and inconvenience to the general public and the residents in the vicinity of the Work and to ensure
5 the protection of persons, property and natural resources. No road or street shall be closed to the public
6 except with the permission of the Owner and the proper governmental authority. Fire hydrants on or
7 adjacent to the Work shall be accessible to fire fighting equipment at all times. Temporary provisions
8 shall be made by the Contractor to ensure the use of sidewalks, fire lanes, private and public driveways
9 and proper functioning of gutters, sewer inlets, drainage ditches and culverts, irrigation ditches and
10 natural water courses, if any, on the Work site.

11
12 **10.5 SANITATION**

13
14 **10.5.1** The Contractor shall comply with WAC 296-155-140 and other applicable laws and regulations
15 establishing sanitation standards in the construction industry.

16
17 **10.6 EMERGENCIES**

18
19 **10.6.1** In an emergency affecting safety of persons or property, the Contractor shall act, at the
20 Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or
21 extension of the time claimed by the Contractor on account of an emergency beyond the control
22 of the Contractor shall be determined as provided in Paragraph 4.3 and Article 7.

23
24 **ARTICLE II**
25 **INSURANCE AND BONDS**

26
27 **11.1 CONTRACTOR'S LIABILITY INSURANCE**

28
29 **11.1.1** The Contractor shall purchase and maintain in a company or companies licensed to do business in
30 the state which the project is located, with an A.M. Best rating of A/IX or better and reasonably
31 satisfactory to Owner, such insurance as will protect Contractor and Owner from claims set forth below
32 which may arise out of or result from the Contractor's operations under the Contract, whether such
33 operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of
34 them, or by anyone for whose acts any of them may be liable. All reinsurers that may be called upon to
35 support or share in an insurer's obligations specified in connection with insurance required of the
36 Contractor by the Contract Documents must also have an A.M. Best rating of A/IX or better."

- 37
38 **.1** Claims under workers' or workmen's compensation, disability benefit and other similar
39 employee benefit acts which is applicable to Work to be performed:
40
41 **.2** Claims for damages, because of bodily injury, occupational sickness or disease, or death
42 of the Contractor's employees;
43
44 **.3** Claims for damages because of bodily injury, sickness or disease, or death of any person
45 other than the Contractor's employees;
46
47 **.4** Claims for damages insured by usual personal injury liability coverage which are
48 sustained (1) by a person as a result of an act or omission directly or indirectly related to

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1 employment of such person by the Contractor, or (2) by another person;

- 2
- 3 **.5** Claims for damages, other than to the Work itself because of injury to or destruction of
- 4 tangible property, including loss of use resulting therefrom;
- 5
- 6 **.6** Claims for damages because of bodily injury, death of a person or property damage
- 7 arising out of ownership, maintenance or use of a motor vehicle;
- 8
- 9 **.7** Claims involving contractual liability insurance applicable to the Contractor's obligations
- 10 under Paragraph 3.19;
- 11
- 12 **.8** Liability insurance shall include all major divisions of coverage and be on a
- 13 comprehensive basis including:
- 14
- 15 1. Premises operations (including X, C & U as applicable);
- 16
- 17 2. Independent Contractor's protective;
- 18
- 19 3. Products and completed operations;
- 20
- 21 4. Personal injury liability with employment exclusion deleted;
- 22
- 23 5. Contractual, including specific provision for Contractor's obligation under Paragraph
- 24 3.18;
- 25
- 26 6. Owned, non-owned and hired motor vehicles;
- 27
- 28 7. Broad form property damage including completed operations; and
- 29
- 30 8. Umbrella excess liability.

31 **11.1.2** Certificates of Insurance and Endorsements acceptable to the Owner shall be filed with the

32 Owner prior to commencement of the Work. These Certificates and the insurance policies required by this

33 Paragraph 11.1. shall contain a provision that coverages afforded under the policies will not be reduced,

34 canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the

35 Owner. The Owner shall be included as an additional insured on all such policies. If any of the foregoing

36 insurance coverages are required to remain in force after final payment and are reasonably available, an

37 additional certificate evidencing continuation of such coverage shall be submitted with the final

38 Application for Payment as required by Subparagraph 9. L0.3. Information concerning reduction of

39 coverage shall be furnished by the Contractor with reasonable promptness in accordance with the

Contractor's information and belief.

11.1.3 The Contractor shall furnish one copy each of the certificates of insurance herein required for each

copy of the agreement which shall specifically set forth evidence of all coverage required by

subparagraphs 11.1.1 and 11.1.2. The Contractor shall furnish to the Owner copies of any endorsements

that are subsequently issued.

1 **11.2 OWNER'S LIABILITY INSURANCE**

2
3 **11.2.1** The Owner shall be responsible for purchasing and maintaining the Owner's usual liability
4 insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against
5 claims that may arise from operations under the Contract. The Contractor shall not be responsible for
6 purchasing and maintaining this optional Owner's liability insurance unless specifically required by the
7 Contract Documents,
8

9 **11.3 PROPERTY INSURANCE**

10
11 **11.3.1** Before commencement of the work, the Owner will purchase for the period of this Contract,
12 Builder's Risk, "All-Risk" Completed Value Insurance Coverage, in the face amount of this Contract
13 including taxes, (including coverage for fire, Collapse, and Damage resulting from Faulty Workmanship,
14 Material, or Design; but not including Flood, Earthquake or Landslide unless specified for a given
15 project) upon the entire work which is the subject of this Contract, including completed work and work in
16 progress but excluding structures in existence at the time the Contract was awarded. Such insurance shall
17 include Contractor as an Additional Named Insured. Such insurance may have a deductible clause but not
18 to exceed \$10,000.00. (The deductible on earthquake flood and landslide may be in accordance with the
19 Underwriters' requirements.) The Contractor shall be solely responsible for any such deductibles.
20

21 **11.3.2** Upon the occurrence of an insured loss, the Owner, as first named insured, shall have the right to
22 adjust and settle any loss with the insurers. The Owner shall deposit in a separate account any monies
23 received, and shall distribute such finds in accordance with such agreement as the parties in interest may
24 reach. If no agreement is reached, any damaged Work shall first be repaired or replaced, and payment
25 therefore made from the separate account by Change Order or by payment to a separate contractor, at
26 Owner's option; further disbursements from the separate account will then be determined pursuant to the
27 claims procedures of Article 4, above.
28

29 **11.3.3** Partial occupancy or use in accordance with Paragraph 9.8 shall not commence until the
30 insurance company or companies providing property insurance have consented to such partial occupancy
31 or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain
32 consent of the insurance company or companies and shall, without mutual written consent, take no action
33 with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.
34

35 **11.4 PERFORMANCE AND PAYMENT BOND**

36
37 **11.4.1** The Contractor shall secure and pay for a separate Performance Bond and Payment Bond in the
38 full amount of the Contract Sum plus sales tax, pursuant to Chapter 39.08 RCW. Said bond shall meet all
39 requirements of Chapter 39.08 RCW and shall also be issued by a surety with an A.M. Best rating of
40 A/IX or better. All reinsurers that may be called upon to support or share in a surety's obligations
41 specified in connection with the performance and payment bond obligations required of the Contractor by
42 the Contract Documents must also have an A.M. Best rating of A/IX or better. Within 10 days after the
43 issuance of the Conditional Notice to Proceed, the Contractor shall deliver two copies of each Bond to the
44 Owner and one copy to the Architect. THE OWNER MAY DECLINE TO ENTER INTO THE
45 CONTRACT, WITHHOLD ITS "NOTICE TO PROCEED," AND/OR WITHHOLD PAYMENT TO
46 THE CONTRACTOR UNTIL SUCH SURETY BOND IS RECEIVED. If the contract executed the
47 Contract Time shall be reduced by one day for each day after 10 days that said bond is not received by the
48 Owner, and there shall be no adjustment to the substantial completion date.

1
2 **11.4.2** The Owner may require certain subcontractors to provide evidence of performance bondability
3 in writing to the Owner and it may also require certain subcontractors to provide and maintain at the
4 Owner's expense during the life of the Contract, a performance bond equal to the total amount of such
5 subcontract, excluding sales tax. Any bond(s) so required by the Owner shall be issued by a surety
6 licensed to do business in this state with an A.M. Best rating of A/V or better.
7

8 **ARTICLE 12**
9 **UNCOVERING AND CORRECTION OF WORK**
10

11 **12.1 UNCOVERING OF WORK**
12

13 **12.1.1** If a portion of the Work is covered contrary to the Architects, Owner's or governmental authority
14 with jurisdiction request or to requirements specifically expressed in the Contract Documents, it must, if
15 required in writing by the Architect, Owner, or governmental authority with jurisdiction, be uncovered at
16 Contractor's expense for the Architect's observation and be replaced at the Contractors expense without
17 change in the Contract Time.
18

19 **12.1.2** If a portion of the Work has been covered which the Architect has not specifically requested to
20 observe prior to its being covered, the Architect may request to see such Work and it shall be uncovered
21 by the Contractor. If such Work is in accordance with the Contract Documents, and Contractor has
22 notified Owner in writing of Architect's request and Contractor has signed a sworn statement that the
23 Work is in compliance with the Contract Documents and submits evidence of reasonable care, quality
24 control and inspection completed by Contractor to determine such, costs of uncovering and replacement
25 shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the
26 Contract Documents, the Contractor shall pay such costs, except to the extent the condition was caused by
27 the Owner or a separate contractor of Owner, in which event the Owner shall be responsible for purposes
28 of this Contract only for payment of such costs to the extent of its proportionate responsibility.
29

30 **12.2 WARRANTIES AND CORRECTION OF WORK**
31

32 **12.2.1** The Contractor shall promptly correct Work rejected by the Architect or Owner failing to
33 conform to the requirements of the Contract Documents, whether observed before or after Substantial
34 Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of
35 correcting such rejected Work, including additional testing and inspections and compensation for the
36 Architect's services and expenses made necessary thereby.
37

38 **12.2.2** The general project warranty period of one year from Final Completion and Acceptance by the
39 Owner's Board of Directors shall be extended with respect to portions of Work first performed or
40 corrected after Substantial Completion by the period of time between Substantial Completion and the
41 satisfactory performance or correction of the Work. At the election of the Owner, the extended periods of
42 warranty shall be confirmed by submission by the Contractor of written special warranties. If, within one
43 year after the date of Final Completion and Acceptance of the Work or designated portion thereof, or after
44 the date for commencement of warranties established under Subparagraph 9.8.2, or by terms of an
45 applicable special warranty required by the Contract Documents, any of the Work is found to be not in
46 accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly
47 after receipt of notice from the Owner to do so unless the Owner has previously given the Contractor a
48 written acceptance of such condition. This obligation under this Subparagraph 12.2.2 shall survive

1 acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such
2 notice promptly after discovery of the condition.

3
4 **12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with
5 the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by
6 the Owner in writing.

7
8 **12.2.4** If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may
9 correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such
10 nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may
11 remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor
12 does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may
13 sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof,
14 after deducting costs and damages that should have been borne by the Contractor, including compensation
15 for the Architect's services, attorney's services, and expenses made necessary thereby. If such proceeds of
16 sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the
17 deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the
18 Contractor promptly shall pay the difference to the Owner.

19
20 **12.2.5** The Contractor shall bear the cost of correcting destroyed or damaged construction, whether
21 completed or partially completed, of the Owner or separate contractors caused by the Contractor's
22 correction or removal of Work which is not in accordance with the requirements of Contract Documents.

23
24 **12.2.6** Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation
25 with respect to other obligations which the Contractor might have under the Contract Documents.
26 Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the
27 specific obligation of the Contractor to correct the Work, and has no relationship to the time within which
28 the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time
29 within which proceedings may be commenced to establish the Contractor's liability with respect to the
30 Contractor's obligations other than specifically to correct the Work. Correction of Work may be
31 performed by Owner's selected contractors at Contractor's expense.

32 33 **12.3 ACCEPTANCE OF NONCONFORMING WORK**

34
35 **12.3.1** If the Owner prefers to accept Work which is not in accordance with the requirements of the
36 Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case
37 the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether
38 or not final payment has been made.

39 40 **ARTICLE 13** 41 **MISCELLANEOUS PROVISIONS**

42 43 **13.1 GOVERNING LAW**

44
45 **13.1.1** The Contract shall be governed by the law of the place where the Project is located. The venue of
46 any litigation under the Contract shall be determined by mutual agreement between the Owner and
47 Contractor, or as governed by Statute.

1
2 **13.2 SUCCESSORS AND ASSIGNS**
3

4 **13.2.1** The Owner and Contractor respectively bind themselves, their partners, successors, assigns and
5 legal representatives to the other party hereto and to partners, successors, assigns and legal representatives
6 of such other party in respect to covenants, agreements and obligations contained in the Contract
7 Documents. Except to the extent specifically provided elsewhere in the Contract Documents, neither party
8 to the Contract shall assign the Contract in whole or in part without written consent of the other. If either
9 party attempts to make such an assignment without such consent, that party shall nevertheless remain
10 legally responsible for all obligations under the Contract,
11

12 **13.3 WRITTEN NOTICE**
13

14 **13.3.1** Written notice shall be deemed to have been duly served if delivered in person to the individual
15 or a member of the firm or entity or to an officer of the corporation for which it was intended, actual
16 receipt by facsimile or delivered at or sent by registered or certified mail to the last business address of a
17 party.
18

19 **13.4 RIGHTS AND REMEDIES**
20

21 **13.4.1** Except as limited herein or specially provided for herein, the parties shall have such other duties,
22 obligations, rights, and remedies otherwise imposed or made available by the law of the State of
23 Washington.
24

25 **13.3.2** The failure of any party to insist in any one or more instances upon the strict performance of any
26 one or more of the provisions of this Contract, or to exercise any right herein contained or provided by
27 law, shall not be construed as a waiver or relinquishment of the performance of such provisions or rights
28 or of the right to subsequently demand such strict performance or exercise of such rights.
29

30 **13.43** If any clause, sentence, or provision of this Contract is held as a matter of law to be void or
31 unenforceable, the remainder of the Contract shall be enforceable without such clause, sentence, or
32 provision.
33

34 **13.5 TESTS AND INSPECTIONS**
35

36 **13.5.1** Tests, inspections and approvals of portions of the Work required by the Contract Documents or
37 by laws, ordinances, tries, regulations, orders of public authorities having jurisdiction shall be made at an
38 appropriate time. The Contractor shall make timely arrangements for such tests, inspections and approvals
39 with an independent testing laboratory or entity provided by the Owner, or with the appropriate public
40 authority and the Owner, and shall bear all related costs of tests, inspections and approvals except as
41 noted otherwise in the Contract Documents. The Contractor shall give the Architect timely notice of when
42 and where tests and inspections are to be made so the Architect may observe such procedures, The Owner
43 shall bear costs of tests, inspections or approvals which have become requirements after bids were
44 received.
45

46 **13.5.2** If the Architect, Owner or public authorities having jurisdiction determine that portions of the
47 Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the
48 Architect will, upon consent of the Owner, instruct the Contractor to make arrangements for such

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1 additional testing, inspection or approval by any entity acceptable to the Owner, and the Contractor shall
2 give timely notice to the Architect of when and where tests and inspections are to be made so the
3 Architect may observe such procedures. The Owner shall bear such costs except as provided in
4 Subparagraph 13.5.3.

5
6 **13.5.3** If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2
7 reveal failure of the portions of the Work to comply with requirements established by the Contract
8 Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated
9 procedures and compensation for the Architect's services and expenses. If the Owner is responsible under
10 the Contract Documents, law or regulation to pay only for an inspection of any inspector, consultant or
11 Architect, the Owner shall be required to pay only for the first actual inspection. If the Contractor
12 arranges for an inspection and the inspector is required to wait, to leave without inspecting, to perform a
13 partial inspection, to return to complete or reinspect, or otherwise to expend time other than for the
14 primary inspection, the Contractor shall be responsible for all such costs. If the Contractor does not pay
15 the charges for which it is responsible within 30 days of billing, the Owner may pay the charges directly
16 and backcharge the Contractor on the next progress payment the amount paid plus a 10% handling fee.

17
18 **13.5.4** Required certificates of testing, inspection or approval shall, unless otherwise required by the
19 Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

20
21 **13.5.5** If the Architect is to observe tests, inspections or approvals required by the Contract Documents,
22 the Architect will do so promptly and, where practicable, at the normal place of testing.

23
24 **13.5.6** Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to
25 avoid unreasonable delay in the Work.

26
27 **13.5.7** No acceptance of any Work shall be construed to result from any inspections, tests or failure to
28 inspect or test by the Owner, the Owner's representatives, the Architect or any other person. No
29 inspection test, failure to inspect or test or failure to discover any defect or nonconformity by the Owner,
30 the Owners representatives, the Architect or any other person shall relieve the Contractor of its
31 responsibility for meeting the requirements of the Contract Documents or impair the Owners right to
32 reject defective or nonconforming items or right to avail itself of any other remedy to which the Owner
33 may be entitled, notwithstanding the Owner's knowledge of the defect or nonconformity, its substantiality
34 or the ease of its discovery,

35
36 **13.6 INTEREST**

37
38 **13.6.1** Payments due and unpaid under the Contract Documents shall bear interest from the date
39 payment is due at the rate provided under RCW 39.76.010.

40
41 **13.7 PARTNERING**

42
43 The Owner, Contractor and Architect may participate together in cooperative procedures mutually
44 developed by the parties to avoid or minimize problems on the Project.

ARTICLE 14
TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 The Contractor shall have the right to terminate the Contract only under the circumstances and with the rights and remedies provided in RCW 60.28.080.

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 Contract or Work for cause, including, but not limited to, the following circumstances:

- .1** The Contractor fails to prosecute the Work or any portion thereof with sufficient diligence to ensure the Substantial Completion of the Work within the Contract Time;
- .2** The Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency;
- .3** The Contractor fails to supply a sufficient number of properly skilled workers or proper materials;
- .4** The Contractor fails to make prompt payment due to Subcontractors or for materials or labor;
- .5** The Contractor disregards or violates laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or
- .6** The Contractor breaches any material provision of the Contract Documents.

14.2.2 When any of the above reasons exist, or when any other legally sufficient cause exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractors surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1** Take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the Contractor;
- .2** Accept assignment of subcontracts pursuant to Paragraph 5.4; and
- .3** Finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for cause pursuant to subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

1 **14.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including
2 compensation for the Architect's services, attorney's fees, and expenses made necessary thereby, and
3 other damages incurred by the Owner and not expressly waived, such excess shall be paid to the
4 Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall promptly pay the
5 difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be
6 certified by the Architect, upon application, and this obligation for payment shall survive termination of
7 the Contract,
8

9 **14.2.5** If, after Contractor has been terminated pursuant to this paragraph, it is determined that legally
10 sufficient cause does not exist, then such termination shall be considered a termination for convenience
11 pursuant to Paragraph 4.3.
12

13 **14.2.6** If the Owner terminates in whole or in any part of the Work pursuant to Paragraph 14.2. the
14 Owner may procure, upon such terms and in such manner as it deems appropriate, supplies or services
15 similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for
16 such similar supplies or services. The Contractor shall continue the performance of this Contract to the
17 extent not terminated hereunder.
18

19 **14.3 TERMINATION OR SUSPENSION BY THE OWNER FOR CONVENIENCE**

20

21 **14.3.1** The Owner may at any time upon ten (10) days' written notice to the Contractor and Contractors
22 surety, terminate (without prejudice to any right or remedy of the Owner) or suspend the whole or any
23 portion of the Work for the convenience of the Owner,
24

25 **14.3.2** If the Owner terminates the Work or any portion thereof for convenience, the Owner shall be
26 liable to Contractor only for those costs reimbursable to Contractor in accordance with subparagraph
27 14.3.3, plus ten percent of the actual costs recovered under 14.3.3, unless the Contractor would have
28 sustained a loss on the entire Contract had it been completed, in which case the ten percent markup will
29 not be included, and an appropriate adjustment will be made to reduce the amount due the Contractor in
30 proportion to the rate of loss.
31

32 **14.3.3** If the Owner terminates the Work or any portion thereof for convenience, the Owner shall pay
33 the Contractor as follows:
34

- 35 **.1** An amount consistent with the terms of the Contract Documents for supplies, services,
36 or property accepted by the Owner pursuant to subparagraph 14.4.1.6 (or sold or
37 acquired pursuant to subparagraph 14.4.1.7) for which the Owner has not paid;
38
- 39 **.2** The amount due under Article 9 of this Agreement for the performance of the Work
40 already performed, exclusive of any costs attributable to supplies or services otherwise
41 paid or to be paid for under this subparagraph; and
42
- 43 **.3** The cost of settling and paying claim's arising out of the termination of Work under
44 subcontracts or orders, pursuant to subparagraph 14.4.1.5. which are properly chargeable
45 to the terminated portion of the Work (exclusive of amounts paid or payable on account
46 of completed items of equipment delivered or services furnished by subcontractors or
47 vendors prior to the effective date of the Notice of Termination and exclusive of
48 unearned profit).

1 **14.3.4** If the Owner suspends all or any portion of the Work in accordance with Subparagraph 2.5.1 for
2 the Owner's convenience, the Contract Sum and/or Time shall be equitably adjusted only to the extent the
3 Contractor can demonstrate actual impact as a result of such suspension.
4

5 **14.3.5** The total sum to be paid to the Contractor under this paragraph 14.3 shall not exceed the Contract
6 Sum as reduced by the amount of payments otherwise made and the price of Work not terminated, and as
7 otherwise permitted by the Contract Documents. The amounts payable to the Contractor shall exclude the
8 fair value of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the
9 Owner or to a buyer pursuant to subparagraph 14.4.1.7.
10

11 **14.4 CONTRACTOR'S DUTIES ON TERMINATION**

12

13 **14.4.1** Unless the Owner directs otherwise, after receipt of a Notice of Termination from the Owner
14 pursuant to paragraphs 14.2 or 14.3, the Contractor shall promptly:
15

- 16 .1 Stop Work under the Contract on the date and as specified in the Notice of Termination:
- 17
- 18 .2 Place no further orders or subcontracts for materials, equipment, services or facilities,
19 except as may be necessary for completion of such portion of the Work as is not
20 terminated;
- 21
- 22 .3 Procure cancellation of all orders and subcontracts, upon terms acceptable to the Owner,
23 to the extent that they relate to the performance of Work terminated;
- 24
- 25 .4 Assign to the Owner all of the right, title and interest of the Contractor under all orders
26 and subcontracts, in which case the Owner shall have the right, in its discretion, to settle
27 or pay any or all claims arising out of the termination of such orders and subcontracts;
- 28
- 29 .5 Settle all outstanding liabilities and all claims arising out of such termination of orders
30 and subcontracts;
- 31
- 32 .6 Transfer title and deliver to the entity or entities designated by the Owner the fabricated
33 or unfabricated parts, Work in progress, partially completed supplies and equipment,
34 materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other
35 material produced as part of, or acquired in connection with the performance of, the
36 Work terminated, and the completed or partially completed plans, drawings, information
37 and other property related to the Work;
- 38
- 39 .7 Use its best efforts to sell any property of the types referred to in subparagraph 14.4.1.6.
40 The Contractor shall not be required to extend credit to any buyer, and may acquire any
41 such property under the conditions prescribed by and at a price or prices approved by the
42 Owner, and the proceeds of any such transfer or disposition may be applied in reduction
43 of any payments to be made by the Owner to the Contractor;
- 44
- 45 .8 Take such action as may be necessary or as directed by the Owner to preserve and protect
46 the Work and property related to this Project in the possession of the Contractor in which
47 the Owner has an interest: and
48

1 **.9** Continue performance only to the extent not terminated.
2

3 **14.4.2** The Contractor shall, from the effective Date of Termination until the expiration of three years
4 after final settlement under this Contract, preserve and make available to the Owner, at all reasonable
5 times at the office of the Contractor, and without charge to the Owner, all books, records, documents,
6 photographs and other evidence bearing on the costs and expenses of the Contractor under this Contract
7 and relating to the terminated or completed Work.
8

9 **14.4.3** In arriving at an amount due the Contractor after termination, the following shall apply:
10

- 11 **.1** The Contractor shall refund to the Owner any amounts paid by the Owner to the
12 Contractor in excess of costs reimbursable under paragraph 14.3.
13
14 **.2** The damages and relief from termination by the Owner specifically provided in Article
15 14 shall be the Contractor's sole entitlement in the event of termination.
16
17
18
19

END SECTION

KEY PEN PARKS PARKING LOT REPAIR
AND MAINTENANCE
SECTION 321100
PAVING AND SURFACING

i. 1 PART 1 GENERAL

i. 2

i. 3 1.01 DESCRIPTION

i. 4

i. 5

Paving and Surfacing for this work includes, but is not necessarily limited to the following:

i. 6

i. 7

A. HMA Pavement placement, repair, replacement, and overlay for selected parking lots, drive aisles, and walkways.

i. 8

i. 9

B. Repair and permanent restoration of all pavements, hardscapes, and landscape areas disturbed and/or damaged by the work of this section.

i. 10

i. 11

1.02 QUALITY ASSURANCE

i. 12

i. 13

i. 14

i. 15

i. 16

i. 17

i. 18

i. 19

i. 20

i. 21

i. 22

i. 23

i. 24

i. 25

1.03 SUBMITTALS

i. 26

i. 27

A. Certificates from mixing plants stating that all materials supplied conform to requirements set forth by these specifications.

i. 28

B. Truck load tickets for HMA pavement at the time of delivery.

i. 29

C. Technical data of asphalt for tack coat.

i. 30

D. A 1-gallon sample of HMA pavement aggregates.

i. 31

i. 32

i. 33

i. 34

1.04 WARRANTY

i. 35

i. 36

i. 37

i. 38

i. 39

i. 40

i. 41

i. 42

A. Any settlement in asphalt paved areas which occur within the one (1) year Warranty period shall be considered to be caused by improper compaction methods and shall be corrected within thirty (30) days of notice at no cost to the Engineer. Repair damage caused by settlement at no cost to the Engineer.

KEY PEN PARKS PARKING LOT REPAIR
AND MAINTENANCE
SECTION 321100
PAVING AND SURFACING

- i. 1
i. 2 1.05 BARRIERS, SAFETY GUARDS AND WARNING LIGHTS
i. 3
i. 4 A. Provide for public, visitors', workers' protection, as required by the Washington State
i. 5 Department of Labor and Industries.
i. 6
i. 7
i. 8 PART 2 PRODUCTS
i. 9
i. 10 2.01 CRUSHED SURFACING
i. 11
i. 12 A. Crushed Surfacing Base Course and Top Course per WSDOTSS 9-03.9(3). Mineral
i. 13 aggregate shall be composed of clean, uniform particulate size groups essentially free
i. 14 from wood waste and other deleterious materials obtained from approved material
i. 15 extraction quarries.
i. 16
i. 17 2.02 ASPHALT PAVING
i. 18 A. HMA pavement with Aggregate Grading Requirements of 1/2", as per Section 9-03.8(6)
i. 19 of the WSDOTSS for Roadway and Parking. Asphalt PG64-22 shall conform to Section
i. 20 9-02.1(4) of the WSDOT Standard Specifications. Asphalt percentage of total mixture
i. 21 shall be 5.0 to 7.5 percent.
i. 22 2.03 TACK COAT
i. 23 A. Tack coat shall conform to the requirements of Section 5-02.3(3) of the WSDOT
i. 24 Standard Specifications.
i. 25 2.04 SOIL STERILANT
i. 26 A. Soil Sterilant shall be a Non-organic water soluble herbicide "Polyborchlorate by
i. 27 U. S. Borax Company, Caseron, or approved equal.
i. 28
i. 29
i. 30 2.05 SEED MIX FOR RESTORATION
i. 31
A. Seed Mixes.
1. Seed Mix:
Seed Type % by weight
Perennial Ryegrass 60
(1/3 Palmer or Manhattan, 1/3 Saturn or Competitor, 1/3 Charger or Dandy)
Red Fescue 20
Chewings Fescue 20
Application Rate 8 lbs/1000 sq. ft.
i. 32
2. All seed shall be 98% pure with a minimum of 90% germination. Total weed seed shall not
exceed 0.5%. Maximum percent inert and other crop shall be 1.50% of total seed mix

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3. Seed Law. All seeds shall conform to the requirements of the Washington State Seed Laws, and where applicable, the Federal Seed Act.
4. Noxious Weed Seed. All seed shall be free of seeds of weeds listed as primary noxious by the Washington State Seed Law. Seeds shall not contain seeds of weeds listed as secondary noxious by the Washington State Seed Law, singly or collectively in excess of the labeling tolerance specified by the Washington State Seed Law.
5. Rejection. When seeds furnished under this specification fail to meet the requirements within tolerance, as provided by the Washington State Seed Law, the lot shall be rejected or subjected to fiscal adjustment.
6. Re-cleaning. Seeds shall be thoroughly re-cleaned and of uniformly good quality and appearance throughout each lot.
7. Preparation for Delivery. Seeds shall be packed in clean, sound containers of uniform weight. Seed shall be labeled as required by Law.
8. Reference Specifications. Chapter 15.49, Washington State Seed Law.

i. 1
i. 2 C. General:

1. All seeds shall conform to the requirements of the Washington State Seed Law and when applicable, the Federal Seed Act.
2. All seeds shall be free of weed seed listed as primary noxious by the Washington State Seed Law. Seeds shall not contain weed seeds listed as secondary noxious by Washington State Seed Law single or collective in excess of the labeling tolerance specified by the Washington State Seed Law.
3. Seeds shall be packed in clean, sound containers of uniform weight. Seeds shall be labeled as required by law.
4. Reference Specification; Chapter 15.49, Washington State Seed Act.

i. 3
i. 4
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i. 8
i. 9
i. 10
i. 11
i. 12
i. 13
i. 14 PART 3 EXECUTION

i. 15
i. 16 3.01 PREPARATION

- i. 17
i. 18 A. Existing HMA Paved Surfaces to be Processed - Volunteer Park
i. 19 Thoroughly clean the surface with a diesel-powered street sweeper, with 8 ft. long
i. 20 rotating brush. Thoroughly clean surface in accordance with WSDOTSS 5-04.3(4)
i. 21 Preparation of Existing Paved Surfaces.
i. 22
- i. 23 B. Existing HMA Paved Surfaces to be Overlaid with HMA Pavement - Volunteer Park
i. 24 1. Thoroughly clean the surface with a diesel-powered street sweeper, with 8 ft. long
i. 25 rotating brush. Thoroughly clean surface in accordance with WSDOTSS 5-04.3(4)
i. 26 Preparation of Existing Paved Surfaces.
i. 27 2. Fill all cracks with sand slurry in accordance with WSDOTSS 5-04.3(4)A2 Crack
i. 28 Sealing in Areas Prior to Paving.
i. 29
- i. 30 C. Home Park Parking Lot
i. 31 Prepare subgrade and aggregate base as described on Plans.
i. 32
- i. 33 D. 480 Park Driveway Entrance
i. 34 Prepare subgrade and aggregate base for Class 1/2" HMA Paving as described on Plans
i. 35 and in accordance with WSDOTSS.

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- i. 1
i. 2 3.02 REPAIR OF LOW SPOTS, HOLES, AND DEPRESSIONS IN EXISTING HMA PAVEMENT
i. 3
i. 4 A. After surface cleaning has been approved by the Engineer, Low spots, holes, and
i. 5 depressions in which the existing paving does not show alligatored cracking, holes,
i. 6 breaks, or other evidence of pavement integrity failure, shall be cleaned, followed by an
i. 7 application of Tack Coat in accordance with WSDOTSS
i. 8 5-04.3(4) Pavement Repair, and filled with Class 1/2 inch HMA pavement in
i. 9 accordance with WSDOTSS 5-04.3(4)C Pavement Repair.
i. 10
i. 11 B. Low spots, holes, and depressions in which the existing paving exhibits alligatored
i. 12 cracking, holes, breaks, or other evidence of pavement integrity failure, shall be
i. 13 removed, excavated, and replaced in accordance with WSDOTSS 5-04.3(4)C Pavement
i. 14 Repair.
i. 15
i. 16
i. 17 3.03 CRUSHED SURFACING TOP AND BASE COURSE:
i. 18
i. 19 A. Compact existing subgrade to 95% MDD.
i. 20
i. 21 B. Place the Crushed Surfacing Top and Base Courses to the depth indicated on
i. 22 Drawings, and compact a minimum 95% density (ASTM: D 1557).
i. 23
i. 24 3.04 DISPOSAL OF EXCAVATED MATERIALS:
i. 25
i. 26 A. Excavated soil from Volunteer Park shall be disposed on site in a location to be provided
i. 27 by Owner.
i. 28
i. 29 B. Excavated/demolished asphalt paving not processed and used as aggregate base at
i. 30 Volunteer Park shall be legally disposed off site.
i. 31
i. 32 C. Excavated aggregate / gravel and soil from Home Park shall be disposed at Volunteer
i. 33 Park at a site to be provided by Owner.
i. 34
i. 35 D. Excavated aggregate / gravel and soil from 480 Park shall be disposed on site in a
i. 36 location to be provided by Owner.
i. 37
i. 38 3.05 ASPHALT PAVING
i. 39
i. 40 A. HMA pavement shall be constructed in conformance with Section 5-04.3 of the
i. 41 WSDOTSS, except as modified herein.
i. 42 B. Install with crowning or pitched surfaces as indicated on the drawings, to provide positive
i. 43 drainage, free of humps, low spots, and areas that hold water. The final result to be an
i. 44 unyielding course, free from irregularities, with a smooth, firm, tight, free-draining, even
i. 45 surface, true to grade, line and cross section indicated. Maximum variation in the surface
i. 46 of the surface course 1/8" in ten (10) feet in any direction. Provide for compacted depth
i. 47 as indicated on the drawings.
i. 48 C. Compaction: As per paragraph 5-04.3(10) of reference specification.

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- i. 1 D. Maintenance: Maintain surface until final acceptance. If ruts, soft spots, or other damage
- i. 2 occurs, repair surface at no additional cost to the Engineer.
- i. 3 E. Defective Work: Remove, replace defective surfaces and those which do not drain
- i. 4 properly.
- i. 5 F. Outside edges shall straight with a uniform horizontal and vertical alignment and shall be
- i. 6 hand tooled tamped firm at a 45-degree angle, except where pavement is overlaid on
- i. 7 existing pavement or concrete, and those edges shall be hand-tooled and tamped as
- i. 8 described on the Drawings.
- i. 9 G. Manual paving shall be of uniform grade, slope and appearance with a smooth transition
- i. 10 to machine laid paving.
- i. 11 H. Adjust all castings, such as manhole frames and covers, catch basin frame and covers of
- i. 12 various types of gate valves, etc. and concrete footings, slabs/curbs to match the exact
- i. 13 finished grade of new asphalt pavement. After such castings have been set to final grade,
- i. 14 they shall not be disturbed by the rolling operations. The course shall be compacted
- i. 15 thoroughly around the perimeter of the castings and concrete by rolling with sufficient
- i. 16 number of crisscross passes around the castings and concrete with the wheel just touching
- i. 17 the casting and concrete but not shaving or rolling over the casting and concrete
- i. 18 I. All manhole covers, inlet covers, other similar cast iron items, and concrete located in the
- i. 19 paved area shall be left clean of all asphalt material, with paving trimmed cleanly and
- i. 20 neatly around all edges.
- i. 21 J. Ensure that each roller pass overlaps previous passes to ensure a smooth surface free of
- i. 22 roller marks.

i. 23 3.06 DEFECTIVE WORK

- i. 24
- i. 25 A. All cost involved with correcting repairing defective work shall be borne by Contractor
- i. 26 with no extension in the Contract period.
- i. 27

i. 28 3.07 RESTORATION

- i. 29
- i. 30 A. Restore all pavements disturbed and/or damaged by the work of this Section to the
- i. 31 satisfaction of the Engineer, at no cost to Owner.
- i. 32
- i. 33 B. Regrade and permanently seed all landscaped areas disturbed and/or damaged by the
- i. 34 work of this Section to the satisfaction of the Engineer. Contractor shall provide all
- i. 35 maintenance, watering, and tasks required for all seeding to reach an acceptable
- i. 36 condition.
- i. 37

i. 38 3.08 SEED LAWN INSTALLATION

- i. 39
- i. 40 A. General:
- i. 41 1. Seed for lawn between April 15 and October 20 when weather conditions are
- i. 42 favorable for proper working of the soil and seed germination. Any seeding must be
- i. 43 approved in writing by the Engineer.
- i. 44 2. All seeding which occurs outside of the permanent seeding dates specified herein for
- i. 45 any reason shall be considered Temporary Seeding and shall be installed and

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- i. 1 maintained as defined herein.
- i. 2
- i. 3 3. The installation of temporary seeding shall not relieve the Contractor of the
- i. 4 responsibility to remove temporary seeding and install permanent seeding described
- i. 5 in this Sub-Section, within the dates specified above.
- i. 6
- i. 7 4. Seed shall be spread by approved mechanical (hopper or culti-packer) or hydro-
- i. 8 seed/mulch methods only. Hydro-seeding shall include first application with seed
- i. 9 and 10% mulch fiber; second application with no seed and 90% mulch fiber.
- i. 10
- i. 11 5. Seeding shall be done only after finish grading and adjacent construction have been
- i. 12 completed and accepted by the Engineer.
- i. 13
- i. 14 6. Mulch shall be SILVA MULCH at forty-five (45) pounds per 1,000 square feet.
- i. 15
- i. 16 7. Binder shall be J-TAC at two (2) pounds per 1,000 square feet.
- i. 17
- i. 18
- i. 19
- i. 20
- i. 21 B. All prepared and finish graded seed areas that become compacted prior to planting must
- i. 22 be scarified to a depth of six (6) inches as described herein, then finish graded as herein
- i. 23 before described.
- i. 24
- i. 25
- i. 26
- i. 27
- i. 28
- i. 29
- i. 30 C. Fertilization and Liming Prior to Seed Installation: After finish grading of the areas to
- i. 31 receive seed, the Contractor shall apply 20-20-20 fertilizer at a rate of 10 pounds per
- i. 32 1,000 square feet by broadcast method.
- i. 33
- i. 34
- i. 35
- i. 36
- i. 37
- i. 38
- i. 39
- i. 40
- i. 41
- i. 42
- i. 43
- i. 44
- i. 45 D. Seed Installation
- i. 46
- i. 47 1. The application rate for seed lawn areas shall be eight (8) pounds of seed per one
- i. 48 thousand (1,000) square feet.
- 2. Hydroseeding application shall be screened to prevent oversprays onto pavements
- and adjacent surfaces, equipment, etc.
- 3. Hydroseeding application shall be made uniformly free of bare or thin spots and
- areas.
- E. Seed Establishment
- 1. General:
 - a. Prepare seed areas and plant the seed.
 - b. Grow and maintain the seed until it is in a full, healthy, vigorous, and acceptable
 - condition. Acceptable condition shall mean a full stand of grass, uniform in
 - appearance, and free of weeds and/or other undesirable plant species as approved by
 - the Engineer. A full stand of seed is defined as a uniform grass cover with no bare
 - spots over four square inches in area.
 - c. Apply a second full-rate application of fertilizer 30 days after seed application.
 - d. Request the Engineer to inspect the seed areas, determine acceptance, and if
 - acceptable transfer responsibility of maintenance of the seed bed to the Engineer.
 - Only after written acceptance of the seeded lawn area by the Engineer, shall
 - Contractor shall be eligible to be paid 100% of the seeding payment item. If the
 - Engineer finds the lawn unacceptable, the Contractor shall immediately repair
 - problem area at no cost to Engineer.
- F. Seed Maintenance – General
- 1. The Contractor shall be responsible for the watering, weeding, reseeding, mowing,
- fertilizing and other necessary operations of seed areas until an acceptable stand of grass
- has been achieved.

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- i. 1
- i. 2
- i. 3
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- i. 9
- 2. First and second mowings of seed areas shall be done when areas are well established and grass reaches an average height of two and two (2) inches.
- 3. Mowing shall be done by an approved rotary type mower. Mower blade shall be set at one and one-half (1-1/2) inches high for first, second and subsequent mowings until final acceptance of the project. Catch and dispose of grass trimmings off site.

3.09 FINAL ACCEPTANCE

- A. The Contractor shall be responsible for maintaining all HMA pavement paving until Final Acceptance of the project.

3.10 PROTECTION

- A. Execute all paving in an orderly and careful manner with due consideration for any existing and new improvements. Barricade and cover as necessary to protect pedestrian, workman, and adjacent properties.

3.11 CLEAN UP

- A. Clean up entire area of all excess materials, waste piles, cut paving, debris, etc., and leave project in a neat, orderly condition.

END OF SECTION

KEY PENINSULA METROPOLITAN PARK DISTRICT
PARKING LOT REPAIR AND MAINTENANCE PROJECT
SECTION 321724
PAVEMENT MARKING

1 PART 1 GENERAL

2
3 1.01 DESCRIPTION

4
5 The work includes providing pavement markings for the drive aisles, parking lot, and all other areas as
6 shown on the Drawings.

7
8 PART 2 PRODUCTS

9
10 2.01 PAINT

11
12 Paint for pavement markings shall comply with WSDOTSS 9-34, Low VOC Solvent Based Paint. The
13 paint shall be factory mixed, quick drying and non-bleeding.

14
15 PART 3 EXECUTION

16
17 3.01 Paint Pavement markings installation shall conform with WSDOTSS 8-22.3, except that the
18 Contractor shall be responsible for all layout and control points, striping shall not deviate more
19 than 1/4-inch in 10 feet from a straight line and striping shall not be more than 1-inch from the
20 specified locations. Paint striping shall only be applied after the pavement has been allowed to
21 cure 14 days minimum, when the pavement is clean and dry and when the temperature is above
22 50 degrees F. Paint thickness measured above pavement shall be 15 mils. Protect from any
23 traffic for 48 hours.

24
25 3.02 Provide striping for all handicap accessible parking spaces, including required signage for the
26 accessible space and for the access aisle, per WAC, and ADA Accessible Parking Guidelines,
27 most recent published edition at time of bid applies. Obtain Owner's review and approval of
28 restriping and marking ADA parking space locations prior to painting all lines.

29
30 3.03 Layout and re-stripe all existing parking spaces at Volunteer Park. Contractor shall match the
31 locations and dimensions of all existing parking spaces. Provide white stripes @ 4 inch width.
32 Obtain Owner's review and approval of all line marking layout prior to painting lines.

33
34 3.04 Provide layout and re-striping of all existing pavement markings, crosswalks, no parking areas,
35 and all non-parking space pavement markings at Volunteer Park. Contractor shall match the
36 existing dimensions, colors, and marking widths. Obtain Owner's review and approval of all
37 marking layout prior to painting lines.

38
39 3.02 Provide layout and striping for new spaces at Home Park. Contractor shall layout and dimension
40 all spaces to be 18 ft. long x 9 ft. wide, with white stripes @ 4 inch width. Obtain Owner's
41 review and approval of all line marking layout prior to painting lines.

42
43 3.03 Provide existing pavement markings with new pavement markings on all work sites, including
44 but not limited to, parking space delineations, handicap-accessible markings, traffic directional
45 markings, no parking area markings, and crosswalks

46
47 END OF SECTION

