

# **Port of Hood River**

## **Anchor Way & Portway Parking Lots Project**

**May 2025**

### **PORT OF HOOD RIVER**

1000 E. PORT MARINA DRIVE  
Hood River, Oregon 97031

Kevin Greenwood  
Executive Director

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# Anchor Way and Portway Parking Lots

## Solicitation

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**PART 1**  
**SCHEDULE**

## SCHEDULE

<b>Invitation to Bid Advertised</b>	_____	May 12 – June 11, 2025
<b>Pre-Bid Walkthrough</b>	_____	June 13, 2025, 10:00 am PDT
<b>Bid Submittal Deadline</b>	_____	June 23, 2025, 10:00 am PDT
<b>Bid Opening</b>	_____	June 23, 2025, 10:00 am PDT
<b>First-Tier Subcontractor Disclosure Form Due</b>	_____	June 24, 2025, 12:00 pm PDT
<b>Notice of Intent to Award Issued</b>	_____	June 25, 2025
<b>Protest Deadline</b>	_____	June 30, 2025
<b>Award of Contract</b>	_____	July 7, 2025
<b>Required Documents Due from Awarded Contractor (Including bonding and insurance)</b>	_____	July 14, 2025
<b>Start Construction</b>	_____	September 2, 2025
<b>Substantial Completion</b>	_____	October 31, 2025
<b>Final Completion</b>	_____	November 14, 2025

**PART 2**  
**INVITATION TO BID**

## **Invitation to Bid Anchor Way & Portway Parking Lots Project**

By publication of this Invitation to Bid ("ITB"), the Port of Hood River, an Oregon municipal corporation ("Port"), is requesting Bids for its Anchor Way & Portway Parking Lots project ("Project").<sup>1</sup>

This Project consists of constructing two parking lots: Anchor Way Parking Lot, located just south and west of the intersection of N 2nd Street and Anchor Way, and Portway Parking Lot, located just north and west of the intersection of N 8th Street and Portway Avenue. These parking lots will contain 59 and 72 parking stalls, respectively. Both parking lots will have hard surfaces, stormwater facilities, sidewalks, ADA ramps, street and parking lot trees, light poles, and other proposed features shown in the approved Construction Plans (Plans).

All Work is to be performed per the requirements of the Contract Documents.

Beginning **May 12, 2025 at 2:00 p.m. PDT**, a complete copy of the "Solicitation Documents" (including this ITB, Instructions, Bid Proposal forms, Bond and Certificate of Insurance forms, General Conditions, sample Contract, Construction Plans, and Specifications) may be examined or purchased during regular business hours at the Port's offices. A one-hundred-dollar (\$100) nonrefundable charge will apply to each printed copy of the Solicitation Documents provided to requesting Bidders. Alternatively, the Solicitation Documents can be viewed and printed online at no cost from the Port's Projects/RFP Bid Center page on the Port website at <https://portofhoodriver.com/Parking-Lots-Project>.

Registration is required, and Bidders must provide their business name and mailing address, as well as the name of Bidder's primary contact and his or her email address and telephone number(s). Bidders will be notified of any Bid addendum or addenda by email sent to the Bidder's registered primary contact.

A mandatory pre-bid project walkthrough for Bidders at the work area is scheduled on **June 13, 2025, 10:00 a.m. PDT at the intersection of N 8th St & and Portway Ave.**

Bidders are not required to be pre-qualified under ORS 279C.430. **However, a Contractor awarded this project must be pre-qualified with the City of Hood River.**

Bids must be addressed to Kevin Greenwood, Executive Director, Port of Hood River. They must be delivered in a sealed envelope labeled "Anchor Way & Portway Parking Lots Project" by **10:00 a.m. PDT on June 23, 2025**, to the Port office at 1000 E. Port Marina Drive, Hood River, OR 97031. Bids will not be accepted after **10:00 a.m. PDT on June 23, 2025**. Bids will be publicly opened in the Port office immediately following the Bid Deadline.

Publish: <https://oregonbuys.gov/bs/>  
Columbia Gorge News  
Daily Journal of Commerce

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<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them as set forth in Section A of the Port of Hood River General Conditions for Public Works Contracts.

**PART 3**  
**BID INSTRUCTIONS**

## **BID INSTRUCTIONS**

### **DESCRIPTION**

This Project consists of constructing two parking lots in two empty lots owned by the Port of Hood River at the Waterfront area in the City of Hood River, Oregon:

Anchor Way Parking Lot: construction of 59 parking stall parking lot consisting of approximately 19,000 SF (4" of HMAC asphalt surface, 2" leveling course, 8" of base rock) as well as utilities and infrastructure per approved Construction Plans.

Portway Parking Lot: construction of 72 parking stall parking lot consisting of approximately 30,150 SF (4" HMAC asphalt surface, 2" leveling course, 8" of base rock) as well as utilities and infrastructure per approved Construction Plans.

All Work is to be performed per the requirements of the Contract Documents.

The Work contemplated under this Project includes all labor, tools, machinery, materials, transportation, equipment and services necessary for, and reasonably incidental to, the completion of all Work in connection with the Project as described in the Solicitation Documents, including, but not limited to the Contract, the General Conditions, all applicable special conditions, plans, specifications, and addenda.

All questions regarding the Project should be directed via email (not phone) to **Kevin Greenwood** at [kgreenwood@portofhoodriver.com](mailto:kgreenwood@portofhoodriver.com). Questions and answers will be posted on the Port's website at <https://portofhoodriver.com/parking-Lots-Project>. Bidder names will not be posted.

### **INVITATION TO BID DOCUMENT AVAILABILITY**

A complete copy of the Solicitation Documents may be examined or purchased during regular business hours at the Port's offices. There will be a one-hundred-dollar (\$100) nonrefundable charge for each printed copy of the Solicitation Documents provided to requesting Bidders. Alternatively, the Solicitation Documents can be viewed, downloaded, and printed online at no cost from the Port's Projects/RFP Bid Center page on the Port website at <https://portofhoodriver.com/parking-Lots-Project>

### **SOLICITATION LAW AND RULES**

Oregon Law governs this ITB and the resulting Contract. Specific laws and rules that govern the solicitation process are found in Chapters 279A and 279C of the Oregon Revised Statutes, and Chapter 137, Divisions 046 and 049 of the Administrative Rules of the Oregon Department of Justice (Model Public Contracting Rules). The ITB and resulting Contract may be subject to other laws and rules. Bidders should obtain and become acquainted with the applicable provisions of the above laws and rules.

### **BRAND NAME USAGE:**

Any brand name listed in the specifications with an "or approved equal" or an "or approved equivalent" shall establish the minimum requirements for quality, utility, durability, function, and purpose. Other brand names may be used in the construction of the project as long as (i) they are equal to or better than the product brand names; (ii) the proposed product has been pre-approved in writing by the Port; and (iii) the brand name is not mandated pursuant to a brand name exemption.

### **SOLICITATION PROTEST; REQUEST FOR CHANGE; REQUEST FOR CLARIFICATION; REQUEST FOR BRAND NAME/PRODUCT SUBSTITUTION**

If a Bidder finds discrepancies in, or omissions from, the plans, specifications, or Contract documents, or doubts their meaning, the Bidder shall notify the Port immediately. The Port will then investigate and determine if an Addendum will be issued.



Bidders may, in writing, request: (i) brand approval; (ii) requests for substitutions; (iii) requests for clarifications; (iv) requests for change; and/or (v) a Bid protest. The Port must receive this written request or protest no later than **five (5) calendar days before the Bid Deadline**. The written request or protest shall include the reasons for the request or protest and any proposed changes to the bid specifications or contract terms. Envelopes containing Bid protests shall be marked as follows: "Contract Provision Request for Change" or "Contract Provision Protest", and the Project Title, "Port of Hood River Parking Lots project"

Clarifications, whether verbal, in writing, or included in an Addendum or Addenda as a "clarification," do not change the plans, specifications, contractual terms, or procurement requirements of an ITB. If a request for clarification raises an issue that the Port determines should be handled by formally amending the ITB, the Port will do so only by announcing such a change in an Addendum or Addenda, not through information identified as a "clarification."

INFORMAL RESPONSES DO NOT AFFECT THE PROVISIONS OF THE ITB. PROVISIONS OF THE ITB CAN ONLY BE CHANGED VIA ADDENDA ISSUED BY THE OWNER.

The Port will promptly respond to each properly submitted written request for brand approval, request for substitution, request for change, and protest. Where appropriate, the Port will issue ITB revisions via Addendum or Addenda by post on the Projects/RFP Bid Center webpage of the Port's website, and a copy of the Addendum or Addenda will be sent via email to the Bidder's registered primary contact. Bidder shall provide written acknowledgement of receipt of all issued Addendum or Addenda with its Bid.

Pursuant to OAR 137-049-0250, no protest against the award because of the content of the Bid specifications or contract terms shall be considered after the deadline established above for submitting protests of bid specifications or contract terms.

#### **EXAMINATION OF THE CONTRACT DOCUMENTS AND WORK SITE**

Bidders should carefully examine the Solicitation Documents and familiarize themselves with the work site to fully understand all the conditions and matters that can in any way affect the Work or its cost.

Each Bidder shall thoroughly examine and be familiar with legal and procedural documents, general conditions, specifications, drawings, plans, addenda (if any), and all other Contract Documents. The submission of a Bid shall constitute an acknowledgment upon which the Port may rely that the Bidder is experienced in using and interpreting plans and specifications such as those included in the Solicitation Documents and has thoroughly examined and is familiar with the Solicitation Documents.

The failure or neglect of a Bidder to receive or examine any of the Solicitation Documents, perform site investigations and/or other investigations or examinations shall in no way relieve the Bidder from any obligations concerning the Bid or the Contract. No claim for additional compensation will be allowed, which is based upon a lack of knowledge of any Solicitation Documents or existing site conditions.

#### **BID FORMAT**

**Sealed Bids** must be physically received (not postmarked) in the Port office at 1000 E. Port Marina Drive in Hood River, OR 97031, by or before **10:00 a.m. PDT, June 23, 2025** (the "Bid Deadline").

All Bids must be sealed and received before the Bid Deadline. All Bids shall be prepared in ink or by computer and must be signed in ink by the Bidder's authorized

representative. Bids will not be accepted by facsimile.

Required information shall be submitted using the forms specified in the ITB.

The following forms and schedules shall be completed, signed, and included in each Bidder's package before the Bid Deadline:

- Bid Form
- Bid Proposal
- Bid Sheets
- Contractor Registration Form
- Bidder's Warranty

The following shall be submitted by **12:00 p.m. PDT, June 24, 2025**:

- First Tier Subcontractor Disclosure Form

Alterations and erasures made before Bid submission must EACH be INDIVIDUALLY initialed in ink by the person signing the Bid. Bids, once submitted, may be modified in writing before the Bid Deadline. Modifications made after Bid submissions and before the Bid Deadline shall be prepared on Bidder's letterhead, be signed by Bidder's authorized representative, and state that the modifications made to amend and supersede the prior Bid. Failure to comply with the provisions of this paragraph shall result in Bid rejection. Nothing in this paragraph shall be construed as allowing the Bidder to alter or otherwise change the form of the Bid Proposal, the form of the Contract, the conditions of the Bid, the specifications, and/or plans attached to the Solicitation Documents.

Modifications must be submitted in a sealed envelope marked as follows:

Port of Hood River Parking Lots Project

Bid Submittal Date  
Bidder Legal Name  
Oregon CCB #

Bidders may not modify their bids after the Bid Deadline.

**BID SUBMISSION**

All Bid documents requiring a signature must be signed in ink by the Bidder's authorized representative.

Bids must be submitted in a sealed package or envelope. To ensure proper identification and handling, all Bid submissions shall be clearly marked as follows:

Port of Hood River Parking Lots Project  
Bid Closing Date & Time: **10:00 a.m. PDT, June 23, 2025**  
Bid Submittal Date & Time: Bidder Legal Name  
Oregon CCB #

Port of Hood River  
Attn: Kevin Greenwood, Executive Director  
1000 E. Port Marina Drive  
Hood River, OR 97031

**BID WITHDRAWAL**

Bids may be withdrawn by the Bidder by request to the Port made in writing submitted on the Bidder's letterhead, signed by Bidder's authorized representative, and received by the Port prior to the Bid Deadline. Bid withdrawals submitted in writing must be labeled as such and contain the Project Name.

Bids may be withdrawn in person before the Bid Deadline upon presentation of appropriate identification and evidence of authorization to act for Bidder. Signature confirmation of withdrawal may also be required.

### **CLOSING & OPENING/FIRST TIER SUBMITTAL**

Bids will be received until **10:00 a.m. PDT, June 23, 2025**. Thereafter, the Bids will be immediately opened publicly and read aloud. Award decisions will not be made at Bid opening.

Bids received after **10:00 am PDT, June 23, 2025** will be considered non-responsive and will not be opened or considered by the Port for award.

First-tier subcontractors' disclosure forms must be submitted to the Port Office at 1000 E. Port Marina Drive, Hood River, Oregon 97031, by **12:00 p.m. PDT on June 24, 2025**. Failure to comply with this requirement will result in the Bid Being Rejected as non-responsive.

Before an Intent to Award Announcement, the Port may post preliminary Bid results on its website at <https://portofhoodriver.com/Parking-Lot-project>. Such postings are preliminary and are not final until all submission materials are validated by the Port.

### **BID ACCEPTANCE**

A Bid is a firm offer, irrevocable, valid and binding on the Bidder for not less than **thirty (30) calendar days** from the Bid Deadline.

The Port may request, orally or in writing, that Bidders extend the time during which the Port may consider their Bid. If a Bidder agrees to such an extension, the Bid shall continue as a firm Bid, irrevocable, valid, and binding on the Bidder for the agreed-upon extension period.

### **METHOD OF AWARD**

The responsiveness and responsibility of bidders and their proposed subcontractors will be considered when making the award. The award will be made to the lowest responsive Bid submitted by a responsible Bidder.

### **BID EVALUATION CRITERIA**

Bids will be evaluated to identify the lowest responsive Bid submitted by a responsible Bidder not otherwise disqualified. (Refer to OAR 137-049-0390). Adjustments made to account for reciprocal preferences will be for Bid evaluation purposes only. No such adjustments shall operate to amend Bidder's Bid or any Contract awarded pursuant thereto.

To be considered responsive, the Bidder must substantially comply in all material respects with applicable solicitation procedures and requirements and the Solicitation Documents. In making such evaluation, the Port may waive minor informalities and irregularities.

Before awarding a Contract, the Port will evaluate whether the apparent successful Bidder meets the applicable standards of responsibility identified in ORS 279C.375(3)(b) and OAR 137-049-0390(2). In doing so, the Port may investigate the Bidder and request information in addition to that already required in the ITB when the Port, in its sole discretion, considers it necessary or advisable.

### **BID SECURITY REQUIREMENTS**

A surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, cashier's or certified check, executed in favor of the Port of Hood River in the amount equal to ten percent (10%) of the total amount of the Bid, shall be submitted with or posted for all Bids as "Bid Security" unless the Contract has been exempted from this requirement under ORS 279C.390.

If the undersigned fails to (1) execute the Contract, (2) furnish a Performance and Payment Bond, or (3) furnish the Certificates of Insurance by **July 14, 2025**, then the Port may cash the check, draw under the letter of credit, or otherwise collect under the Bid Security.

#### **PROCESSING OF BIDS**

Neither the release of Bid Security, nor acknowledgement that the selection process is complete (whether by posting of a Bid tabulation sheet, issuance of Notice of Intent to Award, or otherwise), shall operate as a representation by the Port that any Bid submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

#### **WITHDRAWAL OF BID ITEMS**

The Port reserves the right to withdraw Bid items. The deletion of one or more Bid items will not affect the method of award.

#### **REJECTION OF BIDS**

The Port may reject anyone or all of the Bids for good cause upon finding that it is in the public interest to do so. The Port may reject a particular Bid for any reason listed under OAR 137-049-0440.

#### **INTENT-TO-AWARD ANNOUNCEMENT**

The Port reserves the right to announce its Intent-to-Award before formal Contract award by posting the tabulation sheet of Bid results on the Port's website, or by letter or fax. The Intent-to-Award Announcement shall serve as notice to all Bidders that the Port intends to make an award.

#### **PROTEST OF INTENT-TO-AWARD**

Adversely affected or aggrieved Bidders shall have **seven (7) calendar days** from the date of the Intent-to-Award Announcement within which to file a written protest. Protests submitted after that date will not be considered. Protests must specify the grounds upon which the protest is based.

In order to be an adversely affected or aggrieved Bidder, the Bidder must claim to be eligible for award of the Contract as the lowest responsible and responsive Bidder and that any and all lower Bidders are ineligible to receive the Contract award.

An Actual Bidder who is adversely affected or aggrieved by the award of the Contract to another Bidder may protest the award, in writing, within the timeline established. The written protest shall state the grounds upon which the protest is based. No protest of award shall be considered after the expiration of the **seven (7) calendar day Intent-to-Award protest period**.

#### **RESPONSE TO INTENT-TO-AWARD PROTESTS**

The Port will respond in writing to Intent-to-Award protests, if any, submitted by adversely affected or aggrieved Bidders. The Port may also respond to Intent-to-Award protests submitted by other Bidders for the purpose of clarification. However, any response made by the Port is not intended to, and shall not in and of itself constitute, confirmation that the Bidder is, in fact, adversely affected or aggrieved, and therefore entitled to protest an Intent-to-Award, or that the protest was timely filed.

#### **AWARD**

After expiration of the **seven (7) calendar day** Intent-to-Award protest period, and resolution of all protests, the Port may proceed with the final award of a Contract. If the Port receives only one Bid, the Port may dispense with the Intent-to-Award protest period and proceed with the award of a Contract.

### **COMMENCEMENT OF WORK**

The successful Bidder shall not commence Work under the Contract until the Notice to Proceed has been issued by the Port.

### **REVIEW OF AWARDED BID FILES**

Awarded Bid files are public records and available for review at the Port office by appointment during regular business hours (Monday through Friday, 8 a.m. until 5 p.m.).

### **INFORMATION TO BE SUBMITTED BY APPARENT SUCCESSFUL BIDDER**

The apparent successful Bidder shall provide all required proof of insurance to the Port by **July 14, 2025**. Failure to present the required documents by this date may result in Bid rejection. Bidders are encouraged to consult their insurance agent about the insurance requirements as identified in Section G of the General Contract Conditions before Bid submission.

Bidders must satisfy the insurance requirements by obtaining insurance coverage from insurance companies or entities acceptable to the Port that are allowed to provide such insurance under Oregon law.

The apparent successful Bidder shall be required to furnish both a Performance and a Payment Bond, each in the total amount of one hundred percent (100%) of the awarded Contract, executed in favor of the Port of Hood River, to ensure faithful performance of the Contract and payment for services and goods.

The apparent successful Bidder shall also provide all required bonding to the Port by **July 14, 2025**. Failure to present the required documents by this date may be grounds for award disqualification.

The apparent successful Bidder, if a Joint Venture/Partnership, shall provide a copy of the Joint Venture Agreement or Partnership Agreement evidencing authority to Bid and to enter into the resulting Contract that may be awarded, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a Joint Venture or Partner. All Partners and Joint Venturers will be required to sign the Contract awarded and a single, primary contact person must be designated for purposes of receiving all notices and communications under the Contract.

### **OREGON PREVAILING WAGE RATES (BOLI REQUIREMENTS)**

The apparent successful Bidder and its subcontractors shall comply with all the provisions of 279C.800 through 279C.870, relative to Prevailing Wage Rates. The current Prevailing Wage Rates for Public Works Contract in Oregon, subject to the State PWR, will apply to this Project and can be found at:

<https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>

The Work will take place in Hood River County.

### **FIRST-TIER SUBCONTRACTOR DISCLOSURE INSTRUCTIONS AND FORM**

Pursuant to ORS 279C.370, Bidders are required to disclose information about certain First-Tier Subcontractors when the owner estimates the contract value for a Public Improvement to be greater than \$100,000. Specifically, when a contract amount of a First-Tier Subcontractor furnishing labor, or labor and materials, has a contract value that is equal to or greater than five percent (5%) of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid, the bidder must disclose the following information about that subcontract in its bid submission or **within two (2) working hours after bid closing**:

- a) Subcontractor's name;
- b) Category of work that subcontractor would be performing;
- c) Dollar value of each subcontract.

If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to write "NONE" on the Disclosure Form.

The Bidder must submit the Disclosure Form required by OAR 137-049-0360 and ORS 279C.370(2) either in its Bid submission or by **12:00 pm PDT, June 24, 2025**. The Port must reject a Bid if the Bidder fails to submit the disclosure form with this information by the stated deadline.

The Port shall obtain and make available for public inspection the Disclosure Forms required by OAR 137-049-0360. The Port shall also provide copies of the Disclosure Forms to the Bureau of Labor and Industries as required by ORS 279C.835. The Port is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585.

**PART 4**  
**BID DOCUMENTS**

## **BIDDER'S CHECKLIST**

Bidder's attention is called to the following forms which must be executed in full as required.

1. **Bid Form**

Each Bidder shall complete and sign the Bid Form.

2. **Bid Proposal**

A signed Bid Proposal indicating maximum total sum for the construction of Anchor Way and Portway Parking Lots Project shall be submitted with the Bid Form.

3. **Bid Sheets**

Submit completed Bid Sheets with Unit Costs, Bid Item Totals for each Bid Item as well as a Total for each Parking Lot with the Bid Form.

4. **Contractor Registration Form**

Submit a completed, signed Contractor Registration Form with the Bid Form.

5. **Bidder's Warranty**

Submit fully executed Bidder's Warranty with the Bid Form.

6. **First Tier Subcontractor Disclosure Form**

Submit the First Tier Subcontractor Disclosure Form following closing of Bid's within the time specified on the form.

The following are to be executed by the successful Bidder after the contract is awarded:

1. **Public Improvement Contract**

This is the contract to be executed between the successful Bidder and the Port of Hood River.

2. **Performance and Payment Bonds**

These bonds are to be provided by the successful Bidder and his Surety Company prior to the execution of the Agreement by the City of Hood River.

3. **Statutory Public Works Bond**

These bonds are to be provided by the successful Bidder and his Surety Company prior to the execution of the Agreement by the City of Hood River.

4. **Certificate of Insurance**

This certificate is to be provided by the Bidder and his insurance company prior to execution of the Agreement by the City of Hood River.



The following checklist is provided as a convenience to the Bidder. It is not a part of the Contract Documents and is not required to be submitted with the Bid Form.

1. Prior to Bid Date:
  - Obtain Oregon Contractor's Registration
  - Obtain pre-qualification with City of Hood River
  - Review Plans
  - Read Specifications
  - Prepare List of Subcontractors for First Tier Disclosure
  
2. Submission of Bid
  - Check for Addenda
  - Complete Bid Form Fill-ins
    - Acknowledge Addenda
    - Certification Regarding Resident Bidder Status
    - Contractor's Registration Number
    - Complete Bid Schedule
    - Date of Bid Submittal
    - Sign Bid
    - Prepare envelope with identification as required in Instructions to Bidders
  - Attach Required information and Certifications
    - Bid Bond
    - Bidder's Warranty
    - Contractor's Certification
  - Submit First-Tier Subcontractor Disclosure Form by the deadline indicated on the form

**BID FORM**

**PORT OF HOOD RIVER**

**Anchor Way & Portway Parking Lots Project**

**Mandatory On-Site Pre-Bid Meeting Date: 10:00 a.m. PDT, Friday, June 13, 2025,  
at the intersection of N 8<sup>th</sup> St & and Portway Ave**

**Bid Date: 10:00 a.m., Monday, June 23, 2025**

To: Kevin Greenwood  
Port of Hood River  
1000 E. Port Marina Drive  
Hood River, Oregon 97031  
(541) 386-1645  
[porthr@gorge.net](mailto:porthr@gorge.net)

I, the undersigned, an authorized representative of the offeror

Whose name is: \_\_\_\_\_

Whose address is: \_\_\_\_\_

City, State & Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No. \_\_\_\_\_

Fed. Tax ID # \_\_\_\_\_

I have read and thoroughly understand the Invitation to Bid for the "**Anchor Way & Portway Parking Lots Project**" and accept all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for **30 days** after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

In submitting this Bid, I represent that:

- (a) I have examined copies of all the Bidding Documents and of the following Addenda (receipt of which are hereby acknowledged):

Date

Number

- (b) I have familiarized myself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect costs, progress, performance or furnishing of the Work.

- (c) I fully understand that no subsurface or onsite testing has been done and do not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- (d) I have had the opportunity to view and inspect the Project location and physical conditions at the site that may affect the cost, progress, performance or furnishing of the Work.
- (e) I have given the Port written notice of all conflicts, errors or discrepancies that I have discovered in the Contract Documents and the written resolution thereof by Port is acceptable to me. I take no other exception other than those clearly stated herein.
- (f) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; I have not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; I have not solicited or induced any person, firm or corporation to refrain from bidding; and I have not sought by collusion to obtain for myself any advantage over any other Bidder or over Port.

Acting on behalf of my firm which is listed above, I make the following representations and Bid in response to the Bidding Documents. (I have attached additional pages where necessary):

1. Number of years the offeror has been in business and the average number of employees over the previous five years:

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2. The names of the officers, principals and key employees of the offeror who will be performing the work of this project, with a description of each person's experience in providing the same or similar type of work (résumés may be attached for each person):

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3. A list of all public bodies for which the offeror has provided services, construction or operation similar in scope, size, or discipline as described in Invitation to Bid within the last five years:

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4. The offeror's acceptance or rejection of the contract provisions proposed by the Port.

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5. The number and scope of other projects in which the offeror will be engaged at the time the Port's project will be implemented and an assessment of the offeror's ability to handle multiple projects concurrently.

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6. Constraints that could affect the offeror's ability to perform the work promptly and efficiently.

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7. The names and addresses of any and all clients of the offeror who have made claims against the offeror within the last five years alleging that the offeror breached a contract for services or construction or were negligent in performance of services or construction. Describe the nature and current status of the claims. Claims should be fully disclosed regardless of whether they involved litigation, arbitration or other formal dispute resolution process. The disclosures required under this provision also apply to any business with which the principals or officers of the offeror were associated during the last five years.

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8. State whether the offeror is capable of performing all of the work described in the Invitation to Bid. If the offeror intends to subcontract any of the work, the bid shall identify subcontractors and include all information required by subsections 5.1 through 5.6 and subsections 7.1 through 7.3 of the Instructions to Bidders for each subcontractor.

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9. Acknowledge that offeror will provide the 2-year warranty required under section 14 of the Instructions to Bidders.

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10. The offeror is    or is not    a resident bidder as defined in ORS 279A.120.

11. The offeror's Construction Contractors Board and/or Landscape Contractors Board number/s is/are:

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12. Bid price

Payment for work performed under this contract will be made at the unit prices listed below. The Quantities given are approximate only, and it is neither expressly nor by implication agreed that the actual amounts of work to be performed and paid for will be in accord

therewith.

13. The following documents are attached to and made a condition of this bid:

- (a) Required bid security.
- (b) Executed Bidder's Certifications.
- (c) Executed Bidder's Certification that offeror has established a drug testing program for employees pursuant to ORS 279C.505 (2).
- (d) Offeror's qualification statement with supporting data.

14. The terms used in this Bid that are defined in the General Conditions to the Contract included as part of the Contract Documents have the meanings assigned to them in the General Conditions.

Bidder is:

An Individual

Name (typed or printed): \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
*(Individual's signature)*

Doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

A Partnership

Partnership Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
*(Signature of general partner -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

Business address: \_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

A Corporation

Corporation Name: \_\_\_\_\_(SEAL)

State of Incorporation: \_\_\_\_\_

Type (General Business, Professional, Service, Limited Liability):\_\_\_\_\_

By: \_\_\_\_\_  
*(Signature -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_  
  
(CORPORATE SEAL)

Attest \_\_\_\_\_  
*(Signature of Corporate Secretary)*

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

Date of Qualification to do business is \_\_\_\_\_

A Joint Venture

Joint Venturer (1) Name: \_\_\_\_\_(SEAL)

By: \_\_\_\_\_  
*(Signature of joint venture partner -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

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

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

Joint Venturer (2) Name: \_\_\_\_\_(SEAL)

By: \_\_\_\_\_  
(Signature of joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

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

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

Phone and FAX Number, and Address for receipt of official communications:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**BID PROPOSAL**

**DATE:** \_\_\_\_\_

**PORT OF HOOD RIVER  
1000 E. PORT MARINA DRIVE  
HOOD RIVER, OREGON 97031**

**PRICE SUBMITTAL:**

The undersigned proposes and agrees, if this Bid is accepted, to enter into a Contract with the Port of Hood River to furnish all Work as specified for the Parking Lots Project within the schedule and pursuant to the terms set forth in the Port’s Solicitation Documents. Bidder has familiarized itself with the Work, has visited and inspected the sites and is familiar with all the field conditions, legal requirements (federal, state, and local laws, ordinances, rules and regulations), and conditions affecting cost, progress and performance of Work, and has made all such independent investigations as Bidder deems necessary. Bidder has given the Port written notice of all conflicts, errors, and/or discrepancies that it has discovered in the Solicitation Documents, and the written resolution thereof by the Port is acceptable to Bidder.

**BASE BID: Port of Hood River Parking Lots Project**

FOR THE TOTAL MAXIMUM SUM OF: \$ \_\_\_\_\_.

BID ALTERNATES: (N/A)

The undersigned Bidder agrees, if awarded the Contract, to complete the Work not later than:

\_\_\_\_\_, 20\_\_\_\_\_.

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

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

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Oregon Construction Contractors Board Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

I attest that I have the authority to commit the firm named above to this Bid amount and acknowledge that the firm meets the qualifications necessary to perform the Work as outlined in the Solicitation Documents. I understand that I will be required to provide necessary information to verify that the firm meets these qualifications if selected for the Contract.

Bidder’s Firm: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Bidder’s Authorized Representative

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

\_\_\_\_\_  
Printed Name of Bidder’s Authorized Representative

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



## BID SHEET

<b>Project:</b>	ANCHOR WAY PARKING LOT				
<b>Client:</b>	PORT OF HOOD RIVER				
<b>Specification</b>	<b>Item Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Bid Item Total</b>
<b>DIVISION 01 - GENERAL REQUIREMENTS</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
00210	Mobilization / Demobilization	LS	1	\$	-
00305	Construction Survey	LS	1	\$	-
00150	Inspection and Testing	LS	1	\$	-
<b>DIVISION 02 - EXISTING CONDITION</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
00310	Demolition - Existing Sidewalk & ADA Ramp	SQYD	34	\$	-
00310	Demolition - Curb & Gutter	FOOT	23	\$	-
00756	Hauling & Disposal Fee	LS	1	\$	-
00320	Removal of Existing Trees	LS	1	\$	-
00310	Sawcutting Pavement	FOOT	24	\$	-
00310	Sawcutting Concrete Driveway	SQYD	20	\$	-
<b>DIVISION 03 - EROSION &amp; SEDIMENT CONTROL</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
00280	Furnish and Place - Gravel Entrance	EACH	1	\$	-
00280	Furnish and Place - Silt Fence	FOOT	602	\$	-
00280	Furnish and Place - Catch Basin Sediment Barriers	EACH	7	\$	-
00280	Concrete Truck Washout	EACH	1	\$	-
<b>DIVISION 04 - EARTHWORK</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
00320	Clearing & Grubbing	LS	1	\$	-
00330	Grading	LS	1	\$	-
<b>DIVISION 05 - CONSTRUCTION</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
00759	Furnish and Place - Sidewalk	SQFT	2,313	\$	-
00759	Furnish and Place - Standard Curb & Gutter	FOOT	23	\$	-
00866	Paint - Double White Longitudinal Lines	FOOT	137	\$	-
00866	Paint - 4" White Longitudinal Lines	FOOT	1,180	\$	-
00867	Paint - Pavement Marking Legends	EACH	5	\$	-
00759	Furnish and Place - ADA Ramp w/ Detectable Warning Surface	EACH	2	\$	-
	Furnish and Place - Standard Inverted U Bike Racks	EACH	8	\$	-
	Furnish and Place - Handicap Parking Stalls	EACH	3	\$	-
00641	Furnish and Place - 8" - 1.5" Base Rock	TON	658	\$	-
00641	Furnish and Place - 2" - 3/4" Leveling Coarse Rock	TON	165	\$	-
00744	Furnish and Place - 4", Level 2, 1/2" Dense Wearing Course (PG 64-22)	TON	477	\$	-
00759	Furnish and Place - Concrete Driveway	SQFT	174	\$	-
00759	Furnish and Place - 7"H x 7"W Curb	FOOT	4	\$	-
	Furnish and Place - Wheel Stops	EACH	59	\$	-
<b>DIVISION 06 - WATER SYSTEM</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
01140	Furnish and Place - 3/4" Ø Polyethylene Irrigation Pipe	FOOT	711	\$	-
01150	Furnish and Place - 24" Water Meter Box w/ 3/4" Gate Valve & Backflow Preventer	EACH	1	\$	-
01150	Furnish and Place - 24" Water Meter Box w/ 3/4" Irrigation Meter	EACH	1	\$	-
01140	Connection to Existing Irrigation Pipe	EACH	1	\$	-
00759	Furnish and Place - 36" x 36" x 6" Concrete Pad	SQFT	9	\$	-
<b>DIVISION 07 - STORM SEWER</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
00445	Furnish and Place - 12" Ø PVC 3034 SDR 35 Storm Pipe	FOOT	97	\$	-
	Furnish and Place - Infiltration/Detention Chamber	LS	1	\$	-
00470	Furnish and Place - 12" Ø Dome Overflow Device	EACH	1	\$	-
	Furnish and Place - 12" Ø PVC Check Valve	EACH	1	\$	-
00390	Furnish and Place - Class 50 Rip Rap	CUYD	1	\$	-
<b>DIVISION 08 - PRIVATE UTILITIES</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
	Furnish and Place - Area Lights	EACH	6	\$	-
<b>DIVISION 09 - LANDSCAPING</b>		<b>Subtotal</b>		<b>\$</b>	<b>-</b>
01040	Furnish and Place - Shrubs	EACH	384	\$	-
01030	Furnish and Place - Lawn Seeding	SQYD	1,073	\$	-
01040	Hornbeam Lucas (Carpinus Betulus 'Lucas') - 2" Caliper	EACH	20	\$	-
				<b>Total</b>	<b>\$ -</b>

## BID SHEET

Specification	Item Description	Unit	Quantity	Unit Cost	Bid Item Total
<b>Project: PORTWAY PARKING LOT</b>					
<b>Client: PORT OF HOOD RIVER</b>					
<b>DIVISION 01 - GENERAL REQUIREMENTS</b>					
<b>Subtotal</b>					<b>\$ -</b>
00210	Mobilization / Demobilization	LS	1	\$	-
00305	Construction Survey	LS	1	\$	-
00150	Inspection and Testing	LS	1	\$	-
<b>DIVISION 02 - EXISTING CONDITION</b>					
<b>Subtotal</b>					<b>\$ -</b>
00310	Demolition - Existing Sidewalk & Driveway	SQYD	111	\$	-
00310	Demolition - Curb & Gutter	FOOT	91	\$	-
00756	Hauling & Disposal Fee	LS	1	\$	-
00310	Removal of Existing 6-Foot Chain Link Fence	LS	1	\$	-
00320	Removal of Existing Trees & Bollards	LS	1	\$	-
	Relocate Existing Sign	EACH	3	\$	-
00310	Sawcutting Pavement	FOOT	97	\$	-
<b>DIVISION 03 - EROSION &amp; SEDIMENT CONTROL</b>					
<b>Subtotal</b>					<b>\$ -</b>
00280	Furnish and Place - Gravel Entrance	EACH	1	\$	-
00280	Furnish and Place - Silt Fence	FOOT	1,069	\$	-
00280	Concrete Truck Washout	EACH	1	\$	-
<b>DIVISION 04 - EARTHWORK</b>					
<b>Subtotal</b>					<b>\$ -</b>
00320	Clearing & Grubbing	LS	1	\$	-
00330	Grading	LS	1	\$	-
<b>DIVISION 05 - CONSTRUCTION</b>					
<b>Subtotal</b>					<b>\$ -</b>
00759	Furnish and Place - Sidewalk	SQFT	4,354	\$	-
00759	Furnish and Place - Standard Curb & Gutter	FOOT	62	\$	-
00759	Furnish and Place - Standard Curb	FOOT	256	\$	-
00866	Paint - 4" White Longitudinal Lines	FOOT	5,600	\$	-
00867	Paint - Pavement Marking Legends	EACH	16	\$	-
00759	Furnish and Place - Driveways	SQFT	496	\$	-
00815	Furnish and Place - Bollards	EACH	6	\$	-
	Furnish and Place - Standard Inverted U Bike Racks	EACH	16	\$	-
	Furnish and Place - Handicap Parking Stalls	EACH	6	\$	-
00641	Furnish and Place - 8" - 1.5" Base Rock	TON	1,043	\$	-
00641	Furnish and Place - 2" - 3/4" Leveling Coarse Rock	TON	261	\$	-
00744	Furnish and Place - 4", Level 2, 1/2" Dense Wearing Course (PG 64-22)	TON	768	\$	-
	Furnish and Place - Wheel Stops	EACH	72	\$	-
00759	Furnish and Place - ADA Ramps w/ Detectable Warning Surface	EACH	2	\$	-
<b>DIVISION 06 - WATER SYSTEM</b>					
<b>Subtotal</b>					<b>\$ -</b>
01140	Furnish and Place - 3/4" Ø Polyethylene Irrigation Pipe	FOOT	1,474	\$	-
01150	Furnish and Place - 24" Water Meter Box w/ 3/4" Gate Valve & Backflow Preventer	EACH	2	\$	-
01150	Furnish and Place - 24" Water Meter Box w/ 3/4" Irrigation Meter	EACH	2	\$	-
01140	Water Connection to Main	EACH	2	\$	-
<b>DIVISION 07 - STORM SEWER</b>					
<b>Subtotal</b>					<b>\$ -</b>
00445	Furnish and Place - 6" Ø PVC 3034 SDR 35 Storm Pipe	FOOT	78	\$	-
00470	Furnish and Place - 12" x 6' Contech Filterra Bioscape Vault Internal Bypass	LS	1	\$	-
00445	Storm Sewer Connection	EACH	1	\$	-
00445	Furnish and Place - 6" Ø Storm Cleanout	EACH	1	\$	-
00445	Furnish and Place - 2, 45-Degree Elbows	EACH	2	\$	-
00445	Furnish and Place - Inserta Tee	EACH	1	\$	-
<b>DIVISION 08 - PRIVATE UTILITIES</b>					
<b>Subtotal</b>					<b>\$ -</b>
	Furnish and Place - Area Lights	EACH	8	\$	-
	Furnish and Place - Street Lights	EACH	3	\$	-
	Furnish and Place - Pedestrian Scale Bollard Lights	EACH	4	\$	-
<b>DIVISION 09 - LANDSCAPING</b>					
<b>Subtotal</b>					<b>\$ -</b>
01040	Furnish and Place - Shrubs	EACH	805	\$	-
01030	Furnish and Place - Lawn Seeding	SQYD	1,824	\$	-
01040	Hornbeam Lucas (Carpinus Betulua 'Lucas') - 2" Caliper	EACH	29	\$	-
<b>Total</b>					<b>\$ -</b>

## BID SHEET

Project: ANCHOR WAY & PARKING LOTS PROJECTS  
 Client: PORT OF HOOD RIVER

ANCHOR WAY PARKING LOT  
 PORTWAY PARKING LOT

TOTAL \$  
 TOTAL \$


ANCHOR WAY & PARKING LOTS PROJECTS

GRAND TOTAL \$

--

<b>Contractor Name</b>	
<b>Address</b>	
<b>Address</b>	
<b>City, State, Zip</b>	
<b>Phone</b>	
<b>Fax</b>	
<b>Email</b>	
<b>Registration Number</b>	
<b>Contact</b>	
<b>Phone</b>	

**CONTRACTOR REGISTRATION FORM**

**1. CCB Requirements**

All Bidders shall be licensed with the State of Oregon Construction Contractors Board ("Oregon CCB") prior to bidding on Public Improvement Contracts. Failure to comply with this requirement shall result in Bid rejection.

All subcontractors participating in the project shall be similarly registered with the Oregon CCB at the time they propose to engage in subcontract work. The Oregon CCB registration requirements apply to all public works contracts unless superseded by federal law.

**Bidder's Oregon CCB Number:** \_\_\_\_\_  
**Expiration Date:** \_\_\_\_\_

**2. Asbestos Abatement Licensing Requirements**

An asbestos abatement license under ORS 468A.720 will not be required of the Bidder or its subcontractors.

**3. Joint Venture/Partnership Disclosure**

The Undersigned has authority on behalf of the following entity and is (check one of the following and insert information requested):

\_\_\_ a. A corporation organized and existing under the laws of the State of \_\_\_\_\_; or

\_\_\_ b. A partnership/joint venture registered under the laws of the State of \_\_\_\_\_;

If yes, name of the contact person for the partnership/joint venture \_\_\_\_\_; or

\_\_\_ c. A limited liability corporation (LLC) or limited liability partnership (LLP) under the laws of the State of \_\_\_\_\_; or

\_\_\_ d. An individual doing business under an assumed name registered under the laws of the State of \_\_\_\_\_.

**4. Addendum or Addenda Acknowledgement**

ADDENDA: Bidder hereby acknowledges receipt of the following Addenda:

<b>ADDENDUM NO.</b>	<b>DATED</b>	<b>ADDENDUM NO.</b>	<b>DATED</b>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**5. Responsibility Inquiry/ Bidder References**

(Provide (3) related project references and contact information)

**6. Recycled Products**

Bidder will comply with the recycled products provision in the Invitation to Bid, if any, in accordance with ORS 279A.125. Bidder shall use recyclable products to the maximum extent economically feasible in the performance of the Work as set forth in the Solicitation Documents.

**7. Residency Information**

Bidder is a ( ) Resident Bidder ( ) Non-resident Bidder

If a Resident Bidder, enter your Oregon business address:

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

If a Non-resident Bidder, enter the State of residency: \_\_\_\_\_

**8. Compliance with Tax Laws**

By my signature, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of the Bidder in this matter, that I have authority and knowledge regarding the payment of taxes, and that Bidder is, to the best of my knowledge, not in violation of any Oregon Tax Laws and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

**9. Certification of Drug-Testing Law Requirements**

By my signature, I certify that Bidder shall demonstrate that an employee drug testing program is in place.

**10. Certification of Compliance with Non-Discrimination Laws**

By my signature, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of Bidder in this matter, and to the best of my knowledge, Bidder has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Bidder is not in violation of any Non-Discrimination Laws.

**11. Signature of Bidder’s Duly Authorized Representative**

The Bid must be signed in ink by an authorized Representative of the Bidder. Any alterations or erasures to the Bid must be initialed in ink by the undersigned authorized representative.

The undersigned acknowledges, attests, and certifies individually and on behalf of the Bidder that:

1. He/She is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Addendum or Addenda, if any, issued.
2. Bidder, acting through its authorized representatives, has read and understands all Bid instructions, specifications, plans, terms, and conditions contained in the Solicitation Documents, including all attachments, exhibits, and Addenda, if any, issued.
3. The Bid submitted is in response to the specific language contained in the Solicitation Documents, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the Solicitation Documents, or (b) any previously Port issued invitation to bid, if any.
4. The Port shall not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder’s failure to comprehend all the requirements of the Solicitation Documents.
5. The Port shall not be liable for any expenses incurred by Bidder in preparing and submitting its Bid or in participating in the Bid evaluation/selection process.

6. The Bidder agrees to be bound by and comply with all applicable requirements of ORS 279C.800 through ORS 279C.870 and the administrative rules of the Bureau of Labor and Industries ("BOLI") regarding prevailing wage rates and payment of a fee to BOLI.
7. The Bid was (1) prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty and without any agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, or services described in the Solicitation Documents designed to limit independent bidding or competition; and (2) the contents of this Bid have not been communicated by the undersigned or its employees or agents to any person not an employee or agent of the undersigned or its surety on any bond furnished with the Bid and will not be communicated to such person prior to the official opening of the Bids.
8. Bidder is bound by and will comply with all requirements, specifications, plans, terms, and conditions contained in this Bid and the Solicitation Documents, including all attachments, exhibits, and Addendum or Addenda, if any, issued.
9. Bidder will furnish the designated items and/or services in accordance with the Bid specifications, plans, and requirements, and will comply in all respects with the terms of the resulting Contract upon award.
10. Bidder represents and warrants that Bidder has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.
11. All affirmations and certifications contained in this Bidder Registration Form are true and correct.

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Bidder's Firm: \_\_\_\_\_

Bidder's FEIN ID# or SSN #: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Bidder's Authorized Representative

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

\_\_\_\_\_  
Printed Name of Bidder's Authorized Representative

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

**BIDDER'S WARRANTY**

**Project Name: Port of Hood River Parking Lots Project**

By the act of submitting a Bid for the proposed Project, the Bidder warrants that:

1. The Bidder has carefully and thoroughly reviewed Plans, Specifications, and other Bid Documents and have found them to be complete and free from ambiguities and that they are adequate for the intended purpose; further that,
2. The Bidder and all tradespersons, operators, employees, and subcontractors are skilled and experienced in the type of construction to be performed under this Contract; further that,
3. Neither the Bidder nor any of the Bidder's employees, agents, intended suppliers, or subcontractors have relied upon any verbal representations allegedly authorized or unauthorized from the Owner, the Owner's employees or agents, including engineers or consultants, in assembling the bid figure; further that,
4. The bid figure is based solely upon the Bid Documents and properly issued Addenda, and not upon any other written or oral representation.

**Name/Title of Bidder's Representative:** \_\_\_\_\_

**Signature of Bidder's Representative:** \_\_\_\_\_

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

**FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM**

**Project Name: Port of Hood River Parking Lots Project Bid Submission**

**Deadline: June 24, 2025 at 12:00 p.m. PDT**

This form must be submitted to the Port of Hood River at the location specified in the ITB within **twenty-two (26) hours** after the Bid Deadline.

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

**FIRST-TIER SUBCONTRACTORS**

Name	Dollar Value	Category of Work
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid, which will not be considered for award.

**Form submitted by (Bidder name):** \_\_\_\_\_

**Contact Name:** \_\_\_\_\_

**Contact Phone No.:** \_\_\_\_\_



**PART 5**  
**CONTRACT DOCUMENTS**

**PORT OF HOOD RIVER  
PUBLIC IMPROVEMENT CONTRACT**

This Public Improvement Contract ("Contract") entered into between the PORT OF HOOD RIVER, an Oregon municipal corporation, ("PORT") and [REDACTED], an Oregon corporation ("CONTRACTOR"), for completion of the Anchor Way & Portway Parking Lots Project ("Project"). PORT and CONTRACTOR may be referred to herein individually as a "Party" or collectively as the "Parties."

**WITNESSETH:**

**WHEREAS**, PORT issued a Bid Solicitation for the Project on **May 12, 2025**, inviting bids for construction of two parking lots. The Project includes the procurement of materials and construction as required in the bid documents attached for the project.

**WHEREAS**, CONTRACTOR submitted a bid in response to Port's Bid Solicitation, offering to perform the Work under the terms and conditions of this Contract;

**WHEREAS**, PORT evaluated all offers and selected CONTRACTOR to perform the Work; and,

**WHEREAS**, the Parties hereto desire that this Contract be undertaken and completed on the terms and conditions as hereafter set forth;

**THEREFORE, IT IS AGREED AS FOLLOWS:**

**I. TERMS OF PERFORMANCE**

CONTRACTOR agrees to perform the Work and provide all machinery, tools, apparatus, materials, equipment, labor and other means of construction necessary to complete the Work in accordance with all terms specified in (i) this Contract; (ii) **the Port of Hood River Anchor Way & Portway Parking Lots Project** Solicitation ("Solicitation"), including the Port of Hood River General Conditions for Public Works Contracts ("General Conditions") incorporated therein; and (iii) CONTRACTOR's submission to Solicitation ("CONTRACTOR's Submission"). This Contract, Solicitation, General Conditions, and CONTRACTOR's Submission are collectively referred to herein as the "Contract Documents." The Contract Documents are incorporated by reference and constitute the entire agreement between PORT and CONTRACTOR.

In the event of a conflict between the Contract Documents, the controlling document shall be this Contract, then the General Conditions, then the Solicitation, and finally CONTRACTOR's Submission. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

**II. COMPENSATION**

Subject to the provisions of the Contract Documents and in consideration of CONTRACTOR's faithful performance of the terms and conditions thereof by the CONTRACTOR and CONTRACTOR's completion of the Work, PORT agrees to pay CONTRACTOR in the manner provided in the Contract Documents. Compensation is for completion of the Work pursuant to the Contract Documents.

**III. CONTRACT DATES**

- 1) Project Start Date: **Ten (10) calendar days from issuance of Notice to Proceed**
- 2) Physical Working Days: Final completion **November 14, 2025.**
- 3) Substantial Completion: Substantial completion of **October 31, 2025.**
- 4) Final Completion: Final completion **November 14, 2025**

**IV. LIQUIDATED DAMAGES**

- 1) Reasonable evidence that the Work will not be completed within the Contract Time required by the

Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

- 2) Failure to carry out the Work in accordance with the Contract Documents; or
- 3) Assessment of liquidated damages, when withholding is made for offset purposes.

Permitting CONTRACTOR to continue and finish the Work, or any part thereof, after the Physical Working Days period, or Alternate Physical Working Days period, as pertinent, has expired shall in no way operate as a waiver on the part of PORT or any of its rights under the Contract.

Payment of liquidated damages shall not release CONTRACTOR from obligations in respect to the fulfillment of the entire Contract, nor shall the payment of such liquidated damages constitute a waiver of PORT's right to collect any additional damages which may be sustained by failure of the CONTRACTOR to carry out the terms of the Contract, it being the intent of the Parties that said liquidated damages be full and complete payment only for failure of CONTRACTOR to complete the Work on time.

**4) REPRESENTATIVES**

PORT designates Kevin M. Greenwood, its Executive Director, as its Authorized Representative in the administration of this Contract. Kevin Greenwood's contact phone is (541) 386-1138 and email is [kgreenwood@portofhoodriver.com](mailto:kgreenwood@portofhoodriver.com). CONTRACTOR designates \_\_\_\_\_, its title \_\_\_\_\_, as its Authorized Representative to act on its behalf. [CONTRACTOR's Authorized Representative's contact phone is \_\_\_\_\_ and email is \_\_\_\_\_. Either Party shall be entitled to remove and/or substitute their respective Authorized Representative by providing written notice to the other Party.

**5) ACCEPTED MODIFICATION TO SOLICITATION SECTION G/INSURANCE**

Pursuant to Section VI hereinabove, the Parties agree, and the PORT hereby approves CONTRACTOR's request to have CONTRACTOR's General Commercial Liability deductible limit of \$50,000 as set forth in the second to last paragraph of the Solicitation section G, Insurance provision, increased to \$100,000. Except as modified by this Section VII, all terms and conditions of the Contract Documents shall remain in full force and effect.

Notwithstanding the foregoing, the below-named individuals shall be the designated points of contact for matters relating to performance, payment, authorization, and to carry out the responsibilities of the Parties. Any notice, request, report, or other communication required or permitted hereunder shall be in writing and shall be delivered personally (by courier or otherwise), by electronic mail, sent by certified or registered mail, postage prepaid and return receipt requested, or by express mail or other nationally recognized overnight or same-day delivery service. Any such notice shall be deemed given when so delivered by electronic mail, by such delivery service, or by the United States mail to each Party's Authorized Representative and to the following individuals:

If to PORT:

**Attn:**

1000 E. Port Marina Drive

Hood River, OR 97031

**Email:**

**Phone:**

If to CONTRACTOR

Attn: [\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

Email: [\_\_\_\_\_]

Phone: [\_\_\_\_\_]

**I. INTEGRATION**

The Contract Documents constitute the entire agreement between the Parties. No modification or change of terms of this Contract shall bind either Party unless in writing and signed by the Authorized Representatives of both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no other understandings, agreements, or representations, oral or written, not

specified herein regarding this Contract. CONTRACTOR, by the signature below of its Authorized Representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

**II. COUNTERPARTS, EXECUTION, ELECTRONIC SIGNATURES**

This Contract may be executed in counterparts. This Contract may be executed using original signatures, facsimile signatures, or only with PORT's prior approval, Electronic Signatures as defined in the Electronic Signatures in Global and National Commerce Act, that can be authenticated. Under ORS 84.014, CONTRACTOR's consent is not required for this Contract to be executed using Electronic Signatures. Even if ORS 84.014 is determined to be inapplicable or invalid, CONTRACTOR grants such consent.

Not To Exceed Amount of: \_\_\_\_\_

IN WITNESS WHEREOF the Parties have executed this Contract on \_\_\_\_\_.

**CONTRACTOR:** \_\_\_\_\_

**PORT OF HOOD RIVER**

By \_\_\_\_\_  
[Name]

By \_\_\_\_\_  
Kevin M. Greenwood

Its [Title] \_\_\_\_\_

Its Executive Director

**PERFORMANCE BOND FORM**

Bond No. \_\_\_\_\_

Solicitation \_\_\_\_\_ Project Name: Portway Stormwater Pipeline Project

\_\_\_\_\_ (Surety #1) Bond Amount No. 1: \$ \_\_\_\_\_

\_\_\_\_\_ (Surety #2)\*Bond Amount No. 2:\* \$ \_\_\_\_\_

- *If using multiple sureties*

Total Penal Sum of Bond \$ \_\_\_\_\_

We, \_\_\_\_\_, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Port of Hood River the sum of (Total Penal Sum of Bond)

\_\_\_\_\_ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety), and

WHEREAS, the Principal has entered into a contract with the Port of Hood River, the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Port of Hood River and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said Contract according to law, then this obligation is to be void; otherwise it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the Port of Hood River be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapter 279C, the provisions of which hereby are incorporated into this bond and made a part thereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**PRINCIPAL:** \_\_\_\_\_

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

Signature

\_\_\_\_\_

Official Capacity

Attest: \_\_\_\_\_

Corporation Secretary

**SURETY:** \_\_\_\_\_

*[Add signatures for each if using multiple bonds]*

**BY ATTORNEY-IN-FACT:**

*[Power-of-Attorney must accompany each bond]*

\_\_\_\_\_

Name

\_\_\_\_\_

Signature

\_\_\_\_\_

Address

\_\_\_\_\_

City

State

Zip

\_\_\_\_\_

Phone

Fax

**PAYMENT BOND FORM**

Bond No. \_\_\_\_\_

Solicitation \_\_\_\_\_

Project Name: Parking Lots Project

\_\_\_\_\_ (Surety #1) Bond Amount No. 1: \$ \_\_\_\_\_

\_\_\_\_\_ (Surety #2)\*Bond Amount No. 2:\* \$ \_\_\_\_\_

- *If using multiple sureties*

Total Penal Sum of Bond \$ \_\_\_\_\_

We, \_\_\_\_\_, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Port of Hood River the sum to (Total Penal Sum of Bond)

\_\_\_\_\_ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety), and

WHEREAS, the Principal has entered into a contract with the Port of Hood River, the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Payment Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Port of

Hood River and members thereof, its officers, employees and agents, against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or

prosecuted against the Port of Hood River on account of any labor or materials furnished; and shall do all things required of the Principal by the laws of this State, then this obligation shall be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the Port of Hood River be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapter 279C, the provisions of which hereby are incorporated into this bond and made a part thereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**PRINCIPAL:** \_\_\_\_\_

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

\_\_\_\_\_  
Official Capacity

Attest: \_\_\_\_\_  
Corporation Secretary

**SURETY:** \_\_\_\_\_  
*[Add signatures for each if using multiple bonds]*

**BY ATTORNEY-IN-FACT:**  
*[Power-of-Attorney must accompany each bond]*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax





**STATE OF OREGON**  
**STATUTORY PUBLIC WORKS BOND**

Surety bond #: \_\_\_\_\_ CCB # (if applicable): \_\_\_\_\_

We, \_\_\_\_\_, as principal, and \_\_\_\_\_, a corporation qualified and authorized to do business in the State of Oregon, as surety, are held and firmly bound unto the State of Oregon for the use and benefit of the Oregon Bureau of Labor and Industries (BOLI) in the sum of thirty thousand dollars (\$30,000) lawful money of the United States of America to be paid as provided in ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, for which payment well and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by this agreement.

WHEREAS, the above-named principal wishes to be eligible to work on public works project(s) subject to the provisions of ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, and is, therefore, required to obtain and file a statutory public works bond in the penal sum of \$30,000 with good and sufficient surety as required pursuant to the provisions of section 2, chapter 360, Oregon Laws 2005, conditioned as herein set forth.

NOW, THEREFORE, the conditions of the foregoing obligations are that if said principal with regard to all work done by the principal as a contractor or subcontractor on public works project(s), shall pay all claims ordered by BOLI against the principal to workers performing labor upon public works projects for unpaid wages determined to be due, in accordance with ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, and OAR Chapter 839, then this obligation shall be void; otherwise to remain in full force and effect.

This bond is for the exclusive purpose of payment of wage claims ordered by BOLI to workers performing labor upon public works projects in accordance with ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360.

This bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty of this bond.

This bond shall become effective on the date it is executed by both the principal and surety and shall continuously remain in effect until depleted by claims paid under ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, unless the surety sooner cancels the bond. This bond may be cancelled by the surety and the surety be relieved of further liability for work performed on contracts entered after cancellation by giving 30 days' written notice to the principal, the Construction Contractors Board, and BOLI. Cancellation shall not limit the responsibility of the surety for the payment of claims ordered by BOLI relating to work performed during the work period of a contract entered into before cancellation of this bond.

IN WITNESS WHEREOF, the principal and surety execute this agreement. The surety fully authorizes its representatives in the State of Oregon to enter into this obligation.

SIGNED, SEALED AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Surety by: \_\_\_\_\_ (Seal)

Principal by:

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

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Title (e.g. Attorney-in-Fact)*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
\_\_\_\_\_  
*Address*

*Address*

\_\_\_\_\_  
\_\_\_\_\_  
*City*                      *State*                      *Zip*  
*Zip*

*City*

*State*

**SEND BOND TO: Construction Contractors Board**  
**PO Box 14140**  
**Salem, OR 97309-5052**

## **CERTIFICATE OF INSURANCE FORM**

This is to certify to: Port of Hood River, 1000 E. Port Marina Drive, Hood River, OR 97031  
That the following described policy or policies have been issued to:

---

Name and Address of Insured

---

Name and Address of Insurance Company

Description of Contract \_\_\_\_\_

Types of Coverages		Limits of Liability	Policy Number	Expiration Date
<b>1. Workers' Compensation</b>		<b>Statutory</b>		
<b>2. Employer's Liability</b>		\$		
<b>3. Comprehensive General Liability</b>		<b>Bodily Injury</b>		<b>Property Damage</b>
	<b>A. Premises &amp; Operations</b>	\$		\$
	<b>B. Blanket Contractual</b>	\$		\$
	<b>C. Independent Sub-Contractors</b>	\$		\$
	<b>D. Products Liability &amp; Completed Operations</b>	\$		\$
<b>4. Comprehensive Automobile Liability (owner, hired, &amp; non-owned)</b>				
<b>5. Other-Builders Risk</b>				
<b>6. Jones Act and USLHWA Insurance</b>	<b>If applicable</b>			

Expires 12:01 Standard Time at the address of name insurance stated herein.

\*Indicate the following property liability features:

- |  | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| 1. "Broadform" including occurrence and care, custody and control. | _____      | _____     |
| 2. Explosion, collapse and underground damage exclusions.          | _____      | _____     |

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The insurer agrees that it will notify in writing \_\_\_\_\_ of any material change, expiration, or cancellation of the above-described policies not less than **thirty (30) days** before such change, expiration, or cancellation becomes effective. It is further agreed that the above-named owner, his officers, agent (including his engineer) and employees are included as additional named insureds, but only as respects the performance of the above- described contract.

\_\_\_\_\_  
Name of Insurance Company

\_\_\_\_\_  
Authorized Representative

**PART 6**  
**GENERAL CONDITIONS**

# PORT OF HOOD RIVER GENERAL CONDITIONS FOR PUBLIC WORKS CONTRACTS

## **GENERAL CONDITIONS**

The General Conditions for this Project shall be per the following Port of Hood River General Conditions for Public Works Contracts, the executed Public Improvement Contract, the approved Construction Plans (Plans), the 2024 Oregon Standard Specifications for Construction (Specifications) and the City of Hood River Engineering Standards, Adopted July 18, 2019 (<https://cityofhoodriver.gov/engineering/engineering-standards/>)

## **SECTION A** General Provisions

### **DEFINITION OF TERMS**

**Alternate** – One of two or more units of work or groups of bid items, identified separately in the proposal, from which the Owner may make a choice between different methods or materials of construction for performing the same work.

**Architect/Engineer**-person appointed by the Port to make drawings and specifications, and to provide contract administration of the Work contemplated by this Contract.

**Bid**-an offer in connection with an invitation to bid and a proposal in connection with a request for proposals.

**Bidder**-means an Offeror in connection with an invitation to bid and proposer in connection with a request for proposals.

**Change Order**-written order issued by the Port's Authorized Representative to the Contractor requiring a change in the Work within the general scope of the Contract Documents.

**Claim**-means a demand by Contractor for review of the denial of Contractor's initial request for an adjustment of the Contract terms, payment of money, extension of Contract Time or other relief.

**Contract**- the written agreement between the Port and the Contractor comprised of the Contract Documents which describe the Work to be done and the obligations between the parties.

**Contract Documents**-means the solicitation Documents and addenda thereto, the Port of Hood River Public Improvement Contract, General Conditions, Supplemental General Conditions, if any, the accepted Bid, Plans, Specifications, amendments and change orders.

**Contract Period**- as set forth in the Contract Documents, means the period of time beginning with the issuance of the Notice to Proceed and concluding upon Final Completion.

**Contract Price**- the total of the awarded Bid amount, as increased or decreased by the price of approved alternatives and change orders.

**Contract Time**-means any incremental period of time allowed under the Contract to complete any portion of the Work reflected in the project schedule.

**Contractor**-person awarded the Contract for Work contemplated.

**Days**-are calendar days, unless otherwise specified.

**Direct Costs**-means the costs of materials, including sales tax, cost of delivery; cost of labor, including social security, unemployment insurance, and fringe benefits required by agreement or custom; worker's compensation insurance; project specific insurance; bond premiums, rental cost of equipment, and machinery required for execution of the work; and the additional costs of field personnel directly attributable to the Work.

**Final Completion**-means completion of all requirements under the Contract, excluding Warranty Work, and the final payment and release of retainage.

**Force Majeure**-means an act, event or occurrence caused by fire, riot, war, acts of God, nature, sovereign, or public enemy, strikes, freight embargoes or any other act, event or occurrence that is beyond the control of the party to this Contract who is asserting Force Majeure.

**Notice to Proceed**-the official written notice from the Port stating that the Contractor is to proceed with the Work defined in the Contract Documents.

**Offer**-a bid in connection with an invitation to bid and a proposal in connection with a request for proposals.

**Offeror**-means a bidder in connection with an invitation to bid and proposer in connection with a request for proposals.

**Overhead**-those items which may be included in the Contractor's markup and that shall not be charged as Direct Cost of Work, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman and expenses of the Contractor's office at the job site including expenses of personnel staffing the job site office.

**Owner**-Port of Hood River.

**Owner's (Port's) Authorized Representative**-those individuals identified in writing by the Owner to act on behalf of the Owner for this project.

**Person**-an entity doing business as a sole proprietorship, a partnership, a joint venture, a corporation, a limited liability company or partnership, or any other entity possessing the legal capacity to contract.

**Plans**-the drawings which show the location, type, dimensions, and details of the Work to be done under this Contract.

**Punchlist**-the list of Work yet to be completed or deficiencies which need to be corrected in order to achieve Final Completion of the Contract.

**Record Document**-means the as-built Plans, Specifications, testing and inspection records, product test data, samples, manufacturer and distributor/supplier warranties evidencing transfer to Owner, operational and maintenance manuals, shop drawings, Change Orders, correspondence, certificates of occupancy, and other documents listed in section B of these General Conditions, recording all services performed.

**Solicitation Document**-means invitation to bid or request for proposal or request for quotes.

**Specification**-means any description of the physical or functional characteristics of the Work, or of the nature of a supply, service or construction item. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications will generally state the results or products to be obtained and may describe the method and manner of doing the work to be performed.

**Subcontractor-** a person having a direct contract with the Contractor, or another subcontractor, to perform one or more items of the Work.

**Substantial Completion-**the date when the Owner accepts in writing the construction, alteration, or repair of the improvement to real property or any designated portion thereof as having reached the state of completion when it may be used or occupied for its intended purpose. Substantial Completion of facilities with operating systems occurs only after **thirty (30) continuous days** of successful, trouble-free operation.

**Substitutions-** items that in function, performance, reliability, quality, and general configuration are the same or better than the product specified.

**Supplemental General Conditions-**those conditions that remove from, add to, or modify these General Conditions.

**Work-** the furnishing of all materials, equipment, labor, transportation, services and incidentals necessary to successfully complete any individual item or the entire Contract and the carrying out of duties and obligations imposed by the Contract Documents.

### **SCOPE OF WORK**

The work contemplated under this Contract includes all labor, materials, transportation, equipment and services for, and incidental to, the completion of all construction work in connection with the project described in the Contract Documents. The Contractor shall perform all Work necessary so that the project can be legally occupied and fully used for the intended use set forth in the Contract Documents.

### **INTERPRETATION OF CONTRACT DOCUMENTS**

Unless otherwise specifically defined in the Contract Documents, words which have well-known technical meanings or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Contract documents are intended to be complimentary. Whatever is called for in one, is interpreted to be called for in all. However, in the event of conflicts or discrepancies among Contract Documents, interpretations will be based on the following descending order of precedence:

1. Contract amendments and Change Orders, with those of later date having precedence over those of an earlier date;
2. Addenda issued during bidding;
3. Special Provisions;
4. Reviewed and accepted, stamped Plans;
5. Standard Drawings
6. Standard Specifications
7. The Port of Hood River Public Improvement Contract;
8. The General Conditions;
9. The Solicitation Document and any addenda thereto;
10. The Accepted Offer.

Notes on a drawing shall take precedence over drawing details. Dimensions shown on the drawings, or that can be computed, shall take precedence over scaled dimensions.

In the case of an inconsistency between the Plans and Specifications or within either document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner or Owner's Authorized Representative's interpretation in writing.

If the Contractor finds discrepancies in or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner or the Owner's Authorized Representative. Matters concerning performance under, and interpretation of requirements of, the Contract Documents will be decided by the Owner's Authorized Representative, who may delegate that duty in some instances to the Architect/Engineer. Responses to the Contractor's request for interpretation of Contract Documents will be made in writing by the Owner's Authorized representative within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner's Authorized Representative will be consistent with the intent of and reasonably

inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner's Authorized Representative.

### **EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE**

It is understood that the Contractor, before submitting a bid, has made careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Work required; and has made a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the Work.

## **SECTION B**

### Administration of the Contract

#### **PORT'S ADMINISTRATION OF THE CONTRACT**

The Port's Authorized Representative will provide administration of the Contract as described in the Contract documents (1) during construction, (2) until final payment is due and (3) during the one-year period for correction of work. The Port's Authorized Representative will act on behalf of the Port to the extent provided in the Contract Documents, unless modified in writing in accordance with other provisions of the contract. In performing these tasks, the Port may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.

The Port's Authorized Representative will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Port informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Port against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed will be in accordance with the Contract Documents.

The Port's Representative will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the work.

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

Based on the Architect/Engineer's evaluation of the Contractor's Application for Payment, or unless otherwise stipulated by the Port's Authorized Representative, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payments in such amounts.

#### **CONTRACTOR'S MEAN AND METHODS; MITIGATION OF IMPACTS**

The Contractor shall direct and supervise the Work, using the Contractor's best skill and attention. The Contractor shall solely be responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under this Contract, unless Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures.

The contractor is responsible to protect and maintain the Work during the course of construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which



may affect cost, schedule, or quality.

The Contractor is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit the employment of persons who are unfit or unskilled for the tasks assigned to them.

### **MATERIALS AND WORKMANSHIP**

The intent of the Contract Documents is to provide for the construction and completion of every detail of the Work described. All Work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.

The Contractor is responsible to perform the Work as required by the Contract Documents. Defective work shall be corrected at the Contractor's expense.

Work done and materials furnished shall be subject to inspection and/or observation by the Port's Authorized Representative to determine if they conform to the Contract Documents. Inspection of the Work by the Port's Authorized Representative does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.

The contractor shall furnish adequate facilities, as required, for the Port's Authorized Representative to have safe access to the Work, including, without limitation, walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide facilities and access to their facilities.

The Contractor shall furnish Samples of Materials for testing by the Port's Authorized Representative and include the cost of the Samples in the Contract Price.

### **PERMITS**

The Port has obtained State and Federal permit approvals, hereby made part of the Contract Documents. Contractor shall obtain and pay for all other necessary permits and licenses, except for those specifically excluded in the Supplemental General Conditions, for the construction of the Work, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental work, etc., as required for the project. Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks, or otherwise. Contractor shall give requisite notices to public authorities. The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits and claims for infringement of any patent or other proprietary rights and save harmless and blameless from loss, on account thereof, the Port, its properties, officers, employees, and contractors.

### **COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS**

Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and Contract. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable:

- i) Title VI and VII of Civil Rights act of 1964, as amended
- ii) Section 503 and 504 of the Rehabilitation act of 1973, as amended
- iii) The Health Insurance Portability and Accountability Act of 1996
- iv) The Americans with Disabilities Act of 1990, as amended
- v) ORS Chapter 659A, as amended
- vi) All regulations and administrative rules established pursuant to the foregoing laws
- vii) All other applicable requirements of federal and state civil rights and rehabilitations statutes, rules and regulations.

Port's performance under the Contract is conditioned upon the Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.

Contractor shall comply with all applicable requirements of federal and state civil rights and

rehabilitation statues, rules and regulations; and

- (a) Contractor shall not discriminate against Disadvantaged, Minority, Women, or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110)
- (b) Contractor shall maintain, in current and valid form, all licenses and certificates required by tax, regulation, or this Contract when performing the Work.

Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at any time they submit their bids to the Contractor.

Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Work this Contract holds a valid landscape contractor's license issued pursuant to ORS 671.560.

The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of those rules by calling the center at (503)232-1987.

Failure to comply with any or all of the requirements set forth here shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

**INSPECTION**

Port's Authorized Representative shall have access to the Work at all times.

The Port's Authorized Representative at its discretion will make inspection of Work. The Port's Authorized Representative will have authority to reject Work that does not conform to the Contract Documents. Any Work found to be not in conformance with the Contract Documents, in the discretion of the Port's Authorized Representative, shall be removed and replaced at the Contractor's expense.

Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Port, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Port's Authorized Representative timely notice of when and where tests and inspections are to be made so that the Port's Authorized Representative may be present for such procedures. Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Port's Authorized Representative.

Work done or materials used without inspection or testing by the Port's Authorized Representative may be ordered removed at the Contractor's expense.

If directed to do so at any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done with sufficient notice to Port's Authorized Representative, the uncovering and restoration will be paid for as a Change Order.

If any testing or inspection reveals failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs necessary by such failure, including those of repeated procedures and compensation for the Port's Authorized Representative and Architect/Engineer's services and expenses, shall be at the Contractor's expense.

**SEVERABILITY**

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the

validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

### **ACCESS TO RECORDS**

Contractor shall keep, at all times on the Work site, one record copy of the complete Contract Documents, including the Plans, Specifications, Change Orders and addenda, in good order and marked currently to record filed changes and selections made during construction, and one record copy of Shop Drawings, Product Data, Samples and similar submittals, and shall at all times give the Port's Authorized Representative access thereto.

Contractor shall retain and the Port and its duly Authorized Representatives shall have access to, for a period not less than six (6) years, all Record Documents, financial and accounting records, and other books, documents, papers and records of Contractor which are pertinent to the Contract including record pertaining to Overhead and indirect costs, for the purpose of audit, examination, excerpts and transcripts. If for any reason, any part of the Contract is involved in litigation, Contractor shall retain all such records until all litigation is resolved. The Port and/or its agents shall continue to be provided full access to the records during litigation.

### **WAIVER**

Failure of the Port to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Port of the right to such performance in the future nor the right to enforce any other provision of this Contract.

### **SUBCONTRACTS AND ASSIGNMENT**

Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound by the terms and conditions of these General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Port thereunder, unless,

- (1) the same are clearly inapplicable to the subcontractor at issue because of legal requirements or industry practices, or
- (2) specific exceptions are requested by Contractor and approved in writing by Port.

Where appropriate, Contractor shall require each subcontractor to enter in similar agreements with sub-subcontractors at any level.

At Port's request, Contractor shall submit to Port prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor. If Port disapproves such form, Contractor shall not execute the form until the matters disapproved are resolved to Port's satisfaction. Port's review, comment upon or approval of any such form shall not relieve Contractor of its obligations under this Agreement or be deemed a waiver of such obligations of Contractor.

Contractor shall not assign, sell or transfer its rights, or delegate its responsibilities under this Contract, in whole or part, without the prior written approval of the Port. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

### **SUCCESSORS IN INTEREST**

The provisions of this Contract shall be binding upon and shall accrue to the benefit of the parties to this Contract and their respective permitted successors and assigns.

### **PORT'S RIGHT TO DO WORK**

Port reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor will coordinate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to

interfere with the operations of another, and join the Work with the work of others in an acceptable manner and perform it in proper sequences to that of the others. The Port's Authorized Representative will resolve any disagreements that may arise between or among Contractor and the other contractors over the method or order of doing all work (including the Work). In case of unavoidable interference, Port's Authorized Representative will establish work priority (including the Work), which generally will be in the sequence that the contracts were awarded.

### **OTHER CONTRACTS**

In all cases and at any time, the Port has the right to execute other contracts related to or unrelated to the Work of this Contract. The Contractor of this Contract will fully cooperate with any and all other contractors without additional cost to the Port in the manner described above.

### **LITIGATION**

Any claims between Port and Contractor that arises from or related to this Contract and that is not resolved through the Port contract review board shall be brought and conducted solely and exclusively within the Circuit Court of Hood River County.

### **ALLOWANCES**

The contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Port may direct.

Unless otherwise provided in the Contract Documents:

- a. When finally reconciled, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- b. Contractor's cost for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;
- c. Whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section (b) and (2) changes in Contractor's costs under this Section.
- d. Unless Port requests otherwise, Contractor shall provide to Port a proposed fixed price for any allowance work prior to its performance.

### **SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

Design Build requirements apply. The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Port's Authorized Representative if approval authority has not been delegated to the Architect/Engineer), a schedule and list of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. Port reserves the right to finally approve the schedule and list of submittals. Submittals include, without limitation, Shop Drawings, Product Data, and Samples which are described below:

- a. Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor (including any sub-subcontractor), manufacturer, supplier or distributor to illustrate some portion of the Work.
- b. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- c. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose

of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Port or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect/Engineer without action.

By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

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

If any errors or omissions appear in the drawings, specifications or other documents the Contractor shall, immediately and before proceeding with that portion of the work affected, notify Owner or such error or omission. Should the Contractor proceed with erroneous work without giving notice, Contractor shall be responsible for errors and make required corrections without additional cost to Owner.

### **SUBSTITUTIONS**

The Contractor may make Substitutions only with the consent of the Port, after evaluation by the Port's Authorized Representative and only in accordance with a Change Order. Substitutions shall be subject to the requirements of the bid documents. By making requests for Substitutions, the Contractor will provide the same warranty for the Substitution that the Contractor would for the product originally specified unless approved otherwise; certifies that the cost data presented is complete and includes all related costs under this Contract including redesign costs, and waives all claims for additional costs related to the Substitution which subsequently becomes apparent; and will coordinate the installation of the accepted Substitution, making such changes as may be required for the Work to be completed in all respects.

### **USE OF PLANS AND SPECIFICATIONS**

Plans, Specifications and related Contract Documents furnished to Contractor by Port or Port's Architect/Engineer shall be used solely for the performance of the Work under this Contract. Contractor and its Subcontractors and suppliers are authorized to use and reproduce applicable portions of such

documents appropriate to the execution of the Work, but shall not claim ownership or other interest in them beyond the scope of this Contract, and no such interest shall attach. Unless otherwise indicated, all common law, statutory and other reserved rights, in addition to copyrights, are retained by Port.

**FUNDS AVAILABLE AND AUTHORIZED**

Port reasonably believes at the time of entering into this Contract that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within the Port's appropriation or limitation. Contractor understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Port's Services performed after the last day of the current biennium is contingent on Port receiving from the Oregon Legislative Assembly appropriations, limitations or other expenditure authority sufficient to allow Port, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

**NO THIRD PARTY BENEFICIARIES**

Port and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

**SECTION C**  
Wages & Labor

**MINIMUM WAGE RATES ON PUBLIC WORKS**

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), are included as attachments to or are incorporated by reference in the Contract Documents. Contractor shall pay workers at not less than the specified minimum hourly rate of wage and shall include that requirement in all subcontracts.

**INTENT TO PAY PREVAILING WAGE**

Approved Intent to Pay Prevailing Wage statements shall be provided to Owner prior to first pay application.

**PAYROLL CERTIFICATION; ADDITIONAL RETAINAGE; FEE REQUIREMENTS**

In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Port's Authorized Representative, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor or Subcontractor's best knowledge and belief. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on the project shall be submitted once a month, by the fifth business day of the following month.

The Contractor and Subcontractors shall preserve the certified statements for a period of six (6) years from the date of completion of the Contract.

Pursuant to ORS 279C.845(7), the Port shall retain 25 percent of any amount earned by the Contractor on this public works project until the Contractor has filed the certified statements required by previous paragraphs. The Port shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.

Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-

tier Subcontractor on this public works project until the first-tier Subcontractor has filed with the Port the certified statements required by previous section. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement, Within **14 days** after the first-tier Subcontractor files the required certified statement the Contractor shall pay the first-tier Subcontractor any amount retained under this subsection.

In accordance with statutory requirements, and administrative rules promulgated by the Commissioner of the Bureau of Labor and Industries, the fee required by ORS 279C.825(1) will be paid by Port to the Commissioner at the time Port enters into the Contract.

### **PROMPT PAYMENT AND CONTRACT CONDITIONS**

Pursuant to ORS 279C.505 and as a condition to Port's performance hereunder, the Contractor shall:

- Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.
- Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.
- Not permit any lien or claim to be filed or prosecuted against the Port on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Port, or assign any sums due by Port, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Port.
- Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- Demonstrate that an employee drug testing program is in place as follows:
  - (a) Contractor represents and warrants that Contractor has in place at the time of the execution of this Contract, and shall maintain during the term of this Contract, a Qualifying Employee Drug Testing Program for its employees that includes, at a minimum, the following:
    - (1.) A written employee drug testing policy,
    - (2.) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
    - (3.) Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." For the purposes of this section, an employee is a "Subject Employee" only if that employee will be working on the project job site.

- (b) Contractor shall require each Subcontractor providing labor for the project to:
  - (1.) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract, or
  - (2.) Require that the Subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

Pursuant to ORS 279C.515, and as a condition to Port's performance hereunder, Contractor agrees:

- If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor of a Subcontractor by any person in connection with the project as such claim becomes due, the proper officer(s) representing the Port may pay the claim and charge the amount of the payment against funds due or to become due to Contractor under this Contract. Payment of claims in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

- If the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within **thirty (30) days** after receipt of payment from Port or a contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-Day period that payment is due under ORS 279C.580(3) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-Day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is **thirty (30) days** after the date when payment was received from Port or from the Contractor, but the rate of interest shall not exceed thirty (30) percent. The amount of interest may not be waived.
- If the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract shall contain a similar clause.

Pursuant to ORS 279C.580, Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purpose of performing a construction contract:

- (a) A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within **ten (10) days** out of such amounts as are paid to the Contractor by Port under the Contract;
- (b) An interest penalty clause that obligates the Contractor if payment is not made within **thirty (30) days** after receipt of payment from Port, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (a) of this subsection. Contractor or first-tier Subcontractor shall not be obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor did not receive payment from Port or Contractor when payment was due. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and shall be computed at the rate specified in ORS 279C.515(2).
- (c) A clause which requires each of Contractor's Subcontractor's to include, in each of their contracts with lower-tier Subcontractors or suppliers, provisions to the effect that the first-tier Subcontractor shall pay its lower-tier Subcontractors and suppliers in accordance with the provisions of subsections (a) and (b), above and requiring each of their Subcontractors and suppliers to include such clauses in their subcontracts and supply contracts.

All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

#### **PAYMENT FOR MEDICAL CARE**

Pursuant to ORS 279C.530, and as a condition to Port's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such service and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

#### **HOURS OF LABOR**

As a condition to Port's performance hereunder, Contractor shall comply with ORS 279C.520, as amended from time to time and incorporated herein by this reference. Contractor shall give a written schedule to employees showing the number of hours per day and days per week the employee may be required to work.



Pursuant to ORS 279C.520 and as a condition to Port's performance hereunder, no person shall be employed to perform Work under this Contract for more than **ten (10) hours in any day of forty (40) in any one week**, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

- (a) For all overtime in excess of **eight (8) hours a day or forty (40) hours in any one week** when the work week is five consecutive days, Monday through Friday, or
- (b) For all overtime in excess of **ten (10) hours a day or forty hours (40) in any one week** when the work week is four consecutive days Monday through Friday; and
- (c) For all Work performed on Saturday and on any legal holidays specified in ORS 279C.540.

This section will not apply to Contractor's Work under this Contract if Contractor is currently a party to a collective bargaining agreement with any labor organization.

This section shall not excuse Contractor from completion of the Work within the time required under this Contract.

## **SECTION D** Changes in Work

### **CHANGES IN WORK**

The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Port's Authorized Representative, and then only in a manner consistent with the Change Order provisions of this conditions and after any necessary approvals required by public contracting laws have been obtained. Otherwise, a formal contract amendment is required, which shall not be effective until its execution by the parties to this Contract and all approvals required by public contracting laws have been obtained.

It is mutually agreed that changes in Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction. Within the general scope of this Contract, the Port's Authorized Representative may at any time, without notice to sureties and without impairing the Contract, require changes consistent with this section. All Change Order Work shall be executed under the conditions of the Contract Document. Such changes may include, but are not limited to:

- (a) Modifications of specifications and design.
- (b) Increases or decreases in quantities.
- (c) Increases or decreases to the amount of Work.
- (d) Addition or elimination of any Work item.
- (e) Changes in the duration of the project.
- (f) Acceleration or delay in performance of Work.
- (g) Deductive changes.

Deductive changes are those made that reduce the scope of the Work, and shall be made by mutual agreement whenever feasible. In cases of suspension or partial termination under section I, "*Termination or Suspension*" to follow, Port reserves the right to unilaterally impose a deductive change and to self-perform such Work, for which the provisions of "Port's Right to Do Work" shall then apply.

Adjustments in compensation shall be made under the conditions following, in which costs for deductive changes shall be based upon Direct Costs adjustments together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Port.

The Port and Contractor agree that Change Order Work shall be administered and compensated according to the following:

- (a) Unit pricing may be utilized at the Port's option when unit prices or solicitation alternatives were provided that established the cost for additional Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the additional work.
- (b) If the Port elects not to utilize the unit pricing, or if in the event that unit pricing is not available or appropriate, fixed pricing may be used for Change Work Order. In fixed pricing

the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. The mark-ups set forth following shall be utilized by the parties as a guide in establishing fixed pricing, and will not be exceeded by Port without adequate justification. Cost and price data relating to Change Orders shall be supplied by Contractor to Port upon request, but Port shall be under no obligation to make such requests.

- (c) In the event that unit pricing and fixed pricing are not utilized, then the Change Order Work shall be performed on a cost reimbursement basis for Direct Costs. Such work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. In addition, the following mark-ups shall be added to the Contractor's or Subcontractor's Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the Contractor's or Subcontractor's own forces:

- On labor .....15%
- On Equipment..10%
- On Materials.....10%

When Change Order Work is invoiced by an authorized subcontractor at any level, each ascending tier Subcontractor or Contractor will be allowed a supplemental mark-up on each piece of subcontract Work covered by such change Order as follows:

\$0.00 - \$5,000.00	10%, and then
over \$5,000.00	5%

Payments made to Contractor shall be complete compensation for Overhead, profit, and all costs that were incurred by the Contractor or by other forces furnished by the Contractor, including Subcontractors, for Change Order Work. Port may establish a maximum cost for Change Order Work under this section which shall not be exceeded for reimbursement without additional written authorization from Port. Contractor shall not be required to complete such Change Order Work without additional authorization.

Any necessary adjustments of Contract Time that may be required as a result of a Change Order must be agreed upon by the parties before the start of the Change Order Work unless Port's Authorized Representative authorizes Contractor to start the work before agreement on Contract Time adjustment. Contractor shall submit any request for additional compensation and additional contract time as soon as possible but no later than **thirty (30) Days** after receipt of the Change Order. If not received within the time limit, Contractor's requests pertaining to that Change Order are barred. The thirty day time limit applies to claims of Subcontractors, suppliers, or manufacturers that may be affected by the Change Order.

If Port's Authorized Representative denies the Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a claim under the Claims Review Process described hereafter in this Section D.

No request or claim by the Contractor for additional cost or an extension of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Contractor agrees to submit its final payment application within **ninety (90) days** after Substantial Completion, unless Port grants a written extension. Contractor shall not delay final payment application for any reason.

**DELAYS**

Delays in construction include "Avoidable Delays", which are defined in the following section, and "Unavoidable Delays", which are defined in the one after. Found in this section are the effects of Avoidable Delays and Unavoidable Delays.

Avoidable Delays include any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that:

- (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.

- (b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of neither other parts of the Work nor the completion of the whole Work within the Contract Time.
- (c) Do not impact activities on the accepted critical path schedule.
- (d) Are associated with the reasonable interference of other contractors employed by the Port that do not necessarily prevent the completion of the whole Work within the Contract Time.

Unavoidable Delays include delays other than Avoidable delays that are:

- (a) Caused by any actions of the Port, Port's Authorized Representative, or any other employee or agent of the Port, or by separate contractor employed by the Port.
- (b) Caused by any site conditions which differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be inherent to the construction activities defined in the Contract Documents. The Contractor shall notify the Port's Authorized Representative immediately of differing site conditions before the area has been disturbed. The Port's Authorized Representative will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular contract. If Contractor and the Port's Authorized Representative agree that a differing site condition exists, any additional compensation or additional Contract Time will be determined based on the process set forth in previous sections for Change Order Work. If the Port's Authorized Representative disagrees that a differing site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under the *Claims Review Process*. (following section)
- (c) Caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (d) Caused by adverse weather conditions. Any adverse weather conditions must be substantiated by documentary evidence that weather conditions were abnormal for the specific time period claimed, could not have been anticipated by the Contractor, and adversely impacted the project in a manner that could not be avoided by rescheduling the Work or by implementing measures to protect against the weather so that the Work could proceed. A rain, windstorm, high water, or other natural phenomenon for the specific locality of the Work, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Work, shall not be construed as abnormal. The parties agree that rainfall greater than the following levels cannot be reasonably anticipated:
  - a. Daily rainfall equal to, or greater than, 0.50 inch during a month when the monthly rainfall exceeds the normal monthly average by twenty-five percent (25%) or more.
  - b. Daily rainfall equal to, or greater than, 0.75 inch at any time.

The Office of the Environmental Data Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce nearest the project site shall be considered the official agency of record for weather information.

Except as otherwise provided in ORS 279C.315, Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.

In the event of Unavoidable Delays, based on principles of equitable adjustment, Contractor may be entitled to the following:

- (a) Contractor may be entitled to additional compensation or additional Contract Time, or both, for Unavoidable Delays described earlier in section.
- (b) Contractor may be entitled to additional Contract Time for Unavoidable Delays described in previous section.

In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this section for Unavoidable Delays, other than requests for additional compensation or additional Contract Time for differing site conditions for which a review process is established under previous section, Contractor shall submit a written notification of the delay to the Port's Authorized Representative within **two (2) days** of the occurrence of the cause of the delay. This

written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Contract Time or the additional compensation, or both, as applicable, resulting from the delay. Within **seven (7) days** after the cause of the delay has been mitigated, or in no case more than **thirty (30) days** after the initial written notification, the Contractor shall submit to the Port's Authorized Representative, a complete and detailed request for additional compensation or additional Contract Time, or both, as applicable, resulting from the delay. If the Port's Authorized Representative denies Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a Claim under the following section, *Claims Review Process*.

If Contractor does not timely submit the notices required under this section, then unless otherwise prohibited by law, Contractor's Claim shall be barred.

### **CLAIMS REVIEW PROCESS**

All Contractor Claims shall be referred to the Port's Authorized Representative for review. Contractor's Claims, including Claims for additional compensation or additional Contract Time, shall be submitted in writing by Contractor to the Port's Authorized Representative within **five (5) days** after a denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these General Conditions. Within **thirty (30) days** after the initial Claim, Contractor shall submit to the Port's Authorized Representative, a complete and detailed description of the Claim (the "Detailed Notice") that includes all information required by the following section. Unless the Claim is made in accordance with these time requirements, it shall be waived.

The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Contract Time extension requested for the Claim. If the Claim involves Work to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Port's Authorized Representative. The Port's Authorized Representative and the Port will not consider direct claims from Subcontractors, suppliers, manufacturers, or others not a party to this Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Port.

The Port's Authorized Representative will review all claims and take one or more of the following preliminary actions within **ten (10) days** of receipt of the Detailed Notice of a Claim: (1) request additional supporting information from the Contractor; (2) inform the Contractor and Port in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part and identify the reasons for rejection; (4) based on principles of equitable adjustment, recommend approval of all or part of the Claim; or (5) propose an alternate resolution.

The Port's Authorized Representative's decision shall be final and binding on the Contractor unless appealed by written notice to the Port within **fifteen (15) days** of receipt of the decision. The Contractor must present written documentation supporting the Claim within **fifteen (15) days** of the notice of appeal. After receiving the appeal documentation, the Port shall review the materials and render a decision within **thirty (30) days** after receiving the appeal documents.

The decision of the Port shall be final and binding unless the Contractor delivers to the Port its requests for mediation, which shall be a non-binding process, within **fifteen (15) days** of the date of the Port's decision. The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within **sixty (60) days** of the commencement of the mediation through the mediation process set forth herein.

In the event that a lawsuit must be filed within this **sixty (60) day** period in order to preserve a cause of action, the parties agree that notwithstanding the filing, they shall proceed diligently with the mediation to its conclusion prior to actively prosecuting the lawsuit, and shall seek from the Court in

which the lawsuit is pending such stays or extensions, including the filing of an answer, as may be necessary to facilitate the mediation process. Further, in the event settlements are reached on any issues through the mediation, the parties agree to promptly submit the appropriate motions and orders documenting the settlement to the Court for its signature and filing.

The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Port and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Port's mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

Unless otherwise directed by Port's Authorized Representative, Contractor shall proceed with the Work while any Claim of Contractor is pending, including a Claim for additional compensation or additional Contract Time resulting from Change Order Work. Regardless of the review period or the final decision of the Port's Authorized Representative, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease Work without a written stop work order from the Port or Port's Authorized Representative.

## **SECTION E**

### Payments

#### **SCHEDULE OF VALUES**

The contractor shall submit, at least **ten (10) days** prior to submission of its first application for progress payment, a schedule of values for the contracted Work. This schedule will provide a breakdown of values for the contracted Work and will be the basis for progress payments. The breakdown will demonstrate reasonable, identifiable, and measurable components of the Work. Unless objected to by the Port's Authorized Representative, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Port's Authorized Representative, Contractor shall revise the schedule of values and resubmit the same for approval of Port's Authorized Representative.

#### **APPLICATIONS FOR PAYMENT**

Port shall make progress payments on the Contract monthly as Work progresses. Payments shall be based upon estimates of Work completed and the Schedule of Values. The Port's Authorized Representative shall approve all payments. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Port shall pay to Contractor interest on the progress payment, not including retainage, due the Contractor. The interest shall commence thirty (30) days after the receipt of invoice from the Contractor or **fifteen (15) days** after the payment is approved by the Port's Authorized Representative, whichever is the earlier date. The rate of interest shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is **thirty (30) days** after receipt of the application for payment from the Contract or **fifteen (15) days** after the payment is approved by the Port, whichever is the earlier date, but the rate of interest shall not exceed thirty percent (30%). Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Port shall so notify the Contractor within **fifteen (15) days** stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within **seven (7) days** of being notified by the Port, shall not cause a payment to be made later than specified in this section unless interest is also paid. Accrual of interest will be postponed when payment on the principal is delayed because of disagreement between the Port and the Contractor.

Contractor shall submit to the Port's Authorized Representative, an application for each payment and, if required, receipts or other vouchers showing payments for materials and labor, including payments to Subcontractors. Contractor shall include, in its application for payment, a schedule of the percentages of the various parts of the Work completed, based on the Schedule of Values which shall aggregate to the payment application total, and shall include, on the face of each copy thereof, a certificate in substantially the following form:

"I, the undersigned, hereby certify that the above bill is true and correct, and the payment therefore, has not been received."

Signed:

Generally, applications for payment will be accepted only for materials that have been installed. Under special conditions, applications for payment for stored materials will be accepted at Port's sole discretion. Such a payment, if made, will be subject to the following conditions:

- (a) The request for stored material shall be submitted at least **thirty (30) days** in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.
- (b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.
- (c) The material shall be stored in a bonded warehouse and Port's Authorized Representative shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.
- (d) The Contractor shall name the Port as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Port.
- (e) Payments shall be made for materials only. The submitted amount of the application for payment shall be reduced by the cost of transportation and for the cost of an inspector to check the delivery at out-of-town storage sites. The cost of said inspection shall be borne solely by the Contractor.
- (f) Within **sixty (60) days** of the application for payment, the Contractor shall submit evidence of payment covering the material stored.
- (g) Payment for stored materials shall in no way indicate acceptance of the materials or waive any rights under this Contract for the rejection of the Work or materials not in conformance with the Contract Documents.
- (h) All required documentation must be submitted with the respective application for payment.

The Port reserves the right to withhold all or part of a payment, or may nullify in whole or part any payment previously made, to such extent as may be necessary in the Port's opinion to protect the Port from loss because of:

- (a) Work that is defective and not remedied, or that has been demonstrated or identified as failing to conform with the Contract Documents,
- (b) Third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Port is provided by the Contractor;
- (c) Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Port may issue checks made payable jointly to Port and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under previous sections.
- (d) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
- (e) Damage to the Port or another contractor;
- (f) Reasonable evidence that the Work will not be completed within the Contract Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

- (g) Failure to carry out the Work in accordance with the Contract Documents; or
- (h) Assessment of liquidated damages, when withholding is made for offset purposes.

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

- (a) Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in section, *Retainage*. Pending final determination of cost to the Port of changes in the Work, amounts not in the dispute may be included even though the Contract Price has not yet been adjusted by Change Order.
- (b) Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Port pursuant to previous section, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section, *Retainage*.
- (c) Subtract the aggregate of previous payments made by the Port; and
- (d) Subtract any amounts for which the Port's Authorized Representative has withheld or nullified payment as provided in the Contract Documents.

Contractor's applications for payment may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier.

The Contractor warrants to Port that title to all Work covered by an application for payment will pass to the Port no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Work for which payments are received from the Port shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

If Contractor disputes any determination by Port's Authorized Representative with regard to any application for payment, Contractor nevertheless shall continue to prosecute expeditiously the Work. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.

**PAYROLL CERTIFICATION REQUIREMENT**

Payroll certification is required before payments are made on the Contract. Refer back to section, *Payroll Certification: Additional Retainage; Fee Requirements* for this information.

**DUAL PAYMENT SOURCES**

Contractor shall not be compensated for Work performed under this Contract from any state agency other than the agency that is a party to this Contract.

**RETAINAGE**

Retainage shall be withheld and released in accordance with ORS 279C.550 to 279C.580:

Port may reserve as retainage from any progress payment an amount not to exceed five percent (5%) of the payment. As Work progresses, Port may reduce the amount of the retainage and may eliminate retainage on any remaining monthly Contract payments after fifty percent (50%) of the Work under the Contract is completed if, in the Port's opinion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is ninety-seven- and one-half percent (97.5%) completed the Port may, at its discretion and without application by the Contractor, reduce the retained amount to one hundred percent (100%) of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Port shall respond in writing within a reasonable time.

In accordance with the provisions of ORS 279C.560 and any applicable administrative rules, Contractor may request in writing:

- (a) to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds and securities of equal value with Port or in a custodial account or other mutually-agreed account satisfactory to Port, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Port;
- (b) *that retainage be deposited in an interest-bearing account, established through the State Treasurer for state agencies, in a bank, savings banks, trust company or savings association for the benefit of Port, with earnings from such account accruing to the Contractor; or*
- (c) that the Port allow Contractor to deposit a surety bond for the benefit of Port, in a form acceptable to Port, in lieu of all or a portion of funds retained or to be retained. Such bonds and any proceeds therefrom shall be made priority as set forth for retainage under ORS 279C.550 to ORS 279C.625.

Where the Port has accepted the Contractor's election of option (a) or (b), Port may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Port has agreed to Contractor's request for option (c), Contractor shall accept like bonds from Subcontractors and suppliers on the project from which Contractor has required retainages.

The retainage held by Port shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Port shall pay to Contractor interest at the rate of one and one-half percent (1.5%) per month on the final payment due Contractor, interest to commence **thirty (30) days** after the Work under the Contract has been completed and accepted and to run until the date Contractor shall notify Port in writing when the Contractor considers the Work complete and Port shall, within fifteen **(15) days** after receiving the written notice, either accept the Work or notify the contractor of Work yet to be performed on the contract. If Port does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by the subsection shall commence to run **thirty (30) days** after the end of the **fifteen (15) day** period.

In accordance with the provisions of ORS 279C.560, Port shall reduce the amount of the retainage if the Contractor notifies the controller of the Port that the Contractor has deposited in an escrow account with a bank or trust company, in a manner authorized by the Port's Authorized Representative, bonds and securities of equal value of a kind approved by the Port's Authorized Representative.

Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent (5%) of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection, *Retainage* as apply to Port's retainage from any progress payment due to Contractor.

As provided in subsections under section *Payroll Certification: Additional Retainage; Fee Requirements*, additional retainage in the amount of twenty-five percent (25%) of amounts earned shall be withheld and released in accordance with ORS 279C.845(7) when the Contractor fails to file certified statements as required by the first subsection of section, *Payroll Certification: Additional Retainage; Fee Requirements*.

### **FINAL PAYMENT**

Upon completion of all the Work under this Contract, the Contractor shall notify the Port's Authorized Representative, in writing, that Contractor has completed Contractor's part of the Contract and shall request final payment. Upon receipt of such notice the Port's Authorized Representative will inspect the Work, and if acceptable, submit to the Port a recommendation as to acceptance of the completed Work and as to the final estimate of the amount due the Contractor. If the Work is not acceptable, Port will notify Contractor within **fifteen (15) days** of Contractor's request for final payment. Upon approval of this final estimate by the Port and approval of this final estimate by the Port and compliance by the Contractor with provisions found in the Section titled, *Contract Close Out. 3 Affidavit/Release of liens and claims*, and other provisions as may be applicable; the Port shall pay to the Contractor all monies due under the provisions of these Contract Documents.

*Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Port's Authorized Representative (1) a notarized affidavit/release of liens and claims in a form satisfactory to Port that states that payrolls, bills for materials and equipment, and other*



*indebtedness connected with the Work for which the Port or the Port's property might be responsible or encumbered (less amounts withheld by Port) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least **thirty (30) Days** prior written notice has been given to the Port, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Port, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Port. If a Subcontractor refuses to furnish a release or waiver required by the Port, the Contractor may furnish a bond satisfactory to the Port to indemnify the Port against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Port all money that the Port may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.*

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

## **SECTION F**

### Job Site Conditions

#### **USE OF PREMISES**

Contractor shall confine equipment, storage of materials and operation of Work to the limits indicated by Contract Documents, law, ordinances, permits or directions of the Port's Authorized Representative. Contractor shall follow the Port's Authorized Representative's instructions regarding use of premises, if any.

#### **PROTECTION OF WORKERS, PROPERTY, AND THE PUBLIC**

Contractor shall maintain continuous and adequate protection of all of the Work from damage, and shall protect the Port's Authorized Representative, Port's workers and property from injury or loss arising in connection with this Contract. Contractor shall remedy acceptably to the Port, any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Port. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.

Contractor shall take all necessary precautions for the safety of all personnel on the job site, and shall comply with the Contract Documents and all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Work site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Port's Authorized Representative. The Port's Authorized Representative has no responsibility for Work site safety. Work site safety is the responsibility of the Contractor.

Contractor shall not enter upon private property without first obtaining permission from the property Port or its duly Authorized Representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and Port and make, or arrange to make, full restitution. Contractor shall report, immediately in writing, to the Port's Authorized Representative, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.

Contractor is responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, and materials on the site.

Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials will be conducted so no release will occur that may pollute or become hazardous.

In an emergency affecting the safety of life or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Port's Authorized Representative, shall act reasonably to prevent threatened loss or injury, and shall so act, without appear, if instructed by the Port's Authorized Representative. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with the Section titled *Changes in the Work*.

Contractor shall, at its sole expense, provide all traffic control signage, barriers, and flaggers at no additional cost to Owner.

### **CUTTING AND PATCHING**

Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other Contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.

Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

### **CLEANING UP**

From time to time, as may be ordered by the Port, the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. If Contractor fails to do so within **twenty-four (24) hours** after notification by the Port, the work may be done by others and the cost charged to the Contractor and deducted from payment due to the Contractor.

### **DISPOSAL OF SURPLUS MATERIALS**

No waste site has been provided by Owner for the disposal of excess materials and debris. Debris shall be taken by Contractor to a disposal site approved by Owner. Contractor shall keep site clean, safe and free of debris. Contractor shall dispose of waste materials in an Owner-approved location.

### **ENVIRONMENTAL CONTAMINATION**

Contractor will be held responsible for and shall indemnify, defend (with counsel of Port's choice) and hold harmless Port from and against any costs, expenses, damages, claims, and causes action, (including attorney fees), or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation and handling during the performance of the Contract which occur as a result of, or are contributed by, the negligence or actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section shall limit Contractor's responsibility for obtaining insurance coverage required under section titled *Insurance* of these General Conditions, and Contractor shall take no action that would void or impair such coverages.

Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Port and be performed by properly qualified personnel.

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

- (a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all applicable federal, state or local statutes, rules or ordinances;
  - i. Contractor must have in date spill response kit on the dock or work vessel and

- assessable at all times.
- (b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Work site; and
  - (c) promptly clean up, without cost to the Port, such spills, releases, discharges, or leaks to the Port's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances.

Contractor shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR Part 302, Table 302.4 for hazardous substances and in OAR Chapter 340 Division 108 for all products addressed therein. Upon discovery, regardless of quantity, Contractor must telephonically report all releases to the Port. A written follow-up report shall be submitted to the Port **within forty-eight (48) hours of the telephonic report**. Such written report shall contain, as a minimum:

- (a) Description of items released (identity, quantity, manifest no., and all other documentation required by law.
- (b) Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.
- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.
- (e) Summary of communications about the release Contractor has had with members of the press or State officials other than Port.
- (f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- (g) Personnel injuries, if any, resulting from, or aggravated by, the release.

#### **ENVIRONMENTAL CLEAN-UP**

Unless disposition of environmental pollution is specifically a part of this Contract, or was caused by the Contractor (reference section titled *Environmental Contamination*), Contractor shall immediately notify Port of any hazardous substance(s) which Contractor discovers or encounters during performance of the Work required by this Contract. "Hazardous Substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl (PCB), or petroleum, and any substances, materials or wastes regulated in 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Port of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the project where a hazardous substance(s) has been discovered or encountered if continued to work in such area would present a risk or danger to the health or well-being of Contractor's or any Subcontractor's workforce.

Upon being notified by Contractor of the presence of hazardous substance(s) on the project site, Port shall arrange for the proper disposition of such hazardous substance(s).

#### **FORCE MAJEURE**

A party to this Contract shall not be held responsible for delay or default due to Force Majeure acts, events, or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. The Port may terminate this Contract upon written notice after determining that delay or default caused by Force Majeure acts, events or occurrences will reasonably prevent successful performance of the Contract.

### **SECTION G**

#### **Indemnity, Bonding, and Insurance**

#### **RESPONSIBILITY FOR DAMAGES/INDEMNITY**

Contractor shall be responsible for all damages to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from the carrying out of Work to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors,

personnel, or agents.

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the PORT, Port's Authorized Agent, its properties, officers, employees, and Architect/Engineer Consultants from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever which arise out of, result from or are related to (a) any damage, injury, loss, expense, inconvenience or delay described here, (b) any accident or occurrence which happens or is alleged to have happened in or about the project site or any place where the Work is being performed, or in the vicinity of either at any time prior to the time the Work is fully completed, (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of agreement, representation or warranty of the Contractor contained in the Contract Document or any subcontract, (d) the negligent acts or omissions of the Contractor, a subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140) and (e) any lien filed upon the project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or persons described in this section.

#### **PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND**

When the contract price is \$100,000 or more (\$50,000 or more in the case of Contracts for highways, bridges and other transportation projects) the Contractor shall furnish and maintain in effect at all times during the Contract Period, a performance bond in a sum equal to the Contract Price, and a separate payment bond also in a sum equal to the Contract Price. The bonds may be required if the Contract Price is less than the above thresholds, if required by the Contract Documents.

Before starting Work, the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon laws 2005, chapter 360, and OAR 839-025-0015, unless otherwise exempt from those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Contractors Construction Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting the Subcontractor to start Work.

#### **INSURANCE**

**Worker's Compensation:** All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers Compensation coverage, unless such employers are exempt under ORS 656.126. This shall include Employer's Liability Insurance with coverage limits of not less than \$100,000 for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or Subcontractors.

**Builder's Risk:** During the term of this Contract, for new construction the Contractor shall maintain in force, at its own expense, Builder's Risk Insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of the Contract. Such insurance shall be maintained until the Owner has occupied the facility.

**Commercial General Liability Insurance:** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the Port. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Contract (to the extent contractual liability coverage for the indemnity is available in the marketplace), and shall be issued on an occurrence basis. Combined single limit per occurrence shall not be less than \$1,000,000 for each job site or location. Each aggregate limit shall not be less than \$1,000,000.

**Automobile Liability:** Contractor shall obtain, at Contractor's expense, and keep in effect during the

term of this Contract, Automobile Liability Insurance owned, non-owned and/or hired vehicles, as applicable. The coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent.

Tail Coverage: If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 24 months. Contractor will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability for twenty-four (24) months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. This will be a condition of final acceptance.

Additional Insured: The liability Insurance coverage, except for the Professional Liability if included, required for this Contract shall include the Port, officers, employees, and Bell Design Company as Additional Insureds but only with respect to the Contractor's activities to be performed under this Contract.

There shall be no cancellation, material change, potential exhaustion coverages without thirty (30) Days' written notice from the Contractor or its insurer(s) to the Port.

As evidence of coverage, Contractor shall furnish a certificate of insurance to Port prior to Issuance of a Notice to Proceed. The certificate will specify all of the parties who are Additional Insureds or Loss Payees. Insurance coverages required under this Contract shall be obtained from insurance companies or entities acceptable to the Port that are allowed to provide such insurance under Oregon law. The certificate will also specify that there shall be no cancellation, material change, potential exhaustion of aggregate limits or intent to not renew insurance coverages without thirty (30) Days' written notice from the insurer(s) to Port. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder. Any deductible, self-insured retention and/or self-insurance in excess of \$50,000 shall be approved by the Port in writing prior to issuance of a Notice to Proceed and is subject to Port's approval.

Insurance coverages required under this Contract shall be obtained from insurance companies or entities acceptable to the Port that are allowed to provide such insurance under Oregon law.

**Jones Act: The contractor must be aware of the requirements of this act and have the necessary maritime insurance in place.**

## **SECTION H**

### Schedule of Work

#### **CONTRACT PERIOD**

Time is of the essence on this contract. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein. Contractor shall commence work within ten (10) days of Notice to Proceed, unless otherwise directed.

Unless specifically extended by Change Order, all Work shall be complete by the date contained in the Contract Documents.

The Port will not waive any rights under the Contract by permitting the Contractor to continue or complete the Work or any part of it after the date described above.

#### **SCHEDULE**

Contractor shall provide, by or before the pre-construction conference, a detailed schedule for review and acceptance by the Port. The submitted schedule must illustrate Work by significant project components, significant labor trades and long lead times. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. Included within the schedule are the following: Notice to

Proceed, Substantial Completion, and Final Completion. Schedules will be updated monthly and submitted with the monthly pay application. Acceptance of the schedule by the Port does not constitute agreement by the Port, as to the Contractor's sequencing, means, methods or allocated Contract Time. In no case shall the Contractor make a request for additional compensation for delays if the Work is completed within the Contract Time but after the Contractor's scheduled completion.

### **WORKING DAYS**

Contractor shall complete all physical Contract Work within the number of "working days" stated in the Contract Provisions or as extended by Owner. Every day will be counted as a "working day" unless it is a nonworking day or an Owner-determined unworkable day. A nonworking day is defined as a Saturday, a Sunday, a day on which the Contract specifically suspends Work, or one of these Owner holidays: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

An unworkable day is defined as a half or whole day Owner declares to be unworkable because of weather or conditions caused by the weather that prevents satisfactory and timely performance of the Work shown on the critical path of the Contractor's approved progress schedule. Other conditions beyond the control of the Contractor may qualify for an extension of time.

Each working day shall be charged to the Contract as it occurs, until the Contract Work is physically complete. If Substantial Completion has been granted and all the authorized working days have been used, charging of working days shall cease. Each week the Owner will provide the Contractor a statement that shows the number of working days: (1) charged to the Contract the week before; (2) specified for the Physical Completion of the Contract; and (3) remaining for the Physical Completion of the Contract. The statement will also show the nonworking days and any half or whole day the Owner declares as unworkable. Within **10-calendar days** after the date of each statement, the Contractor shall file a written protest of any alleged discrepancies in it. To be considered by the Owner, the protest shall be in sufficient detail to enable the Owner to ascertain the basis and amount of time disputed. By not filing such detailed protest in that period, the Contractor shall be deemed as having accepted the statement as correct.

Owner will give the Contractor written notice of the Physical Completion Date for all Work the Contract requires. That date shall constitute the Physical Completion Date of the Contract, but shall not imply Owner acceptance of the Work or the Contract.

Owner will give Contractor written notice of the Completion Date of the Contract after all the Contractor's obligations under the Contract have been performed by the Contractor. The following events must occur before the Completion Date can be established:

1. The physical Work on the project must be complete; and
2. The Contractor must furnish all documentation required by the Contract and required by law, to allow Owner to process final acceptance of the Contract. The following documents must be received by Owner prior to establishing a Completion Date:
  - a. Certified Payrolls
  - b. Material Acceptance Certification Documents
  - c. Final Contract Voucher Certification

## **SECTION I** Correction of Work

### **BEFORE FINAL PAYMENT**

The Contractor warrants to the Port that materials and equipment furnished under this Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the work will be free from defects, and that the Work will conform to the requirements of the Contract Documents. Work failing to conform to these requirements shall be deemed defective. Contractor shall promptly remove from the premises and replace all defective materials and equipment as determined by the Port's Authorized Representative, whether incorporated in the Work or not. Removal and

replacement shall be without loss or expense to the Port, and Contractor shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than **sixty (60) days** for completion of defective (punch list) work, unless otherwise agreed. At the end of that period, or earlier if requested by the Contractor, the Port shall arrange for inspection of the Work by the Architect/Engineer. Should the work not be complete, and all corrections made, the costs for all subsequent re-inspections shall be borne by the Contractor. If Contractor fails to complete the punch list work within the above time period, without affecting Contractor's obligations, the Port may perform such work and Contractor shall reimburse the Port all costs of the same within **thirty (30) days** after demand.

### **WARRANTY WORK**

Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective work and, unless a longer period is specified, Contractor shall correct all defaults that appear in the work within a period of one year from the date of issuance of the written notice of substantial completion by the Port except for latent defects which will be remedied by the Contractor at any time they become apparent.

The Port shall give the Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Port's demand. If Contractor fails to complete the warranty work within such period as Port determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, without affecting Contractor's obligations, Port may perform such work and Contractor shall reimburse Port all costs of the same within **thirty (30) days** after demand.

This provision does not negate guarantees or warranties for periods longer than one year including without limitations such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.

In addition to Contractor's warranty, manufacturer's warranties shall pass to the Port and shall not take effect until affected work has been accepted in writing by the Port's Authorized Representative.

The one-year (1) period for correction of Work shall be extended with respect to portions of Work performed after substantial completion by the period of time between substantial completion and the performance of the work, and shall be extended by corrective Work performed by the Contractor pursuant to this section, as to work corrected.

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

## **Section J**

### **Suspension or Termination of the Work**

#### **PORT'S RIGHT TO SUSPEND WORK**

The Port and the Port's Authorized Representative have the authority to suspend portions or all of the Work due to the following causes:

- (a) Failure of the Contractor to correct unsafe conditions;
- (b) Failure of the Contractor to carry out any provision of the Contract;
- (c) Failure of the Contractor to carry out orders;
- (d) Conditions, in the opinion of the Port's Authorized Representative, which are unsuitable for performing the work;
- (e) Time required to investigate differing site conditions;
- (f) Any reason considered to be in the public interest.

The Port shall notify the Contractor and the Contractor's Surety in writing of the effective date and time

of the suspension and shall notify Contractor and its Surety in writing to resume work.

#### **CONTRACTOR'S RESPONSIBILITIES**

During the period of suspension, Contractor is responsible to continue maintenance at the project just as if the work were in progress.

#### **COMPENSATION FOR SUSPENSION**

Depending on the reason for suspension of the Work, the Contractor or the Port may be due compensation from the other party. If the suspension was required due to acts or omissions of the Contractor, the Port may assess the Contractor actual costs of the suspension. If the suspension was caused by acts or omissions of the Port, the Contractor shall be due compensation which shall be defined under "Changes in Work". If the suspension was required through no fault of the Contractor or the Port, neither party owes the other for the impact.

#### **PORT'S RIGHT TO TERMINATE CONTRACT**

The Port without prejudice to any other right or remedy, and after giving Contractor **seven (7) Days** written notice and an opportunity to cure, terminate the Contract in whole or part under the following conditions:

- (a) If Contractor should voluntarily or involuntarily, seek protection under the US Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
- (b) If Contractor should make a general assignment for the benefit of Contractor's creditors;
- (c) If a receiver should be appointed on account of Contractor's insolvency;
- (d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;
- (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Port or Authorized Representative;
- (f) If Contractor is otherwise in material breach of any part of the Contract.

At any time, the above occurs, the Port may exercise all rights and remedies available to Port at law or equity, and in addition, Port may take possession of the premises and all of the materials and appliances and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the work is completed. If the Port's cost of finishing the Work exceeds the unpaid balance of the Contract Price, Contractor shall pay the difference to the Port.

#### **TERMINATION FOR CONVENIENCE**

Port may terminate the Contract in whole or in part whenever Port determines that termination of the Contract is in the best interest of the public.

The Port will provide the Contractor with **seven (7) Days** prior written notice of a termination for public convenience. After such notice, the Contractor shall provide the Port with immediate and peaceful possession of the premises and materials located on and off premises for which the Contractor received progress payment. Compensation for Work terminated by the Port under this provision will be paid according to the terms of "Payment of Work." In no circumstances shall Contractor be entitled to lost profits for Work not performed due to termination.

#### **ACTION UPON TERMINATION**

Upon receiving a notice of termination, and except as otherwise directed by the Port, Contractor shall immediately cease placing further subcontractors or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Work terminated and, with the prior written approval of the Port, settle all outstanding liabilities and



termination settlement proposals arising from the termination of subcontracts and orders.

As directed by the Port, Contractor shall upon termination transfer title and deliver to the Port all record documents, information, and other property that, if Contract had been completed, would have been required to be furnished to the Port.

## **SECTION K** Contract Close Out

### **RECORD DOCUMENTS**

As a condition of final payment, Contractor shall comply with the following: Contractor shall provide to the Port's Authorized Representative, Record Documents ("Record Drawings;" "As Built") of the entire project. Record Documents shall depict the project as constructed and shall reflect every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed. Record Documents shall be provided in an electronic format along with paper copies in 22"x34" dimension.

### **OPERATION AND MAINTENANCE MANUALS**

The O & M Manuals shall contain a complete set of all submittals, all product data as required by the specifications, training information, phone list of consultants, manufactures, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Port's Authorized Representative shall review and return one O & M Manual for any modifications or additions required. Prior to submission of its final pay request, Contractor shall deliver three (3) complete and approved sets of O & M Manuals to the Port's Authorized Representative.

### **AFFIDAVIT/RELEASE OF LIENS AND CLAIMS**

As a condition of final payment, the Contractor shall submit to the Port's Authorized Representative a notarized affidavit/release of liens and claims form, in a form satisfactory to the Port, which states that all subcontractors and suppliers have been paid in full, all disputes with property owners and the Port have been resolved, all obligations on the project have been satisfied, all monetary claims and indebtedness have been paid, and that to the best of the Contractor's knowledge, there are no claims of any kind outstanding against the project. The Contractor shall indemnify, defend (with counsel of Port's choice) and hold harmless the Port from all claims for labor and materials furnished under this Contract.

### **COMPLETION NOTICES**

Contractor shall provide the Port notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Port and the Contractor for security, maintenance, heat, utilities, damage to Work and insurance, and the time within which the Contractor shall finish all items on the punch list accompanying the Certificate. Both completion notices must be signed by the Contractor and the Port to be valid. The Port shall provide the final signature on the notices. The notices shall take effect on the date signed by the Port.

### **TRAINING**

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Port's Authorized Representative, training sessions for all equipment and systems, as required in the individual specifications sections. The O & M Manuals shall be used as a basis for training.

### **EXTRA MATERIALS**

As part of the Work, Contractor shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the specifications, prior to final payment.

**ENVIRONMENTAL CLEANUP**

As part of the Final Completion notice, or as a separate written notice submitted with or before the Final Completion, the Contractor shall notify the Port that all environmental pollution clean-up which was performed as part of this Contract has been disposed of in accordance with all applicable rules, regulations, laws, and statutes of all agencies having jurisdiction over such environmental pollution. The notice shall reaffirm the indemnification given under Section E.

**CERTIFICATE OF OCCUPANCY**

The Contractor shall not be granted Final Completion or receive final payment if the Port has not received an unconditioned certificate of occupancy from the appropriate state and/or local building officials, unless failure to obtain an unconditional certificate of occupancy is due to the fault or neglect of the Port.

**OTHER CONTRACTOR RESPONSIBILITIES**

The Contractor shall be responsible for returning to the Port all items issued during construction such as keys and all other pertinent items. The Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from Contractor to the Port.

**SURVIVAL**

All warranty and indemnification provisions of this Contract, and all of Contractor's other obligations under this contract that are not fully performed by the time of Final Completion or termination, shall survive Final Completion or any termination of the Contract.

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## **SECTION L**

### Legal Relations & Responsibilities

#### **LAWS TO BE OBSERVED**

In compliance with ORS 279C.525, there are federal, state, and local agencies of which the Port has knowledge that have enacted ordinances or regulations relating to environmental pollution and the preservation of natural resources that may affect the performance of the Contract.

**PART 7**

**CONSTRUCTION PLANS  
(BOUND SEPARATELY)**