

North Country Emergency Medical Service

PROPOSAL AND CONTRACT DOCUMENTS

FOR

ITB # 22-01 North Country EMS

STATION 52

HENNEBERY EDDY

PROJECT NO. 20062

**North Country Emergency Medical Service
INVITATION TO BID (ITB) 22-01**

<p><u>Invitation to Bid Information:</u></p> <p>ITB NUMBER: 22-01 ITB TITLE: North Country EMS Station 52 DATE ISSUED March 23, 2022</p> <p>CONTACT PERSON: Shaun Ford EMAIL ADDRESS: s.ford@northcountryems.org PROJECT MANAGER: Camilla Cok</p> <p>BIDS DUE & BID OPENING: May 2, 2022 11:00 a.m.</p>	<p><u>Submit Bids to:</u></p> <p>Procurement Portal: www.northcountryems.org</p> <p>For UPS or FedEx: Attn: Chief Shaun FordNCEMS 300 W. Hoag Yacolt, WA 98675</p> <p>For delivery by the US Postal Service: Attn: Chief Shaun Ford NCEMS PO BOX 189 Yacolt, WA 98675</p>
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SECTION A: INSTRUCTIONS TO BIDDERS

INVITATION TO BID

Notice is hereby given that sealed bids will be received by North Country Emergency Medical Service (NCEMS), for ITB #22-1 Station 52 bids up to the hour of 11:00 a.m., Pacific Local Time **May 2, 2022**, and will publicly open and read aloud at that time on the same day via an online platform.

NCEMS, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises, as defined in 49 CFR part 26, will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin or sex in consideration for an award.

NCEMS is committed to providing equal opportunities to State of Washington certified Minority, Disadvantaged and Women's Business Enterprises in contracting activities. (Section 4 of Chapter 56, Laws of 1975, 1st Ex. Sess., State of Washington).

BACKGROUND

NCEMS is a public Ambulance Service created by an inter-local agreement consisting of Clark County EMS District 1, Cowlitz County EMS District #1, and Town of Yacolt EMS. Ambulance transport in this area was initially provided by the Yacolt Fire Department starting in 1976. In 1986 the I.L.A. took over from the Fire Department and continues to provide ambulance service in NE Clark, SW Cowlitz, and NW Skamania counties. From a service provided by one full time employee plus volunteers we now employ 10 Full Time Paramedics, 3 Full Time EMTs, and 15 Part Time EMTs. NCEMS staffs two ambulances 24/7/365 from two locations, and two more seasonal units in the summer months.

NCEMS is governed by an Administrative Board as outlined in the I.L.A. The Board is comprised of 10 members representing the three I.L.A. signatories plus local stakeholders who represent a specific group outlined in bylaws. The Board's regular meetings are scheduled on the Fourth Thursday of odd months at the Administrative Office located at 300 W. Hoag Avenue. The Board establishes the level of services provided, establishes policies under which the district operates, ensures the district operates within statutory requirements, and appoints the Chief and delegates authority to manage day-to-day operations of the District.

SCHEDULE

These dates are estimates and subject to change by NCEMS.

Event	Date
Questions Due by 5:00pm PST	April 6, 2022
Addendum Issuance by 5:00pm PST	April 18, 2022
Bids Due at 11:00am PST	May 2, 2022
Bid Opening at 11:00am PST	May 2, 2022

SCOPE OF SERVICES

The Work of Project is defined by the Contract Documents and consists of the following: A replacement emergency medical services station located on a 2.8-acre site on Fargher Lake Highway in Washington with on-site septic and well. The existing station will need to remain operational during construction and the new well, septic systems, and site work will need to be phased to accommodate this. Once the new station is complete and ready for occupancy, the existing structures and associated site components will be removed and/or decommissioned. The new approximately 5,000 square foot one-story emergency services building that will include a 2-bay apparatus bay and support space, a living/dayroom space with 3 bunkrooms, a fitness room, and laundry room for the crew. The building will be a wood-framed, type V-B construction, and fully sprinklered with an on-site cistern & fire pump. Site work includes a new well, septic system, and public and crew parking. The building and parking are accessed from the north and southwest entrances.

DELIVERY REQUIREMENTS

Bids shall be delivered by or before 11:00 a.m., Pacific Local Time, on May 2, 2022, at the addresses specified below.

NCEMS will not accept any submittals after that day and time. Bidder accepts all responsibility and risk for method of delivery.

SUBMITTAL INSTRUCTIONS

Base Bid, Alternates, and any Addendum sums are to be submitted to NCEMS on the bid forms provided for this purpose, in a sealed container. The outside of envelope(s) or package(s) shall clearly state the project name, bid number, Bidder's name and return address, and the date and time of the Bid opening. A physical hard copy of the bid plus an electronic version of the bid on a thumb drive must be submitted.

Bidders may submit sealed bids via one of the following options for delivery of the Bid proposal:

Delivery Address:

(Direct, FedEx or UPS)
Chief Shaun Ford
NCEMS
300 W. Hoag
Yacolt, WA 98675

Mailing Address:

(USPS does NOT deliver to NCEMS)
Chief Shaun Ford
NCEMS
PO Box 189
Yacolt, WA 98675

Bids delivered to locations other than as indicated in this document or received after the designated time will not be accepted.

It is the Bidder's responsibility to allow enough time for delivery to occur before the designated Bid due date and time. Please be advised that Bid deliveries requiring signature may not be delivered to Procurement Services in a timely manner as our receiving point is not always staffed and there may be no one available to sign at the time of delivery. Bids delivered to locations other than as indicated above or received after the designated time will not be accepted.

Bids submitted solely via FAX or EMAIL will not be accepted.

Bids will be opened and publicly read at the NCEMS Administration Building, 300 W. Hoag St., Yacolt, WA 98675 at the time and date specified.

No bidder may withdraw his/her bid after the hour set for the opening thereof, unless the award of contract is delayed for a period exceeding forty-five (45) days. If it is determined to be in the best interest of NCEMS, NCEMS reserves the right to request an extension of bid prices during the review process.

NCEMS, at its sole discretion, reserves the right to cancel this invitation or reject any and all bids submitted or to waive any minor formalities if the best interests of NCEMS would be served.

BIDDING DOCUMENTS

Bidding documents may be obtained from the NCEMS website at: www.northcountryems.org. These are available for viewing, downloading, and printing on your own equipment, free of charge.

Bids shall be in accordance with the Plans, Specifications, General Conditions, Special Provisions, and all other contract documents prepared for the above referenced project, on file in the administrative office of NCEMS. Bid results may be obtained within 24 hours after the Public Bid Opening by accessing NCEMS website at: www.northcountryems.org. Bids are to be submitted to NCEMS on the proposal forms provided for this purpose, in a sealed container. **The outside of envelope(s) or package(s) must clearly state the project name, bid number, Bidder's name and return address, and the date and time of the Bid opening. Electronic versions of the bid may be submitted in addition to the physical packet.**

All Bids must be accompanied by a bid deposit in cashier's check, or surety bond in an amount equal to five percent (5%) of the amount of such bid. The Bidder pledges to enter a Contract with the Owner on the terms stated in the Bid. Should the successful bidder fail to enter such Contract and furnish satisfactory performance bond within the time stated in the specifications, the bid deposit may be forfeited to NCEMS.

ADDENDA

All project-specific questions, requests for clarification, and requests for substitutions must be submitted in writing, via email, by April 6, 2022, to s.ford@northcountryems.org. If required, an addendum will be prepared and issued by NCEMS no later than April 18, 2022.

It is the sole responsibility of the Bidder to learn of and obtain any and all issued Addenda. Addenda may be obtained from the NCEMS website at: www.northcountryems.org NCEMS accepts no responsibility or liability and will provide no accommodation to Bidders who fail to check for addenda and as a result, submit a non-responsive Bid submittal.

RESPONSIBILITY CRITERIA

It is the intent of NCEMS to award a contract to the lowest responsive and qualified bidder. In accordance with RCW 39.04.350, before award, the bidder must meet the following bidder responsibility criteria to be considered a responsible bidder.

The bidder may be required to provide NCEMS documentation demonstrating compliance with the criteria.

- 1) Have a current certificate of registration as a contractor in compliance with Chapter 18.27 RCW, **which must have been in effect at the time of bid submittal.**
- 2) **Before award of contract,**
 - A. Have a current Washington Unified Business Identifier (UBI) number.
 - B. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
 - C. If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW.
 - D. If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation.
 - E. Have received training on the requirements related to public works and prevailing wage under Chapter 39.04 RCW and Chapter 39.12 RCW.

Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to

have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

3) **Before award of contract**, if applicable:

- A. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW.
- B. Have a Washington Employment Security Department reference number, as required in Title 50 RCW.
- C. Have a Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW.

4) Supplemental responsible bidder criteria, if applicable.

Pursuant to RCW 39.06.020, the bidder who is awarded the contract must verify responsibility criteria in accordance with RCW 39.04.350 and as listed in 1) – 3) above for each first-tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility listed in 1) – 3) above and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by Chapter 70.87 RCW. This verification requirement, as well as the responsibility criteria, must be included in the project contract and in each subcontract of every tier.

SUPPLEMENTAL BIDDER RESPONSIBILITY CRITERIA

In addition to the mandatory bidder responsibility criteria, the bidder must also meet the following relevant supplemental bidder responsibility criteria applicable to the project. As evidence that a bidder meets the supplemental bidder responsibility criteria, the Apparent Successful Bidder must submit, upon request, the required documentation to NCEMS, within 72 hours of notification. NCEMS reserves the right to request such documentation from other bidders as well.

If NCEMS determines the bidder does not meet the bidder responsibility criteria and is therefore not a responsible bidder, NCEMS shall notify the bidder in writing with the reasons for its determination. If the bidder disagrees with this determination, they may appeal the determination within 24 hours of receipt of NCEMS' determination by presenting additional information to NCEMS. NCEMS will consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, NCEMS will not execute a contract with any other Bidder until two (2) business days after the bidder determined to be not responsible received NCEMS' final written determination as required by RCW 39.04.350(3)(d).

The time deadline for a bidder to appeal a determination that they are not responsible, as indicated here, may be modified by NCEMS, adopting either a standard for all projects or changing it on a project-by-project basis.

- 1. **Federal Debarment** – The bidder shall not currently be debarred or suspended from bidding on Public Works Projects by the Federal government. The bidder shall not be listed as a current debarred or suspended bidder on the U.S. Government's System for

Award Management (SAM) website.

- a. Website: <http://www.sam.gov>.

- 2. **Claims against Retainage and Bonds** – The bidder shall not have a record of excessive claims filed against the retainage or payment bonds for public works projects during the previous three years, that demonstrate a lack of effective management by the bidder of making timely and appropriate payments to its subcontractors, supplies, and workers, unless there are extenuating circumstances acceptable to NCEMS.
- 3. **Experience Modification Rate** – The bidder’s Experience Modification Rate should be at or below
 - 1.0. EMR rates above 1.0 are cause for Determination of Non-Responsibility unless the circumstances raising the rate have been accepted by NCEMS.
- 4. **Apprenticeship Utilization** – The table below reflects the required minimum apprenticeship utilization labor hours. NCEMS encourages Contractors to exceed these minimum utilization hours. These goals must include the labor hours of the prime and any subcontractor's working the project. Before final payment, the Prime Contractor will be required to file an Apprenticeship Verification Form with NCEMS that will identify actual work performed by apprentices. If the Contractor does not meet the minimum established utilization requirement, they will be assessed a penalty of \$100.00 for each unmet apprenticeship labor hour.

Engineer’s Estimate	Required Minimum Utilization Labor Hours
Under \$500,000	N/A
\$500,000 - \$1,500,000	3%
\$1,500,000 - \$3,000,000	4%
\$3,000,000 - \$8,000,000	5%
\$8,000,000 - \$12,000,000	6%
\$12,000,000 and greater	8%

- a. For more information on apprenticeship programs, you can visit the Washington State Department of Labor & Industries website at www.LNI.wa.gov/scs/apprenticeship.
- b. If applicable, and as part of the evaluation of Supplemental Bidder Responsibility Criteria, the Bidder shall submit an Apprenticeship Utilization Plan that demonstrates how the company plans to achieve the Apprenticeship Utilization Requirement
- c. The Plan shall:
 - i. Provide an estimated outcome for utilization of apprentices for the prime contractor and all subcontractors.
 - ii. Provide an estimated total hours and work times that are reasonable to complete the scope of the project.

- iii. Demonstrate how the contractor (and subcontractors) intends to meet or exceed the requirement, including the labor type and approved program(s) from which the labor is obtained.
- iv. Quantify the cost of the apprenticeship utilization on this project.

NOTE: If an individual hired by the contractor as an apprentice subsequently “graduates” from the apprenticeship program, NCEMS will allow the continued counting of apprentice hours if the person was on the job continuously through the period of the required apprenticeship-related work and was classified as an apprentice when that apprentice was initially assigned to the project.

5. **Completion of Similar Projects** - The Bidder shall have successfully completed projects of a similar size and scope as defined below for this project. In evaluating whether the projects were “successfully completed,” the Owner may check owner references for the previous projects and may evaluate the owner’s assessment of the Bidder performance, including but not limited to the following areas:

- Quality control.
- Safety record.
- Timeliness of performance.
- Use of skilled personnel.
- Management of subcontractors.
- Compliance with contract documents.
- Management of submittals process, change orders, and close-out.

RELEVANT PROJECT EXPERIENCE (25 Points): The Bidder shall submit a list of any and all essential public works facilities or fire/EMS stations construction projects of 5,000 square feet or more completed within the previous five (5) years. A general contractor not meeting the size and scope project experience defined below would not meet this supplemental criterion.

To qualify, the relevant projects must have been completed, as determined by substantial completion, or final acceptance of the work. Bidder shall demonstrate that it was the general contractor responsible for managing and coordinating all work. For the purposes of this project, the Owner has determined that “projects of similar size and scope to this project” means projects that have the following characteristics: Essential public facility of 5,000 square feet or more completed in the last five (5) years. In addition, projects of similar scope are defined as government, municipality, utility, school, fire, EMS, or industrial facilities that have successfully been completed.

The information on each of the two (2) or more “projects of a similar size and scope” shall include the following:

- Owner’s name and contact information or the owner’s representative.
- Project Schedules - (preliminary and final project schedules shall be submitted for each example)
- Number of subcontractors employed by the Bidder for the project and scope of work performed by each subcontractor.

- Awarded contract amount.
- Final contract amount.
- A description of the scope of the project and how the project is similar to this project.
- The Bidder's assessment of its performance of each project may include but not be limited to the following:
 - Schedule compliance.
 - Safety record.
 - Quality of performance.
 - Personnel Capacity.
 - Management of subcontractors.
 - Compliance documents; and
 - Management of submittals process and change orders.

REFERENCES (25 Points):

The Bidder shall submit a list of three (3) references including names, addresses, phone numbers, email addresses. As part of the evaluation, the Owner will conduct extensive reference checking of all responding firms.

SECTION B: TERMS AND CONDITIONS

RECIPROCAL PREFERENCE FOR RESIDENT CONTRACTORS

In accordance with RCW 39.04.380 the State of Washington is enforcing a Reciprocal Preference for Resident Contractors. Any public works bid received from a nonresident contractor from a state that provides an in-state percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor.

A nonresident contractor from a state that provides a percentage bid preference means a contractor that:

- a. is from a state that provides a percentage bid preference to its resident contractors bidding on public works contracts.
- b. at the time of bidding on a public works project, does not have a physical office located in Washington.

The state of residence for a nonresident contractor is the state in which the contractor was incorporated or, if not a corporation, the state where the contractor's business entity was formed.

All nonresident contractors will be evaluated for out of state bidder preference. If the state of the nonresident contractor provides an in-state contractor preference, a comparable percentage disadvantage will be applied to their bid prior to contract award.

This section does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280, or any other procurement exempt from competitive bidding.

PREVAILING WAGE REQUIREMENTS

If awarded the project, the contractor and each subcontractor shall have on file current project specific "Statement of Intent to Pay Prevailing Wages" with the Washington State Department of Labor and Industries before payment will be made for work performed. An approved "Affidavit of Wages Paid" form must be filed upon completion of the project before release of retainage.

The State of Washington prevailing wage rates applicable for this public works project, which is located in Clark County, may be found at the following website address of the Department of Labor and Industries: <https://secure.lni.wa.gov/wagelookup/>. Based on the quote submittal deadline for this project, the applicable effective date for prevailing wages for this project is December 1, 2021. For Contracts where award was delayed more than six (6) months after the bids were due, the prevailing wage effect on the date of award shall apply for the duration of the Contract.

RETAINAGE

Payment of the retained percentage shall be withheld, by NCEMS, for a period of 45 days following the completion of all Contract work, as defined by WSDOT Section 1-01.3, and shall be paid the Contractor at the expiration of 60 days per RCW 39.12 and RCW 60.28, in the event no claims, as provided by law, have been filed against such funds; and provided further, that releases or certificates have been obtained from the State Department of Labor and Industries, from the State Department of Revenue, and the Employment Security Department and all other departments and agencies having jurisdiction over the activities of the Contractor.

In the event such claims are filed, the Contractor shall be paid such retained percentages less an amount sufficient to pay any such claims, together with a sum sufficient to defray the cost of foreclosure action and to cover attorney fees as determined by NCEMS.

Every person performing labor or furnishing supplies toward the completion of said improvement of work shall have a lien upon said monies so reserved; provided, that such notice of the lien of such claimant shall be given in the manner provided in RCW 39.08.030 and within the time provided in RCW 60.28 as now existing and in accordance with any amendments that may hereafter be made thereto.

E-VERIFY PROGRAM

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon NCEMS request. Failure by Contractor to comply with this subsection shall be considered a material breach.

REJECTED BIDS

NCEMS will not be responsible for any errors in bids. Bidders will not be allowed to alter bids after the submittal deadline. NCEMS may consider a bid irregular and reject it if any of the Bid Item prices are excessively unbalanced (either above or below the amount of a reasonable Bid) to the potential detriment of NCEMS. Bids submitted must be complete and include pricing for the work to be completed, in whole, per the attached plans and specifications. Qualified bids will be deemed non-responsive and will not be accepted.

NCEMS reserves the right to adjust the scope of this work to match available funds. NCEMS, at its sole discretion, reserves the right to cancel this invitation, reject any or all bids submitted, and to waive any minor formalities if deemed to be in the best interest of NCEMS.

BID AWARD

Once bids have been received and reviewed, staff will prepare a Staff Report to be presented to Administrative Board. Once the Board has formally awarded this contract, an Award email will be sent as evidence of the acceptance of the bid. No other act of NCEMS shall constitute acceptance of a bid.

Bidders may not alter their bid prices after the hour set for the public Bid Opening unless the award of contract is delayed for more than forty-five (45) days. NCEMS reserves the right to request an extension of time for firm bid prices during any such delay to allow for the review process.

SECTION C: SUBMITTAL REQUIREMENTS

SUBMITTAL CHECKLIST

The bidder's attention is especially called to the following items, which must be executed in full as required. This checklist has been prepared and furnished to aid bidder in including all necessary supporting information with their bid. It is not guaranteed to be complete or accurate, and the responsibility for compliance with all bidding requirements remains with the bidder. Items in *bold* shall be submitted with your bid. Failure to do so shall render your bid non-responsive.

- **BID SUBMISSION FORM (Pass/Fail)**
Bids shall be completed and submitted on the bid forms provided.

- **BID ALTERNATE SUBMISSION FORM (Pass/Fail)**
Bid alternates shall be completed and submitted on the alternate bid form provided.

- **ADDENDA ACKNOWLEDGEMENT (Pass/Fail)**
The bidder must sign, where indicated on the Bid Submission Form an acknowledgement of any addenda prior to the bid opening. *Failure to comply with this provision will render the bid non-responsive and therefore void.*

It is the sole responsibility of the Bidder to learn of Addendum, if any. Such information may be obtained from NCEMS' website at: www.northcountryems.org. NCEMS accepts no responsibility or liability and will provide no accommodation to bidders who fail to check for addendums. And submit inadequate or incorrect responses.

- **RELEVANT PROJECT EXPERIENCE (25 Points)**
Bidder must provide a list of relevant project experience. See Section A.5 for required criteria

- **REFERENCES (25 Points)**
 The Bidder shall submit a list of three (3) references including names, addresses, phone numbers, email addresses. As part of the evaluation, the Owner will conduct extensive reference checking of all responding firms.
- **NON-DISCRIMINATION CLAUSE (Pass/Fail)**
 Bidders must provide evidence of compliance as required by RCW 35.22.650. Disadvantaged Business Enterprises (DBE) are encouraged to participate.
- **CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES (Pass/Fail)**
 Bidders are required to submit a statement verifying that within the three-year period immediately preceding the date of the bid solicitation, they have not been determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.
- **LIST OF SUBCONTRACTORS (Pass/Fail)**
 NCEMS has determined that RCW 39.30.060 applies to this contract and requires each bidder to submit, as a part of the bid, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of heating, ventilation and air conditioning, plumbing as described in RCW 18.106, electrical as described in RCW 19.28, metal siding, structural concrete, wood framing, and rebar installation or to name itself for the work. The bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the bidder must indicate which subcontractor will be used for which alternate. The requirement of this section to name the bidder's proposed heating, ventilation and air conditioning, plumbing, electrical subcontractors, structural steel, and rebar installation who will contract directly with the general contractor submitting the bid to the public entity.
- **PROPOSAL FOR INCORPORATING RECYCLED MATERIALS INTO THE PROJECT (Pass/Fail)**
 In compliance with a new law that went into effect January 1, 2016 (SHB 1695), the Bidder shall propose below, the total percent of construction aggregate and concrete materials to be incorporated into the Project that are recycled materials. Calculated percentages must be within the amounts allowed in Section 9-03.21(1)E, Table on Maximum Allowable Percent (By Weight) of Recycled Material, of the Standard Specifications.
- **BID SECURITY FORM (Pass/Fail)**
 The bid bond, or acceptable form is to be executed by the bidder and a surety company licensed to do business in Washington, unless the bid is accompanied by a cashier's check. No such bid bond will be required where a cashier's check is submitted in lieu of a bond. The amount of the bond or cashier's check shall be not less than five percent (5%) of the total amount bid and may be shown in dollars or on a percentage basis. If a surety company form is submitted, please attach the form to the Bid Documents submitted. The submitted bid bond is subject to forfeiture if the successful bidder fails to enter into the contract.

□ **SUPPLEMENTAL BIDDER RESPONSIBILITY CRITERIA**

Additional Supplemental Bidder Responsibility criteria will be required of the Apparent Successful Bidder. Bidder must submit required information to City within 72 hours after receipt of the request by NCEMS. Bidders are not required to submit this information with their Bid.

NOTE: If during the Bidding period, a potential Bidder believes that the Supplemental Bidder Responsibility Criteria will exclude them from bidding, Bidder may request NCEMS to consider modifying the criteria. Such modification, if accepted by NCEMS, will be communicated via the issuance of an addendum to the Bidding documents.

SECTION D: EVALUATION CRITERIA AND PROCESS

1. EVALUATION PROCESS

Bid Submissions are to be submitted to the place and in the manner established in Section A, subsection "Submission Process" and will be reviewed by a Selection Committee established by the Owner. Qualified bidders will be those able to demonstrate, through their submittal, that they have the experience and capability to construct the Project in accordance with the evaluation criteria contained in this RFP established in Section D: Evaluation Criteria & Process. The Selection Committee will meet to evaluate and score the submitted bids and supplemental criteria and produce the final scores and ranking of all submissions received. Based on its evaluation of the submissions, the Selection Committee may, at its option invite up to three (3) of the highest-ranking bidders to an interview to further discuss their submissions and qualifications. The District reserves the right to award contracts based on initial proposal submittals or, at the sole discretion of the District, to conduct interviews with any or all of the Bidders. The Owner reserves the right to make its final selection without conducting an in-person interview. The Bidder with the highest score will be the successful Bidder selected to enter into negotiations with the Owner.

The Owner reserves the right to investigate the qualifications of all Bidders under consideration and to confirm any part of the information furnished by a Bidder, or to require additional evidence of managerial, financial, technical, or other capabilities which are considered necessary for the successful performance of the Work.

2. EVALUATION CRITERIA

- A. General. Bidders will be evaluated and rated based on the Submittal Requirements. Submittal Requirements for the proposal are described in **Section C: Bid Submission Requirements**.
- B. Competitive Bid. The bids will be scored in accordance with the evaluation criteria set forth below.
- C. Evaluation Criteria. A selection committee will consider information provided in the Relative Project Experience, Bid Proposal, and References and will rank the responsible Bidders accordingly.

- a. Relevant Project Experience (maximum 25 points)
 - b. Bid Submission (Including Bid Alternates) (maximum 50 points)
 - c. References (maximum 25 points)
 - d. Optional Interview (maximum 100 points)
- D. Competitive Bid Scoring. The Owner will award a maximum of 50 points to each Bid Proposal as follows:

The lowest responsible Bidder proposed will receive the maximum number of points. Other responsible Bidders will receive a score that is calculated by dividing the most competitive bid by their bids and multiplying the result by the total score available.

Example Outcome with 5 Bidders:

Proposed Bids for Services: \$1,000,000; \$1,500,000; \$3,000,000; \$4,200,000; \$5,100,000.

\$1,000,000 will receive the full 50 points.

Other bidders would receive the following:

\$1,500,000 33.33 points $((\$1,000,000/\$1,500,000) * 50)$
 \$3,000,000 16.66 points $((\$1,000,000/\$3,000,000) * 50)$
 \$4,200,000 11.9 points $((\$1,000,000/\$4,200,000) * 50)$
 \$5,100,000 9.8 points $((\$1,000,000/\$5,100,000) * 50)$

SECTION E: CONTRACT AWARD

The following is to be signed and/or delivered by the awarded contractor to NCEMS within ten (10) days after the award date.

- CONTRACT**
This agreement is to be signed by the successful bidder.
- PERFORMANCE BOND**
This shall be submitted by the successful bidder and a surety company, licensed to do business within the State of Washington on the approved NCEMS form.
- PAYMENT BOND**
This shall be submitted by the successful bidder and a surety company, licensed to do business within the State of Washington on the approved NCEMS form.
- INSURANCE CERTIFICATE**
NCEMS shall be named as an additional named insured on all insurance policies. These policies shall comply with the requirements as stated in the Contract.

CONTRACT # **Supplier Contract #**
BID 21-1 NORTH COUNTRY EMERGENCY MEDICAL SERVICE STATION 52

THIS CONTRACT is entered into by and between NCEMS, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "NCEMS," and **Contractor** hereinafter referred to as "Contractor," whose address is **Contractor's Address, City, State Zip**, hereinafter referred to "Parties."

WHEREAS NCEMS desires to engage the Contractor to provide public work and other related services for NCEMS Station 52. Contractor has agreed to offer its services to perform said work per the NCEMS issued Invitation to Bid (ITB) No. 21-1 and all addenda thereto, Contractor's bid to said ITB, the Project Plans and Special Provisions, and Administrative Board's approval on _____ per Staff Report No. _____; and

WHEREAS, the Contractor has represented by entering into this Contract that it is fully qualified to perform the work to which it will be assigned in a competent and professional manner, and to the standards required by NCEMS.

- 1. STATEMENT OF WORK:** The Contractor hereby agrees to furnish all materials, labor, tools, machinery and implements of every description necessary to complete the work in a professional manner within the time limits stated in this Contract for the construction and installation of the following improvements and will make all necessary arrangements for the obtaining of permits from the United States, State of Washington, and/or any of its agencies as may be necessary to do the work required and covered by this Contract.

This contract provides for the construction of a brand-new Fire Station of approximately 5000SF and associated site work at 15413 NE Fargher Lake HWY Yacolt, WA 98675 and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications.

The contract work shall achieve substantial completion by -----.
Final Completion shall be achieved no later than 30 days following substantial completion.

- 2. EFFECTIVE DATE:** This Contract is effective as of the last signature dated below.
- 3. E-VERIFY PROGRAM:** Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon NCEMS request. Failure by Contractor to comply with this subsection shall be considered a material breach.
- 4. CONTRACTOR RESPONSIBILITIES FOR SUBCONTRACTORS:** The Contractor shall include the language of this section in all tier subcontracts and shall require each of its

subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. The Contractor shall require all subcontractors to comply with all relevant federal, state, and municipal laws, rules, and regulations whatsoever.

At the time of subcontract execution, the Contractor shall verify that all tier subcontractors meet the following bidder responsibility criteria:

- a) Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal.
- b) Have a current Washington Unified Business Identifier (UBI) number.
- c) Have received training on the requirements related to public works and prevailing wage as required by RCW 39.04.350.
- d) Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.
- e) If applicable, have:
 - i. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW.
 - ii. A Washington Employment Security Department reference number, as required in Title 50 RCW.
 - iii. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW.
 - iv. An electrical contractor license, if required by Chapter 19.28 RCW.
 - v. An elevator contractor license, if required by Chapter 70.87 RCW.
- f) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

5. DELINQUENT STATE TAXES: The Contractor shall not owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department of Revenue.

6. COMPENSATION AND SCHEDULE OF PAYMENTS: In consideration of the promises and agreements of the Contractor as set forth herein, and in consideration of the faithful performance and furnishing of the work and materials required by this Contract to the satisfaction of NCEMS, NCEMS agrees to pay to the Contractor in the manner and at the times provided hereinafter and in the Contract Documents, and in accordance with the ordinances of NCEMS and the laws of the State of Washington, the following sum as indicated, which amount does include 7.7% Washington State Sales Tax (if applicable) \$Enter contract amount in numbers.

The amount finally to be paid is, however, variable upon the work actually performed and final payment will be made upon the basis of the amount of work performed and the materials furnished, and at the lump sum or unit prices fixed in the Contractor's Proposal and as modified by any and all approved Change Orders.

7. CONTRACTOR'S INSURANCE: The Contractor agrees to procure insurance coverage as required below:

- a) Insurance. Prior to performing any Work, Contractor shall procure and maintain the insurance required herein with insurance companies rated A-7 or better, by Best's Insurance Guide and Key Ratings, (or, if Best's Insurance Guide and Key Ratings is no longer published, an equivalent rating by another nationally recognized insurance rating agency of similar standing) or other insurance companies of recognized responsibility reasonably satisfactory to Owner, until all obligations of Contractor pursuant to the Contract Documents have been fully discharged or as set forth herein. Contractor must strictly comply with the following insurance requirements which compliance shall be a condition precedent to payment. All insurance required herein of Contractor and its subcontractors shall be primary and non-contributory with any insurance maintained by North Country Emergency Medical Services and all coverages shall waive all rights of subrogation against North Country Emergency Medical Services.
- b) Commercial General Liability Insurance. Contractor shall maintain and cause all of its Subcontractors to maintain standard ISO form commercial general liability insurance on an "occurrence" basis, including coverage for premises/operations explosion, collapse and underground hazards, products/completed operations (which coverage shall remain in effect no less than six (6) years after the date of Final Completion), with limits of no less than One Million US Dollars (\$1,000,000) per occurrence and Two Million US Dollars (\$2,000,000) aggregate. Coverage shall include a Washington Stop Gap Endorsement.
- c) Cross-liability or Severability of Interest Clause. The commercial general liability policies shall also include a cross-liability or severability of interest clause and will not include any cross-suits exclusions without the written approval of North Country Emergency Medical Services.
- d) Commercial General Liability Policies. All of Contractor's and its subcontractors Commercial General Liability policies, including Excess/Umbrella Liability policies, shall include provisions or endorsements naming North Country Emergency Medical Services, its officers, commissioners, agents and employees as additional insureds for both on-going and products, completed operations hazards with the coverage provided to the additional insureds being as broad and with limits equal to those provided to the Named Insured on the policies.
- e) Policy Exclusions. Material policy exclusions which are not standard to the general liability coverage form or are added by manual endorsements or are proposed to be added after the Substantial Completion Date and restrict coverage, shall be approved by owner and require thirty (30) calendar days prior notification to North Country Emergency Medical Services.
- f) Verification of Coverage. Contractor shall require all of its Subcontractors to obtain, maintain and keep in force during the time during which they are involved in performance of the Work coverage in accordance with the insurance requirements set forth in this Agreement; provided, however, the

limits of Subcontractors' Liability Insurance policies specified shall not be less than One Million US Dollars (\$1,000,000) per occurrence and Two Million US Dollars (\$2,000,000) aggregate. Contractor shall deliver to North Country Emergency Medical Services certificates of insurance and endorsements to the policies evidencing compliance with these insurance requirements. In addition, Contractor shall immediately provide complete copies of all policies upon request. Work performed by Subcontractors for Contractor shall not commence until a certificate of insurance and endorsements has been delivered to Contractor and North Country Emergency Medical Services verifying coverages outlined above to be in place and naming Contractor, North Country Emergency Medical Services as additional insureds, with coverage for both on-going and completed operations, with limits equal to those provided to the named insured and with such coverage written on a primary and non-contributory basis with any insurance maintained by North Country Emergency Medical Services. Such coverages shall waive all rights of subrogation against North Country Emergency Medical Services.

- g) Deductibles. Deductibles on Contractor's Insurance in excess of Fifty Thousand US Dollars (\$50,000) shall be subject to review and approval by North Country Emergency Medical Services in its sole discretion.
- h) Automobile Liability Insurance. Contractor shall maintain and cause Subcontractors to maintain automobile liability insurance, including coverage for owned, non-owned and hired automobiles for both bodily injury and property damage and containing appropriate no-fault insurance provisions or other endorsements in accordance with state legal requirements, with a combined single limit of not less than One Million US Dollars (\$1,000,000) per accident. Contractor shall require its and its subcontractors' Automobile Insurers to name North Country Emergency Medical Services as an additional insured on the policies on a primary and non-contributory basis.
- i) Professional Liability Insurance. If the Work includes engineering, architectural, design or other professional services, Contractor shall secure and maintain, or ensure that its Subcontractors secure and maintain, Professional Liability insurance (Errors and Omissions) with a minimum single limit of One Million US Dollars (\$1,000,000) to cover claims arising out of Contractor's professional services hereunder. This policy shall be maintained until three (3) years after completion of Contractor's services and shall have a retroactive date prior to the date that Work began on this Project.
- j) Workers' Compensation, and Employer's Liability Insurance. Contractor shall comply with all Industrial Tax and workers compensation laws of the State of Washington and ensure that its subcontractors comply with these laws. Contractor shall maintain and cause Subcontractor to maintain Employer's Liability with limits of not less than One Million US Dollars (\$1,000,000) per accident, One Million US Dollars (\$1,000,000) for disease, and One Million US Dollars (\$1,000,000) for each employee.
- k) Umbrella Excess Liability Insurance. Contractor shall maintain or cause to be maintained Umbrella Excess Liability Insurance of not less than Five Million US Dollars (\$5,000,000). Such coverage shall be on a per occurrence basis providing follow form coverage over and above that provided by Contractor by the General Liability and Auto policies described above. North Country

Emergency Medical Services shall be named as an additional insured on such coverage for both on-going and completed operations and such coverage shall be maintained for a period of not less than 6 years following Substantial Completion.

- l) Equipment, Supplies and Materials. All equipment supplies and materials (i) belonging to Contractor or to any of its Subcontractors or (ii) used by or on behalf of Contractor or any of its Subcontractors for its performance hereunder which is not intended to become a permanent part of the completed Work shall be brought to and kept at the Project Site at the sole cost, risk and expense of Contractor or such Subcontractor, and Owner shall not be liable for loss or damage thereto. Should such property be insured, said insurers shall waive rights of subrogation against Owner and Financing Parties.
- m) Builder's All-Risk Insurance. From the Commencement Date through the Final Completion Date, Contractor shall always obtain and thereafter during performance of the Work, maintain builder's risk insurance naming the Owner as loss, on an "all-risk basis" on a completed value form with "extended coverage" (including earthquake, flood, collapse, terrorism, sinkhole and subsidence) basis and providing:
 - i. Coverage for the Project, the Project Site, including removal of debris, ensuring the buildings, structures, machinery, equipment, facilities, fixtures and other properties constituting a part of the Project in a minimum aggregate amount not less than full replacement value of the Project; Off-site coverage with a per occurrence limit of Two Million US Dollars (\$2,000,000).
 - ii. Insurance to cover damage to property and other claims arising out of the unloading, lifting, lowering, or other handling of such property at the project site, in an amount to cover materials and equipment to be used by Contractor in the performance of this Agreement.
 - iii. The Owner, Contractor and subcontractors of any tier shall be included as additional insureds under the builder's risk policy.
 - iv. If Contractor requests, the Owner shall provide copies of such Builder's All-Risk Insurance Policies so Contractor may evaluate whether there are any gaps in coverage or insufficient limits related to the builder's risk and rigger's insurance risks for the Work.
- n) Waiver of Subrogation. All policies other than workers compensation shall include a waiver of subrogation if favor of North Country Emergency Medical Services.
- o) Additional Insurance Policies. At Owner's cost, Contractor shall maintain or cause to be maintained such other or additional insurance (as to risks covered, policy amounts, policy provisions or otherwise) which Owner may reasonably require after consultation with its insurance consultants and Contractor's and Owner's insurance representative. Owner, at Owner's option, may purchase and maintain such insurance as will insure Owner against loss of use of Owner's property due to North Country Emergency Medical Services or other hazards, however caused.
- p) Deductibles. Contractor or subcontractors shall be responsible for the payment of all deductible amounts.

- q) Contractor's Policies. All policies of insurance required to be maintained by Contractor and subcontractors shall: (a) provide that they may not be canceled, not renewed or materially changed without thirty (30) calendar days prior written notice sent by registered mail to Owner, Financing Parties and other insureds; and (b) shall be endorsed to specify that they are primary to and not excess to or on a contributing basis with any insurance or self-insurance maintained by Owner with respect to losses arising out of or in connection with the Work.
- r) Notification. Contractor and all subcontractors shall notify Owner of any and all incidents giving rise to an insurance claim and keep the other timely apprised of insurance claim proceedings. Contractor warrants that the limits of insurance set forth above have not been reduced by other claims and agrees to immediately notify the Owner, in writing, of any claim against Contractor which may materially impair the available limits of Contractors' insurance coverage during the time that insurance is required to be maintained.

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Occurrence	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or non-owned vehicles used in the operation, installation, and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
III. Workers' Compensation (applicable to the State of Washington)	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000
IV. Pollution Legal Liability	
Each Claim	\$3,000,000
Annual Aggregate	\$6,000,000
V. Builders Risk	
Builder's "All Risk" Property Insurance	Contract Value
a. Coverage to include personal property of others in the care, custody, and control of the contractor. Coverage should be written for 100% of the completed value.	
b. For additions or repairs of existing building structures, coverage to include contractor's interest in improvements, repairs, additions, alterations to completed buildings and subject to items described in "a".	

8. **CONTRACTOR'S BOND:** The Contractor agrees that before it undertakes performance of this Contract, it will file with NCEMS a Performance Bond and Payment Bond, in the forms prescribed by NCEMS, in the full amount of the Contract price with a company authorized to do business in the State of Washington as a surety. The bonds shall comply with the laws of the State of Washington, and especially with the provisions of Chapter 39.08 RCW.
9. **DISPUTE RESOLUTION:** In the event of a dispute between the Parties which cannot be resolved by the contract managers, the Contractor and NCEMS shall review such dispute and may attempt to resolve the dispute. Any controversy or claim arising out of or relating

to this Contract or the alleged breach of this Contract that cannot be resolved by the Parties within 30 days of receipt of written notice may be submitted to mediation. If the dispute is not resolved through mediation, it shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04A RCW. The Parties agree to pay their own attorneys' fees and expenses.

10. EMPLOYMENT OF LABOR: The Contractor agrees that all persons employed by Contractor and by any of its subcontractors and any of their lower tier contractors in work performed pursuant to this Contract shall not be employed in excess of eight (8) hours in any one day, except as provided or allowed by Chapter 49.28 RCW and WAC 296-127 and any amendment thereto.

11. PAYMENT OF LABOR: The Contractor agrees that all laborers, workers, or mechanics employed by it or by any subcontractor in the performance of this Contract will be paid not less than the prevailing rate of wage for an hour's work, in accordance with the provisions of the Chapter 39.12 RCW, and all rules and regulations promulgated pursuant thereto. The State of Washington prevailing wage rates applicable for this public works project, which is located in Clark County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. The prevailing wage rates in effect at the time of the bid submittal deadline shall apply for the duration of the project, no matter how long it lasts. However, if the Contract is awarded more than six months after the bids were due, the prevailing wage rates in effect on the award date shall apply.

In case any dispute arises as to what the prevailing rates of wages for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision shall be final, conclusive, and binding on all parties involved in the dispute.

12. PAYMENT TO THE CONTRACTOR: Progress payments to the Contractor shall be made within 30 days of a fully executed Pay Estimate and are in compliance with all contractual requirements. A sum equal to 5% may be reserved and retained from monies earned by the Contractor in accordance with Chapter 60.28 RCW. NCEMS reserves the right to require Contractor to correct any submitted or paid erroneous invoices according to the rates set forth herein. NCEMS and Contractor agree that any amount paid in error by NCEMS does not constitute a change in the agreed upon amount; Contractor agrees to issue a refund of any overages paid in error by NCEMS.

Release of the retained percentage or the retainage bond shall be in accordance with Chapter 60.28 RCW. Every person performing labor or furnishing supplies toward the completion of said improvement of work shall have a lien upon said monies so reserved; provided, that such notice of the lien of such claimant shall be given in the manner provided in RCW 39.08.030 and within the time provided in Chapter 60.28 RCW as now existing and in accordance with any amendments that may hereafter be made thereto.

No payment shall be made to the Contractor, however, until the Contractor and all subcontractors who have performed work shall have filed and received approval of a Statement of Intent to Pay Prevailing Wage as required by RCW 39.12.040 from the Washington State Department of Labor and Industries. Said Contractor and all subcontractors shall also keep accurate payroll records for three years from the date of acceptance as described in RCW 39.12.120. A Contractor and all subcontractors shall, file a copy of its certified payroll records using the Department of Labor and Industries online system on a monthly basis. A Contractor's noncompliance with this section shall constitute a violation of RCW 39.12.050.

- 13. INDEMNIFICATION:** Contractor agrees to indemnify, defend, save and hold harmless NCEMS, its officials, employees and agents from any and all liability, including but not limited to demands, claims, causes of action, suits or judgments, claims of copyright or patent infringement, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by Contractor pursuant to this Contract.

In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the Contractor, NCEMS retains the right to participate in said suit.

This indemnity and hold harmless shall include any claim made against NCEMS by an employee of Contractor or subcontractor or agent of the Contractor, even if Contractor is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW. To the extent that such liability arises from the concurrent negligence of both the City and the Contractor, such cost, fees, and expenses shall be shared between NCEMS and the Contractor in proportion to their relative degrees of negligence. This indemnity and hold harmless shall NOT apply in the case where liability arises from the sole negligence of NCEMS. Contractor specifically acknowledges that the provisions contained herein have been mutually negotiated by the Parties and it is the intent of the Parties that Contractor provide the broadest scope of indemnity permitted by RCW 4.24.115.

- 14. OWNERSHIP OF RECORDS AND DOCUMENTS:** Any and all work product prepared by the Contractor in the course of performing this Contract shall immediately become the property of NCEMS. In consideration of the compensation provided for by this Contract, the Contractor hereby further assigns all copyright interests in such work product to NCEMS. A copy may be retained by the Contractor. Previously owned intellectual property of Contractor or any third party, and any know-how, methodologies or processes used by Contractor to provide the services or project deliverables under this Contract shall remain property of the original agency.

- 15. PUBLIC DISCLOSURE COMPLIANCE:** The parties acknowledge that NCEMS is an "agency" within the meaning of the Washington Public Records Act, Chapter 42.56 RCW, and that materials submitted by the Contractor to NCEMS become public record. Such records may be subject to public disclosure, in whole or part and may be required to be released by NCEMS in the event of a request for disclosure. In the event NCEMS receives a public record request for any data or deliverable that is provided to NCEMS and that is licensed from the Contractor NCEMS shall notify the Contractor of such request and withhold

disclosure of such information for not less than five (5) business days, to permit the Contractor to seek judicial protection of such information, provided that the Contractor shall be responsible for attorney fees and costs in such action and shall save and hold harmless NCEMS from any costs, attorney fees or penalty assessment under Chapter 42.17 RCW for withholding or delaying public disclosure of such information.

- 16. AMENDMENTS:** All changes to this Contract, including changes to the statement of work and compensation, must be made by written Change Order and/or Amendment and signed by all parties to this Contract.
- 17. AUTHORIZATION AND COMPLIANCE WITH THE LAW:** The Contractor certifies that the person signing the Contract is legally authorized to enter into this binding Contract and that the Contractor shall fully comply with all relevant, federal, state and municipal laws, rules, regulations and policies.
- 18. RELATION OF PARTIES:** The Contractor, its subcontractors, agents, and employees are independent contractors performing services for NCEMS and are not employees of NCEMS; shall not, as a result of this Contract, accrue leave, retirement, insurance, bonding or any other benefits afforded to NCEMS employees; and, shall not have the authority to bind NCEMS in any way except as may be specifically provided in the Statement of Work.
- 19. JURISDICTION/VENUE:** In the event that any litigation should arise concerning the construction or interpretation of the terms and/or conditions of this Contract, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Clark. This Contract shall be governed by the law of the State of Washington.
- 20. COOPERATIVE PURCHASING:** The Washington State Inter-Local Cooperation Act, Chapter 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Contract, the Contractor agrees that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without NCEMS incurring any financial or legal liability for such purchases. NCEMS agrees to allow other public agencies to purchase goods and services under this solicitation or contract, provided that NCEMS is not held financially or legally liable for purchases and that any public agency purchasing under such solicitation or contract file a copy of this invitation and such contract in accordance with RCW 39.34.040.
- 21. ASSIGNMENT:** This Contract is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstances, be assigned or transferred by either party without the other party's express written authorization.
- 22. TERMINATION FOR CONVENIENCE:** NCEMS, at its sole discretion, may terminate this Contract for convenience at any time for any reason deemed appropriate. Termination is effective immediately upon notice of termination given by NCEMS. In the event this Contract is terminated prior to the completion of Work, Contractor will only be paid for

the Work completed at the time of termination of the Contract.

23. TERMINATION FOR CAUSE: In the event the Contractor is, or has been, in violation of the terms of this Contract, including the solicitation, NCEMS reserves the right, upon written notice to the Contractor, to cancel, terminate, or suspend this contract in whole or in part for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for services performed in accordance with the manner of performance set forth in the Contract.

If it is later determined by NCEMS that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, or events which are not the fault of or are beyond the control of the Contractor, NCEMS after setting up a new delivery or performance schedule, may allow the Contractor to continue work or treat the termination as a termination for convenience.

24. OPPORTUNITY TO CURE: NCEMS at its sole discretion may in lieu of a termination allow the Contractor to cure the defect(s), by providing a "Notice to Cure" to Contractor setting forth the remedies sought by NCEMS and the deadline to accomplish the remedies. If the Contractor fails to remedy to NCEMS' satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time stated time, NCEMS shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude NCEMS from also pursuing all available remedies against the Contractor and its sureties for said breach or default, including but not limited to termination of this Contract for convenience.

25. WAIVER AND REMEDIES: NCEMS' failure to enforce the terms or conditions herein or to exercise any right or privilege, or NCEMS' waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type. Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.

26. ENTIRETY OF CONTRACT: This Contract incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Contract. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Contract.

27. USE OF NCEMS' NAME: Contractor may not use any of NCEMS' name, trademark, service marks, or logo in connection with the services contemplated by this Contract or otherwise without the prior written permission of NCEMS, which permission may be withheld for any or no reason and may be subject to certain conditions.

28. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY: During the term of this Contract, Contractor will not discriminate against any employee or applicant for employment in accordance with RCW Chapter 49.60, including, but not limited to creed, religion, race, color, age, sex, marital status, sexual orientation, sexual identity,

pregnancy, military status, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants and employees are treated fairly, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental, or physical disability. Such action shall include all terms and conditions of employment, compensation, and benefits, including apprenticeship.

29. BINDING EFFECT: The provisions, covenants and conditions in this Contract bind the parties, their legal heirs, representatives, successors, and assigns.

30. RATIFICATION: Acts taken pursuant to this Contract but prior to its effective date are hereby ratified and confirmed.

31. ORDER OF PRECEDENCE: Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

- a) Amendments to the Contract,
- b) This Contract,
- c) Addenda to the Solicitation,
- d) The Solicitation,
- e) Contractor's Proposal,
- f) Special Provisions,
- g) Contract Plan Set,
- h) General Conditions for Facility Construction,
- i) Standard Plans,
- j) Utility Purveyor Standard Plans,
- k) WSDOT Amendments to the WSDOT Standard Specifications,
- l) WSDOT Standard Specifications, _____
- m) WSDOT Standard Plans.

32. NOTICES: Whenever in this written Contract written notices are to be given or made, they may be sent by certified mail to the following people at the addresses as shown herein unless a different address is designated in writing or delivered to the respective party hereto.

Shaun Ford
North Country EMS
PO BOX 189
98675
Yacolt, WA 98675

Contractor Name
Contractor Address
Contractor City, State &

By signing below, Contractor accepts the terms and conditions of this Contract and specifically acknowledges and agrees that the provisions contained herein have been mutually negotiated by the Parties.

North Country EMS, A municipal corporation

CONTRACTOR:
Contractor Name

Shaun Ford, Chief

By: (Proprietor, partner, or corporate president must sign)

Attest:

Monica Hofstetter, Finance Manger

Printed Name

Title

Approved as to form:

Louis Ferreira

LABOR AND MATERIALS PAYMENT BOND

(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM. MUST BE

ACCOMPANIED BY A POWER OF ATTORNEY FOR THE SURETY'S OFFICER AUTHORIZED TO SIGN) KNOW ALL MEN BY THESE PRESENTS:

We the Undersigned _____ as
PRINCIPAL (Contractor) and

_____ a corporation organized and existing under and by virtue of the laws of the state of _

_____, and duly authorized to do surety business in the state of Washington and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner and which carries an "A" rating and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto NORTH COUNTRY EMERGENCY MEDICAL SERVICE, as OBLIGEE, in the sum of _____ Dollars (\$ _____) in lawful money of the United States of America, for the payment of that sum for the use and benefit of claimants as defined below.

The condition of this obligation is such that whereas the PRINCIPAL entered into a contract with NORTH COUNTRY EMERGENCY MEDICAL SERVICE dated _____, 20____, which contract is hereunto annexed and made a part hereof, for accomplishment of the all contract terms for the project described as follows:

ITB: 21-1 NORTH COUNTRY EMERGENCY MEDICAL SERVICE STATION 52

NOW THEREFORE, if the PRINCIPAL shall promptly make payments to all persons, firms, subcontractors, corporations and/or others furnishing materials for or performing labor in the prosecution of the Work provided for in the aforesaid contract, and any authorized extension or modification thereof, including all amounts due for materials, equipment, mechanical repairs, transportation, tools and services consumed or used in connection with the performance of such Work, and for all labor performed in connection with such Work whether by subcontractor or otherwise, and all other requirements imposed by law, then this obligation shall become null and void; otherwise this obligation shall remain in full force and effect, subject, however, to the following condition:

The above-named PRINCIPAL and SURETY hereby jointly and severally agree that every claimant, who has not been paid in full, may sue on this bond for the use of such claimant, prosecute the suit to final judgment in for such sum or sums as may be justly due claimant, and have execution thereon. The OBLIGEE shall not be liable for the payment of any judgment, costs, expenses or attorneys' fees of any such suit.

PROVIDED, FURTHER, that SURETY for the value received, hereby stipulates and agrees that all changes, extensions of time, alterations to the terms of the contract or to Work to be performed thereunder or the Specifications accompanying the same shall be within the scope of the SURETY's undertaking on this bond, and SURETY does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications shall automatically increase the obligation of the SURETY hereunder in a like amount, provided that the total of such increases shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the SURETY.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted, or if the full amount of the obligation is not exhausted and no claim is pending resolution, until such time as no further claims can be made pursuant to law with regard to the above-described project.

SURETY shall indemnify, defend, and protect NORTH COUNTRY EMERGENCY MEDICAL SERVICE against any claim of director indirect loss resulting from the failure of the CONTRACTOR (or any of the employees, subcontractors, or lower tier subcontractors of the CONTRACTOR) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material, persons, or any other person who provides supplies or provisions for carrying out the work.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for all obligations of this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ___ day of _____, 20__.

_____			_____		
SURETY			CONTRACTOR		
By: _____			By*: _____		
Title: _____			Title: _____		
_____			_____		
Street Address			Street Address		
_____			_____		
City,	State	ZIP	City,	State	ZIP
_____			_____		

Phone Number

Phone Number

* Must be signed by president or vice-president of Contractor.

PERFORMANCE BOND

(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM. MUST BE

ACCOMPANIED BY A POWER OF ATTORNEY FOR THE SURETY'S OFFICER AUTHORIZED TO SIGN) KNOW BY ALL MEN BY THESE PRESENTS:

We the undersigned _____ as PRINCIPAL (hereinafter called CONTRACTOR), and

_____ a corporation organized and existing under and by virtue of the laws of the state of _

_____ duly authorized to do surety business in the state of Washington and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner and which carries an "A" rating and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, to pay to NORTH COUNTRY EMERGENCY MEDICAL SERVICE as OBLIGEE (hereinafter called NCEMS), the amount of _____ Dollars (\$ _____) In lawful money of the United States of America.

WHEREAS the CONTRACTOR entered into a contract with NCEMS dated _____, 20____, which Contract is hereunto annexed and made a part hereof, for accomplishment of the all-contract terms for the project described as follows:

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NOW, THEREFORE, the condition of this obligation is such that if the CONTRACTOR shall promptly, truly and faithfully perform all the undertakings, covenants, terms, conditions, and agreements of the aforesaid contract and having performed its obligations thereunder, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

Whenever CONTRACTOR shall be declared by NCEMS to be in default under the Contract Documents for the project described herein, the SURETY shall promptly remedy the default by completing the project in accordance with the Contract Documents and the project Specifications with a contractor approved by NCEMS. SURETY, for value received, further stipulates and agrees that all changes, extensions of time, alterations, or additions to the terms of the Contract or Specifications for the above-described contract are within the scope of the SURETY's undertaking on this bond, and SURETY hereby waives notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications shall automatically increase the obligation of the Surety hereunder in a like amount, provided that such increase shall not exceed twenty-five percent (25%) of the original

amount of the obligation without the consent of the Surety.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted.

SURETY shall indemnify, defend, and protect NCEMS against any claim of director indirect loss resulting from the failure of the CONTRACTOR (or any of the employees, subcontractors, or lower tier subcontractors of the CONTRACTOR) to faithfully perform the terms of the contract.

No right of action shall accrue on this bond to or for the use of any person or corporation other than NCEMS or its heirs, executors, administrators, successors or assigns.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

_____	_____
SURETY	CONTRACTOR
By: _____	By*: _____
Title: _____	Title: _____
_____	_____
Street Address	Street Address
_____	_____
City State ZIP	City State ZIP
_____	_____
Phone Number	Phone Number

* Must be signed by president or vice-president of Contractor.

SECTION F: GENERAL CONDITIONS FOR FACILITY CONSTRUCTION

1.01 DEFINITIONS

- A. Application for Payment - A written request submitted by Contractor to Owner and A/E for payment of Work completed in accordance with the Contract Documents and approved Schedule of Values, supported by such substantiating data as Owner or A/E may require.
- B. Architect, or Engineer, (A/E) - A person or entity lawfully entitled to practice architecture or engineering, representing Owner within the limits of its delegated authority.
- C. Change Order - A written instrument signed by Owner and Contractor stating their agreement upon all of the following: (1) a change in the Work; (2) the amount of the adjustment in the Contract Sum, if any, and (3) the extent of the adjustment in the Contract Time, if any.
- D. Claim - Contractor's exclusive remedy for resolving disputes with Owner regarding the terms of a Change Order or a request for an adjustment, as more fully set forth in Part 8.
- E. Contract Award Amount - The sum of the Base Bid and any accepted Alternates, excluding applicable Washington State Sales Tax. The Schedule of Values, submitted after Award, will identify applicable WA State Sales Tax to be paid with each progress payment.
- F. Contract - The written agreement between the Contractor and the Owner. The Contract includes the Contract (Agreement) Form, Bidder's completed Proposal Form, Contract Provisions, Contract Plans, the General Conditions, Modifications to the General Conditions, Supplemental Conditions, Drawings and Specifications, addenda, and modifications thereof.
- G. Contract Sum - The total amount payable by Owner to Contractor for performance of the Work in accordance with the Contract Documents.
- H. Contract Time - The number of calendar days allotted in the Contract Documents for achieving Substantial Completion of the Work.
- I. Contractor - The individual, partnership, firm, corporation, or joint venture person or entity who has agreed with Owner to perform the Work in accordance with the Contract Documents.
- J. Days - Calendar days, unless otherwise specified.
- K. Drawings - The graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, and may include plans, elevations, sections, details, schedules, and diagrams. Final Acceptance - The written acceptance issued to Contractor by NCEMS after Contractor has completed the requirements of the Contract Documents.

- L. Final Completion - The Work is fully and finally completed in accordance with the Contract Documents as more fully set forth herein.
- M. Force Majeure - A delay in or prevention of performance, delay or failure of performance that was unforeseeable and beyond the control of the parties.
- N. Notice - A written notice which has been delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended or, if delivered or sent by registered or certified mail, to the last business address known to the party giving notice.
- O. Notice to Proceed - A notice from Owner to Contractor that defines the date on which the Contract Time begins to run.
- P. Owner- NCEMS, or its authorized representative with the authority to enter into, administer, and/or terminate the Work in accordance with the Contract Documents and make related determinations and findings.
- Q. "Person" means a corporation, partnership, business association of any kind, trust, company, or individual.
- R. Prior Occupancy- Owner's use of all or parts of the Project before Substantial Completion.
- S. Progress Schedule A schedule of the Work, including milestones, if any, in a form satisfactory to Contractor, Owner, and A/E.
- T. Project - The total construction of which the Work performed in accordance with the Contract Documents may be the whole or a part and which may include construction by Owner or by separate contractors.
- U. Project Manager- Owner's representative who oversees the Project.
- V. Project Record - The separate set of Drawings and Specifications as further set forth in section 3.02(A).
- W. "Schedule of Values" means a written breakdown allocating the total Contract Sum to each principal category of Work, in such detail as requested by Owner.
- X. Shop Drawings - Documents and other information required to be submitted to the Owner by Contractor pursuant to the Contract Documents, showing in detail: the proposed fabrication and assembly of structural elements; and the installation (i.e. form, fit, and attachment details) of materials and equipment.
- Y. "Specifications" Provisions and requirements for the prescribed work.

- Z. AA. Subcontract - A contract entered into by a Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind for or in connection with the Work.
- AA. Subcontractor – An individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor.
- BB. Substantial Completion - That stage in the progress of the Work where Owner has full and unrestricted use and benefit of the facilities for the purposes intended, and where the other conditions to Substantial Completion set forth in section 5.07 have been satisfied.
- CC. Work – The provision of all labor, materials, tools, equipment, and everything needed to successfully complete a project according to the Contract.

1.02 EXECUTION AND INTENT

Contractor makes the following representations to Owner:

- A. The Contract Sum is reasonable compensation for the Work and the Contract Time is adequate for the completion of the Work, as represented by the Contract Documents.
- B. Contractor has carefully reviewed the Contract Documents, visited and examined the Project site, become familiar with the local conditions in which the Work is to be performed, and satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished, and all other requirements of the Contract Documents, as well as the surface and subsurface conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof. Owner shall not make, and Contractor shall not be entitled to, any adjustment in either the Contract Sum or the Contract Time in connection with any failure by Contractor to take into account the above matters.
- C. The Contract Documents are full and complete, are sufficient to have enabled it to determine the cost of the Work and that the Drawings, Specifications, and all addenda are sufficient to enable Contractor to construct the Work outlined therein in accordance with applicable laws, statutes, building codes, rules and regulations, and otherwise to fulfill all of its obligations under the Contract Documents. In addition, if Contractor performs any construction activity and if it knows or should have known that any of the Contract Documents contains a recognized error, inconsistency, or omission, Contractor shall be responsible for such performance and shall bear the cost of correction thereof. If there is any inconsistency in the Contract Drawings, or between the Contract Drawings and the Specifications, unless otherwise ordered in writing by the Architect or the Owner, the Contractor shall provide the better quality of, or the greater quantity of, work or materials.
- D. Contractor is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the Work and perform Contractor's obligations required by the Contract Documents; and Contractor shall provide financial statements

as requested.

- E. Contractor is able to furnish tools, materials, supplies, equipment and labor required to complete the Work and perform the obligations required by the Contract Documents and has sufficient experience and competence to do so.

PART 2 - TIME AND SCHEDULE

2.01 PROGRESS AND COMPLETION

Contractor shall diligently prosecute the Work, with adequate forces, achieve Substantial Completion within the Contract Time, and achieve Final Completion within 30 days thereof.

2.02 CONSTRUCTION SCHEDULE

- A. Unless otherwise provided in Division 01, Contractor shall submit a preliminary Progress Schedule at the time of the Pre-construction meeting. Contractor's Progress Schedule shall show the sequence in which Contractor proposes to perform the Work, and the dates on which Contractor plans to start and finish major portions of the Work, including dates for Shop Drawings and other submittals and their review times per specifications for acquiring materials and equipment, including Owner furnished/Contractor installed and Owner furnished/Owner installed equipment or materials, any utilities installation, and all pre- installation meetings.
- B. Unless otherwise provided in Division 01, Contractor's Progress Schedule shall be in the form of a bar chart, or a critical path method analysis, as specified by Owner. The Contractor's Progress schedule shall provide a legend for symbols and abbreviations used and be organized by phase/scope of work. Show separate bars for each major portion of Work or operation. Identify the first workday of each week. Show the complete sequence of construction by activity, with dates for beginning and completion of each element of construction.
- C. Owner shall return comments on the preliminary Contractor Progress Schedule to Contractor within 10 days of receipt. Review by Owner of Contractor's Progress Schedule does not constitute an approval or acceptance of the accuracy or completeness of Contractor's Progress Schedule or Contractor's construction means, methods, or sequencing, or its ability to complete the Work within the Contract Time. Contractor shall revise and resubmit its schedule, as necessary. Owner may withhold a portion of progress payments until Contractor's Progress Schedule has been submitted which meets the requirements of this section.
- D. Contractor shall utilize and comply with Contractor's Progress Schedule, which may include milestones.
 - 1. A two-week look-ahead schedule shall be submitted at each weekly progress meeting.

2. On a monthly basis, or as otherwise directed by Owner, Contractor shall submit an updated Contractor Progress Schedule at its own expense to Owner indicating actual progress. Maintain schedules to record actual start and finish dates of completed activities. Indicate progress of each activity to date of revision, with projected completion date of each activity.
3. If, in the opinion of Owner, Contractor is not in conformance with Contractor Progress Schedule for reasons other than acts of Force Majeure as identified in section 2.05, Contractor shall take such steps as are necessary to bring the actual completion dates of its work activities into conformance with their Contractor's Progress Schedule,

E. Schedule Revisions

Contractor shall indicate progress of each activity up to date of each Progress Schedule submission, including the following:

1. Major changes in scope
2. Activities modified since previous submission
3. Revised projections of progress and completion
4. Other identifiable changes

If the Contractor is behind schedule on the Critical Path items, the Contractor shall provide a detailed work plan and indicate changes required to maintain Date of Substantial Completion. Cost associated with accelerating the schedule to restore the Critical Path shall be the responsibility of the Contractor.

Provide a Narrative Report as needed to define:

1. Problem areas, anticipated delays, and related impact on schedule
2. Corrective action recommended, and expected effect

F. Make-Up

Should Contractor fail to meet any scheduled milestone date as shown on Contractor's current Progress Schedule, Contractor shall submit at its own expense within ten days of Owner's request an updated Contractor's Progress Schedule. If Contractor's progress indicates to Owner that all the Work will not be Substantially Completed within the contract time, Contractor shall, without change to the Contract Sum, increase its work force and/or working hours to bring the actual completion date of the activities into conformance with Contractor's Progress Schedule, and Substantial Completion of all the Work within the Contract Time. Contractor shall also submit a revised Contractor's Progress Schedule at its own expense within ten days of notice from Owner when the sequence of work varies significantly from that shown on previously approved

Contractor's Progress Schedule.

- G. Contractor and all Subcontractors, Suppliers, and Manufacturers shall schedule material deliveries and installations to conform to Contractor's Progress Schedule, and provisions to this effect shall be included in all Subcontracts.
- H. Contractor shall promptly notify Owner in writing of any actual or anticipated event which is delaying or could delay achievement of any milestone or performance of any critical path activity of the Work. Contractor shall indicate the expected duration of the delay, the anticipated effect of the delay on Contractor's Progress Schedule, and the action being or to be taken to correct the problem. Provision of such notice does not relieve Contractor of its obligation to complete the Work within the Contract Time.
- I. Owner, Contractor, A/E and all Subcontractors shall participate in a pre-construction meeting/partnering session for approximately four hours as coordinated by Owner. Upon request from the Contractor, Owner shall provide Contractor up to ten (10) sets of the Drawings and specifications.
- J. Within 10 days after issuance of the Notice to Proceed, Contractor shall furnish to the Owner a chain-of-command organizational chart which includes all supervisory personnel, including Contractor's project manager, the project engineer and the superintendent, that Contractor intends to use on the Work. The chart shall specify any limits of authority for each person, including but not limited to his/her ability to speak for and bind Contractor, as well as any limits on decision-making authority with respect to specific dollar values, contract time, and issues affecting quality of the Work. Contractor shall also provide Owner with a list of telephone numbers, both cellular and land line, fax number(s) and e-mail addresses for all key personnel of Contractor and its principal Subcontractors for purposes of contacting personnel after hours in the event of an emergency. Contractor shall update the list periodically as necessary to ensure Owner has the most current information. The superintendent and project manager shall be employees of Contractor. The superintendent shall remain on the Project site whenever Subcontractors of any tier are present and not less than eight hours per day, five days per week, unless the Work is closed down due to a legal holiday, a general strike, conditions beyond the control of Contractor, termination of the Contract in accordance with the Contract Documents or unless Final Completion is attained. Neither the superintendent nor Contractor's project manager shall be changed without the approval of Owner, which shall not be unreasonably withheld. The superintendent shall not be employed on any other project during the course of the Work. Contractor shall also have available for work on site experienced, skilled employees, such as carpenters, laborers, erection specialists, etc., to perform work as needed.

2.03 OWNER'S RIGHT TO SUSPEND THE WORK FOR CONVENIENCE

- A. Owner may, at its sole discretion, order Contractor, in writing, to suspend all or any part of the Work for up to 90 days, or for such longer period as may be mutually agreed.
- B. Upon receipt of a written notice suspending the Work, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost of

performance directly attributable to such suspension. Within a period up to 90 days after the notice is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, Owner shall either:

1. Cancel the written notice suspending the Work; or
 2. Terminate the Work covered by the notice as provided in the termination provisions of the contract.
- C. If a written notice suspending the Work is cancelled or the period of the notice or any extension thereof expires, Contractor shall resume Work. Contractor shall secure and protect Contractor installed materials at Contractor's expense in a manner acceptable to Owner.
- D. Contractor may be entitled to an equitable adjustment in the Contract Time, or Contract Sum, or both, for increases in the time or cost of performance directly attributable to such suspension, PROVIDED Contractor timely submits its change Order proposal therefore in accordance with all requirements set forth.

2.04 OWNER'S RIGHT TO STOP THE WORK FOR CAUSE

- A. If Contractor fails or refuses to perform its obligations in accordance with the Contract Documents, Owner may order Contractor, in writing, to stop the Work, or any portion thereof, until satisfactory corrective action has been taken. This right shall not excuse Contractor from damages caused by breach of this Agreement or its responsibility for full performance of this Agreement.
- B. Contractor shall not be entitled to any adjustment in the Contract Time or Contract Sum for any increased cost or time of performance attributable to Contractor's failure or refusal to perform or from any reasonable remedial action taken by Owner based upon such failure.
- C. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a (7) seven-day period after receipt of written notice from Owner to correct such default or neglect, Owner may, without prejudice to other remedies, including, but not limited to, transfer of Work to Surety as provided herein, correct such deficiencies and, at Owner's options, complete the Work or any portion thereof using other forces. In such case an appropriate Change Order shall be issued by Owner deducting from payments then or thereafter due Contractor the reasonable cost to Owner to commence to carry out the Work, including Owner's expense and compensation for A/E's additional services made necessary by such default, neglect, or failure. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall pay the difference to Owner within 30 days from the invoice date. The right of Owner to perform the Work pursuant to this subparagraph shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor or any other person or entity, and Contractor waives any claim of defense based on Owner's alleged obligation to complete work using other forces.

2.05 DELAY

- A. Any delay in or failure of performance by Owner or Contractor, other than the payment of money, shall not constitute a default hereunder if and to the extent the cause for such delay or failure of performance was unforeseeable and beyond the control of the parties ("Force Majeure"). Acts of Force Majeure include, but are not limited to:
1. Acts of God or the public enemy.
 2. Acts or omissions of any government entity other than Owner.
 3. Fire or another casualty for which Contractor is not responsible.
 4. Quarantine, epidemic or pandemic.
 5. Strike or defensive lockout affecting more than Contractor.
 6. Unusually severe weather conditions which could not have been reasonably anticipated; and
 7. Volcanic eruption directly impacting the Project.
 8. Earthquake directly impacting the Project.
 9. Floods directly impacting the Project.
- B. Contractor may be entitled to an equitable adjustment in the Contract Time for changes in the time of performance directly attributable to an act of Force Majeure, PROVIDED it timely makes a request for a mutually agreed adjustment. Contractor shall not be entitled to an adjustment in the Contract Sum resulting from an act of Force Majeure.
- C. Contractor may be entitled to an equitable adjustment in Contract Time, and may be entitled to a mutually agreed adjustment in Contract Sum consistent with the Contract, if the cost or time of Contractor's performance is changed due to the fault or negligence of Owner, PROVIDED Contractor makes a request according to the requirements of the contract.
- D. Contractor shall not be entitled to an adjustment in Contract Time or in the Contract Sum for any delay or failure of performance to the extent such delay or failure was caused by Contractor or anyone for whose acts Contractor is responsible.
- E. To the extent any delay or failure of performance was concurrently caused by the fault or negligence of Owner, Contractor may be entitled to an adjustment in the Contract Time and Contract Sum for that portion of the delay or failure of performance that was so caused by Owner, provided it timely makes a request for an adjustment.
- F. Contractor shall make all reasonable efforts to prevent and mitigate the effects of any

delay, whether occasioned by an act of Force Majeure or otherwise.

2.06 NOTICE TO OWNER OF LABOR DISPUTES

- A. If Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance in accordance with the Contract Documents, Contractor shall immediately give notice, including all relevant information, to Owner, including actions Contractor has to resolve dispute.
- B. Contractor agrees to insert a provision in its Subcontracts and to require insertion in all sub-subcontracts, that in the event timely performance of any such contract is delayed or threatened by delay by any actual or potential labor dispute, the Subcontractor or Sub-subcontractor shall immediately notify the next higher tier Subcontractor or Contractor, as the case may be, of all relevant information concerning the dispute.

2.07 DAMAGES FOR FAILURE TO ACHIEVE TIMELY COMPLETION

- A. Liquidated Damages
 - 1. Timely performance and completion of the Work is essential to Owner and time limits stated in the Contract Documents are of the essence. Owner will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time. However, it would be difficult if not impossible to determine the exact amount of such damages. Consequently, provisions for liquidated damages are included in the Contract Documents. Owner's right to liquidated damages is not affected by partial completion, occupancy, or beneficial occupancy. Contractor shall furnish sufficient forces, construction plant and equipment, and shall work such hours, including night shifts, overtime operations and weekend and holiday work as may be necessary to insure the production of the Work in accordance with the date of Substantial Completion and the approved Contractor's Construction Schedule. If Contractor fails to perform in a timely manner in accordance with the Contract Documents and, through the fault of Contractor or Subcontractor(s) fails to meet Contractor's Construction Schedule, Contractor shall take such steps as may be necessary to immediately improve its progress by increasing the number of workers, shifts, overtime operations or days of work, all without additional cost to Owner.
 - 2. The liquidated damage amounts set forth in the Contract Documents will be assessed not as a penalty, but as liquidated damages for breach of the Contract Documents. This amount shall be \$0.00 per day for the first 14 days, \$100 per day for the following 7 days, and \$200 per day thereafter. This amount is fixed and agreed upon by and between the Contractor and Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain. This amount shall be construed as the actual amount of damages sustained by the Owner and may be retained by the Owner and deducted from periodic payments to the Contractor.
 - 3. If the Work is to be performed in phases, with separate dates set forth for

Substantial Completion elsewhere in the Contract Documents, then the specified liquidated damages shall apply separately to each such phase unless otherwise specified.

4. Assessment of liquidated damages shall not release Contractor from any further obligations or liabilities pursuant to the Contract Documents, including its obligation to complete the Work.

PART 3 - SPECIFICATIONS, DRAWINGS, AND OTHER DOCUMENTS

3.01 DOCUMENTS

- A. The intent of the Specifications and Drawings is to describe a complete Project to be constructed in accordance with the Contract Documents. Contractor shall furnish all labor, materials, equipment, tools, transportation, required permits, and supplies, and perform the Work required in accordance with the Drawings, Specifications, and other provisions of the Contract Documents.
- B. The Contract Documents are complementary. What is required by one part of the Contract Documents shall be binding as if required by all. Anything mentioned in the Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both.
- C. Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by Owner. If, during the performance of the Work, Contractor finds a conflict, error, inconsistency, or omission in the Contract Documents, it shall promptly and before proceeding with the Work affected thereby, report such conflict, error, inconsistency, or omission to Owner and A/E in writing.
- D. Contractor shall do no Work without applicable Drawings, Specifications, or written modifications, or Shop Drawings where required, unless instructed to do so in writing by Owner. If Contractor performs any construction activity, and it knows or reasonably should have known that any of the Contract Documents contain a conflict, error, inconsistency, or omission, Contractor shall be responsible for the performance and shall bear the cost for its correction. Contractor shall notify Owner prior to start of work.
- E. Contractor shall provide any Work or materials the provision of which is clearly implied and is within the scope of the Contract Documents even if the Contract Documents do not mention them specifically.
- F. Questions regarding interpretation of the requirements of the Drawings or Specifications shall be initially referred to the A/E in accordance with Division 01.
- G. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner or A/E will specify the performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all

Drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional ('Design-Build' Documents). Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the A/E. Owner and A/E shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications, or approvals performed by such design professionals. Owner's or A/E's review, approval or other action on 'Design Build' Documents is only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

3.02 PROJECT RECORD

- A. Contractor shall legibly mark in red ink on a separate set of the Drawings and Specifications all actual construction, including depths of foundations, horizontal and vertical locations of internal and underground utilities and appurtenances referenced to permanent visible and accessible surface improvements, field changes of dimensions and details, actual suppliers, manufacturers and trade names, models of installed equipment, and Change Order proposals. This separate set of Drawings and Specifications shall be the "Project Record."
- B. Contractor shall maintain the Project Record on the Project site throughout the construction which shall be clearly labeled "PROJECT RECORD". Contractor shall update the Project Record at least weekly noting all changes. The Project Record shall be always available to Owner.
- C. At Final Acceptance, Contractor shall submit the completed and finalized Project Record, as-builts and operating manuals to Owner at no additional cost.

3.03 SHOP DRAWINGS AND SUBMITTALS

- A. Division 01 applies to this section.
- B. Submittals include, but are not limited to, Shop Drawings, Drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, samples, and similar materials furnished by Contractor to explain in detail specific portions of the Work required by the Contract Documents. For materials and equipment to be incorporated into the Work, Contractor Submittals shall include the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the item. When directed, Contractor shall submit all samples at its own expense. Owner may duplicate, use, and disclose Shop Drawings and Submittals provided in accordance with the Contract Documents.

Contractor shall coordinate all Shop Drawings and Submittals, and review them for accuracy, completeness, and compliance with the Contract Documents and shall indicate its approval thereon as evidence of such coordination and review. Where required by law, Contractor shall cause Shop Drawings to be stamped by an appropriate professional licensed by the State of Washington. Shop Drawings submitted to A/E without evidence of Contractor's approval shall be returned without action for resubmission. Contractor

shall review, approve, and submit Shop Drawings with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Owner or separate contractors. Contractor's submittal schedule shall allow a reasonable time for A/E review. A/E will review, approve, or take other appropriate action on the Shop Drawings. Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings until the respective submittal has been reviewed and the A/E has approved or taken other appropriate action. Owner and A/E shall respond to the Shop Drawing Submittals within 15 days of the date a submittal is received by the A/E unless the A/E advises the Contractor additional response review time is required.

- C. Any Work by Contractor shall be in accordance with reviewed Shop Drawings, to the extent consistent with the Contract Documents. Submittals made by Contractor which are not required by the Contract Documents may be returned without action.
- D. Approval, or other appropriate action with regard to Shop Drawings and Submittals, by Owner or A/E shall not relieve Contractor of responsibility for any errors or omissions in such Shop Drawings, nor from responsibility for compliance with the requirements of the Contract Documents. Unless specified in the Contract Documents, review by Owner or A/E shall not constitute an approval of the safety precautions employed by Contractor during construction or constitute an approval of Contractor's means or methods of construction. If Contractor fails to obtain approval before installation, and the item or Work is subsequently rejected, Contractor shall be responsible for all costs of correction.
- E. If Shop Drawings and Submittals show variations from the requirements of the Contract Documents, Contractor shall describe such variations in writing, separate from the Shop Drawings, at the time it submits the Shop Drawings containing such variations. If A/E approves any such variation, an appropriate Change Order will be issued. If the variation is minor and does not involve an adjustment in the Contract Sum or Contract Time, a Change Order need not be issued; however, A/E shall record the modification upon the Project Record (or the same shall not be deemed authorized). The Contract Documents do not include Contractor's Shop Drawings and other submittals, except variations from the Contract Documents submitted and approved pursuant to this section 3.03(E).
- F. Unless otherwise provided in Division 01, Contractor shall submit to A/E for approval 7 copies of all Shop Drawings. Unless otherwise indicated, 5 sets of all Shop Drawings and Submittals shall be retained by A/E and 2 sets shall be returned to Contractor.
- G. Review and Approval. The review, inspection, or approval of any document submittal, or site condition by Owner or its respective representatives, Project Managers or inspectors shall not be construed as consent to modification of Contractor's obligations and duties under the Contract. Owner's approval of any documents or Drawings shall not constitute or be used, either directly or indirectly or in any manner or for any purpose as an approval of or statement that such documents or Drawings are in conformance with applicable laws or operate or act as a waiver of any rights or remedies of Owner as to any defect or error in such documents or Drawings or in the construction or installation of the Work shown in such documents or Drawings. Owner's approval of any such documents or Drawings shall not be construed or used to impose any such responsibility or liability on Owner.

- H. Contractor shall report promptly to A/E and Owner's Representative any design errors or omissions noted by Contractor or any Subcontractor during this review, but it is recognized that Contractor's review is made in Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

3.04 ORGANIZATION OF SPECIFICATIONS

Specifications are prepared in sections which conform generally to trade practices. These sections are for Owner and Contractor convenience and shall not control Contractor in dividing the Work among the Subcontractors or in establishing the extent of the Work to be performed by any trade.

3.05 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS

- A. The Drawings, Specifications, and other documents, including those in electronic form, prepared by Owner, A/E, and A/E's consultants are Instruments of Service through which the Work to be executed by Contractor is described. Neither the Contractor nor any Subcontractor or Lower-tier Subcontractor shall claim a copyright in the Drawings, Specifications, and other documents prepared by Owner.
- B. The Drawings, Specifications, and other documents prepared by the A/E, and copies thereof furnished to Contractor, are for use solely with respect to this Project. They are not to be used by Contractor or any Subcontractor on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner and A/E. Contractor and Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents prepared by A/E appropriate to and for use in the execution of their Work.
- C. Contractor and all Subcontractors grant a non-exclusive license to Owner, without additional cost or royalty, to use for its own purposes (including reproduction) all Shop Drawings, together with the information and diagrams contained therein, prepared by Contractor or any Subcontractor. In providing Shop Drawings, Contractor and all Subcontractors warrant that they have authority to grant to Owner a license to use the Shop Drawings, and that such license is not in violation of any copyright or other intellectual property right. Contractor agrees to defend and indemnify Owner pursuant to the indemnity provisions from any violations of copyright or other intellectual property rights arising out of Owner's use of the Shop Drawings hereunder, or to secure for Owner, at Contractor's own cost, licenses in conformity with this section.
- D. The Shop Drawings and other submittals prepared by Contractor, Subcontractors of any tier, or its or their equipment or material suppliers, and copies thereof furnished to Contractor, are for use solely with respect to this Project. They are not to be used by Contractor or any Subcontractor of any tier, or material or equipment supplier, on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner. Contractor, Subcontractors of any tier, and material or equipment suppliers are granted a limited license to use and reproduce applicable

portions of the Shop Drawings and other submittals appropriate to and for use in the execution of their Work under the Contract Documents.

PART 4 - PERFORMANCE

4.01 CONTRACTOR CONTROL AND SUPERVISION

- A. Contractor shall supervise and direct the Work, using its best skill and attention, and shall perform the Work in a skillful manner. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents give other specific instructions concerning these matters. Contractor shall disclose its means and methods of construction when requested by Owner.
- B. Performance of the Work shall be directly supervised by a competent superintendent who is approved in advance by, and at all times satisfactory to Owner who has authority to act for Contractor. The superintendent shall not be changed without the prior written consent of Owner. At Owner's request, Contractor shall dismiss the superintendent from the Project and promptly provide a substitute superintendent satisfactory to Owner.
- C. Contractor shall be responsible to Owner for acts and omissions of Contractor, Subcontractors, and their employees and agents.
- D. Contractor shall enforce strict discipline and good order among Contractor's employees and other persons performing the Work. Contractor shall not permit employment of persons not skilled in tasks assigned to them. Contractor's employees shall at all times conduct business in a manner which assures fair, equal, and nondiscriminatory treatment of all persons. Owner may, by written notice, require Contractor to remove from the Work or Project site any employee Owner reasonably deems incompetent, careless, or otherwise objectionable.
- E. Contractor shall keep on the Project site a copy of the Drawings, Specifications, addenda, reviewed Shop Drawings, and permits and permit Drawings, and make the same available for Owner's review upon request.
- F. Contractor shall have phone and e-mail capability on-site.
- G. Contractor shall ensure that its owner(s) and employees, and those of its Subcontractors, comply with the Code of Ethics of Municipal Officers RCW 42.23, and Vancouver City Charter Section 11.96, which, among other things, prohibit City of Vancouver officers and employees from having an economic interest in any public works contract that was made by, or supervised by, that officer or employee. Contractor shall remove, at its sole cost and expense, any of its or its Subcontractors' employees, if they are in violation of these provisions.
- H. Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

- I. If any of the Work is required to be inspected or approved by any public authority, Contractor shall cause such inspection or approval to be performed. No inspection performed or failed to be performed by Owner hereunder shall be a waiver of any of Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.
- J. Contractor shall use its best efforts to maintain labor peace by and/or among its employees and Subcontractors for the duration of the Project. In the event of a labor dispute by and/or among its employees and Subcontractors, Contractor shall not be entitled to any increase in the Contract Sum or Contract Time.
- K. Contractor shall perform such detailed examination, inspection and quality surveillance of the Work as will ensure that the Work is progressing and is being completed in strict accordance with the Contract Documents, including the then current issue of the Drawings and Specifications. Contractor shall be responsible for examination, inspection and quality surveillance of all Work performed by any Subcontractor of any tier. Contractor shall determine when it is necessary to perform, and shall perform, tests (in addition to those requested by Owner or required by the Specifications or any other provision of the Contract Documents) to verify its inspections or to ensure that the Work is being completed in strict accordance with the Contract Documents.
- L. Contractor shall plan and lay out all Work in advance of operations so as to coordinate all work without delay or revision. Contractor shall establish and maintain existing lot lines, restrictions and benchmarks. Contractor shall establish and maintain all other lines, levels and benchmarks necessary for the execution of the Work and take necessary steps to prevent their dislocation or destruction. Contractor shall employ a professional land surveyor registered in the State of Washington to initially layout and be responsible for the accuracy of the Work.

4.02 PERMITS, FEES, AND NOTICES

- A. Unless otherwise provided in the Contract Documents, Contractor shall pay for and obtain all permits, fees, licenses, and inspections necessary for proper execution and completion of the Work. Prior to Final Acceptance, the approved, signed permits shall be delivered to the Owner. Contractor shall procure all certificates of inspection, use, occupancy, permits, and licenses, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the Work. Certificates of inspection, use, and occupancy shall be delivered to Owner upon completion of the Work in sufficient time for occupation of the Project in accordance with the approved schedule for the Work.

Specific Permits Obtained:

- List permits here

- B. If allowances for permits or utility fees are called for in the Contract Documents and set forth in Contractor's bid, and the actual costs of those permits or fees differ from the allowances in the Contract Documents, the Contract Sum shall be adjusted by Change

Order to account for the difference between the allowance and the actual cost of that permit fee.

- C. Contractor shall comply with and give notices required by all federal, state, and local laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
- D. All work on the Contract shall comply with the Noise Ordinance of Vancouver's Municipal Codes, VMC 20.935.030 and VMC 7.05.
- E. In the event of any conflict between the permit requirements and the Contract Documents, the requirements of the permit shall take precedence and Contractor shall not be entitled to any change in the Contract Sum or Contract Time.

4.03 PATENTS AND ROYALTIES

Contractor is responsible for, and shall pay, all royalties and license fees. Contractor shall defend, indemnify, and hold Owner harmless from any costs, expenses, and liabilities arising out of the infringement by Contractor of any patent, copyright, or other intellectual property right used in the Work; however, provided that Contractor gives prompt notice, Contractor shall not be responsible for such defense or indemnity when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents. If Contractor has reason to believe that use of the required design, process, or product constitutes an infringement of a patent or copyright, it shall promptly notify Owner of such potential infringement.

4.04 REQUIREMENTS FOR NONDISCRIMINATION

- A. The Contractor shall maintain a Work site that is free of harassment, humiliation, fear, hostility and intimidation at all times. Behaviors that violate this requirement include, but are not limited to:
 - 1. Persistent conduct that is offensive and unwelcome.
 - 2. Conduct that is considered to be hazing.
 - 3. Jokes about race, gender, religion or sexuality that are offensive.
 - 4. Unwelcome, unwanted, rude or offensive conduct or advances of a sexual nature which interferes with a person's ability to perform their job or creates an intimidating, hostile, or offensive work environment.
 - 5. Language or conduct that is offensive, threatening, intimidating or hostile based on race, gender, religion or sexual orientation.
 - 6. Repeating rumors about individuals in the Work Site that are considered to be harassing or harmful to the individual's reputation.

- B. The Contractor shall not discriminate against any employee or applicant for contracted employment because of race, religion, color, national origin, sex, age, marital status, or the presence of any physical, sensory or mental disability.
- C. The Contractor shall, in all solicitations or advertisements for employees, state that all qualified applicants will be considered for employment, without regard to race, religion, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.
- D. The Contractor shall insert the following notification in all solicitations for bids for Work or material subject to federal laws and regulations and made in connection with all program and activities and, in adapted form in all proposals for negotiated agreements:

The Contractor in accordance to Title VI of the Civil Rights Act of 1964, 78 Stat.252,42 U.S. Code 2000d to 2000d-4, and Title 49 Code of Federal Regulations, Part 21, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color national origin and sex in consideration for an award.

- E. The Contractor shall make decisions with regard to selection and retention of subcontractors, procurement of materials and equipment and similar actions related to the Contract without regard to race, religion, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.
- F. The Contractor shall send to each labor union, employment agency, or representative of workers with which the Contractor has a collective bargaining agreement or other contractor understanding, a notice advising the labor union, employment agency or worker's representative, of the Contractor's commitments under this Contract with regard to nondiscrimination.
- G. The Contractor shall permit access to its books, records and accounts by the Owner for the purpose of investigating to ascertain compliance with these Specifications. In the event that information required of a Contractor is in the possession of another who fails or refuses to furnish this information, the Contractor shall describe, in writing, what efforts were made to obtain the information.
- H. The Contractor shall maintain records with the name and address of each minority/female worker referred to the Contractor and what action was taken with respect to the referred worker.
- I. The Contractor shall notify the Owner whenever the union with which the Contractor has a collective bargaining agreement has impeded the Contractor's efforts to effect minority/female workforce utilization. This being the case, the Contractor shall show what relief they have sought under such collective bargaining agreements.

- J. The Contractor is encouraged to participate in Owner and Washington State Human Rights Commission approved program(s) designed to train craftworkers for the construction trades.

4.05 SAFETY PRECAUTIONS

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work. These safety precautions include any special protocols implemented by Local, State, or Federal government in response to a pandemic or other emergency situation. The Contractor's responsibilities extend beyond the employees on the jobsite to "other persons who may be affected thereby.
- B. In carrying out its responsibilities according to the Contract Documents, Contractor shall protect the lives and health of employees performing the Work and other persons who may be affected by the Work; prevent damage to materials, supplies, and equipment whether onsite or stored off-site; and prevent damage to other property at the site or adjacent thereto. Contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; shall erect and maintain all necessary safeguards for such safety and protection; and shall notify owners of adjacent property and utilities when prosecution of the Work may affect them.
- C. Contractor shall maintain an accurate record of exposure data on all incidents relating to the Work resulting in death, injury, occupational disease, or damage to property, materials, supplies, or equipment. Contractor shall immediately report any such incident to Owner. Owner shall, at all times, have a right of access to all records of exposure.
- D. Contractor shall provide all persons working on the Project site with information and training on hazardous chemicals in their work at the time of their initial assignment, and whenever a new hazard is introduced into their work area.
 - 1. Information. At a minimum, Contractor shall inform persons working on the Project site of:
 - a. The requirements of Chapter 296-62 WAC, General Occupational Health Standards.
 - b. Any operations in their work area where hazardous chemicals are present; and
 - c. The location and availability of written hazard communication programs, including the required list(s) of hazardous chemicals and material safety data sheets required by Chapter 296-62 WAC.
 - 2. Training. At a minimum, Contractor shall provide training for persons working on the Project site which includes:

- a. Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.); The physical and health hazards of the chemicals in the work area.
 - b. The measures such persons can take to protect themselves from these hazards, including specific procedures Contractor, or its Subcontractors, or others have implemented to protect those on the Project site from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and
 - c. The details of the hazard communications program developed by Contractor, or its Subcontractors, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.
- E. Contractor's responsibility for hazardous, toxic, or harmful substances shall include the following duties:
1. Contractor shall not keep, use, dispose, transport, generate, or sell on or about the Project site, any substances now or hereafter designated as, or which are subject to regulation as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "hazardous substances"), in violation of any such law, regulation, statute, or ordinance, but in no case shall any such hazardous substance be stored more than 90 days on the Project site.
 2. Contractor shall promptly notify Owner of all spills or releases of any hazardous substances which are otherwise required to be reported to any regulatory agency and pay the cost of cleanup. Contractor shall promptly notify Owner of all failures to comply with any federal, state, or local law, regulation, or ordinance; all inspections of the Project site by any regulatory entity concerning the same; all regulatory orders or fines; and all responses or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Project site.
- F. All Work shall be performed with due regard for the safety of the public. Contractor shall perform the Work so as to cause a minimum of interruption of vehicular traffic or inconvenience to pedestrians. All arrangements to care for such traffic shall be Contractor's responsibilities. All expenses involved in the maintenance of traffic by way of detours shall be borne by Contractor.
- G. In an emergency affecting the safety of life or the Work or of adjoining property, Contractor is permitted to act, at its discretion, to prevent such threatened loss or injury, and Contractor shall act if so instructed.
- H. Nothing provided in this section shall be construed as imposing any duty upon Owner or A/E with regard to, or as constituting any express or implied assumption of control or

responsibility over, Project site safety, or over any other safety conditions relating to employees or agents of Contractor or any of its Subcontractors, or the public.

4.06 OPERATIONS, MATERIAL HANDLING, AND STORAGE AREAS

- A. Contractor shall confine all operations, including storage of materials, to Owner pre-approved areas.
- B. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be provided by Contractor only with the consent of Owner and without expense to Owner. The temporary buildings and utilities shall remain the property of Contractor and shall be removed by Contractor at its expense upon completion of the Work.
- C. Contractor shall use only established roadways or temporary roadways pre-approved by Owner. When materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by federal, state, or local law or regulation.
- D. Ownership and control of all materials or facility components to be demolished or removed from the Project site by Contractor shall immediately vest in Contractor upon severance of the component from the facility or severance of the material from the Project site. Contractor shall be responsible for compliance with all laws governing the storage and ultimate disposal. Contractor shall provide Owner with a copy of all manifests and receipts evidencing proper disposal when required by Owner or applicable law.
- E. Contractor shall be responsible for the proper care and protection of its materials and equipment delivered to the Project site, including unloading, handling, and setting of Owner furnished/ Contractor installed equipment and materials. Materials and equipment may be stored on the premises subject to approval of Owner. When Contractor uses any portion of the Project site as a shop, Contractor shall be responsible for any repairs, patching, or cleaning arising from such use. Contractor shall have a spill prevention plan/fueling plan for equipment.
- F. Contractor shall protect and be responsible for any damage or loss to the Work, or to the materials or equipment until the date of Substantial Completion and shall repair or replace without cost to Owner any damage or loss that may occur, except damages or loss caused by the acts or omissions of Owner. Contractor shall also protect and be responsible for any damage or loss to the Work, or to the materials or equipment, after the date of Substantial Completion, and shall repair or replace without cost to Owner any such damage or loss that might occur, to the extent such damages or loss are caused by the acts or omissions of Contractor, or any Subcontractor.

4.07 UNFORESEEN PHYSICAL CONDITIONS

Any investigations of hidden or subsurface conditions by Owner or its consultants have been made for design purposes. There is no guarantee, express or implied, that the conditions indicated are representative of those existing throughout the site or that unforeseen developments may not occur. Contractor is solely responsible for reasonably interpreting the information and extrapolating beyond the testing location, including each individual boring, test pit or other location. At Owner's request, Contractor shall make available to Owner the results of any site investigation, test borings, analyses, studies, or other tests conducted by or in possession of Contractor or any of its agents. Contractor represents that it is familiar with the Project site and has reviewed all information made available to Contractor or listed in the Contract Documents, including the soils report and civil plan referred to therein concerning the conditions of the Project site. Contractor shall undertake such further investigations and studies as may be necessary or useful to determine Project conditions with pre-approval from Owner. Contractor shall exercise special care in executing subsurface work in proximity of known subsurface utilities, improvements, and easements.

4.08 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT, VEGETATION, UTILITIES, AND IMPROVEMENTS

- A. Contractor shall protect from damage all existing structures, equipment, improvements, utilities, landscaping, topography, streets, curbs, walks and vegetation: at or near the Project site; and on adjacent property of a third party, the locations of which are made known to or should be known by Contractor. Contractor shall repair any damage, including that to the property of a third party, resulting from failure to comply with the requirements of the Contract Documents or failure to exercise reasonable care in performing the Work. If Contractor fails or refuses to repair the damage promptly, Owner may have the necessary work performed and charge the cost to Contractor. In the event the governmental authorities require that the repairing and patching be done with their own labor and/or materials, Contractor shall abide by such regulations, and it shall pay for such work at no additional cost to Owner.
- B. Contractor shall only remove trees when specifically authorized to do so by Owner and shall protect vegetation that will remain in place subject to appropriate permit requirements and the Tree Preservation Ordinance of the City of Vancouver VMC 20.770.

4.09 LAYOUT OF WORK

- A. Contractor shall plan and lay out the Work in advance of operations so as to coordinate all work without delay or revision.
- B. Public and private utilities, or their contractors, will furnish all work necessary to adjust, relocate, replace, or construct their facilities unless otherwise provided for in the Plans or Specifications. Such adjustment, relocation, replacement, or construction will be done during the prosecution of the work for this Project.
- C. Contractor shall lay out the Work from Owner-established baselines and benchmarks indicated on the drawings and shall be responsible for all field measurements in connection with the layout. Contractor shall furnish, at its own expense, all stakes,

templates, platforms, equipment, tools, materials, and labor required to lay out any part of the Work. Contractor shall be responsible for executing the Work to lines and grades that are established. Contractor shall be responsible for maintaining or restoring all stakes and other marks established.

- D. No excavation shall begin until all known facilities, in the vicinity of the excavation area, have been located and marked.

4.10 MATERIAL AND EQUIPMENT

- A. Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

All equipment, material, and articles incorporated into the Work shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract Documents. References in the Specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard quality and shall not be construed as limiting competition. Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of A/E and Owner, is equal to that named in the specifications, unless otherwise specifically provided in the Contract Documents. Contractor shall check all materials and labor entering into the Work and shall keep full detailed accounts thereof.

- B. Contractor shall do all cutting, fitting, or patching that may be required to make its several parts fit together properly, or receive or be received by work of others set forth in, or reasonably implied by, the Contract Documents. Contractor shall not endanger any work by cutting, excavating, or otherwise altering the Work and shall not cut or alter the work of any other contractor unless approved in advance by Owner.
- C. Should Owner or A/E find any of the Work to be defective, or in any way not in accordance with the Contract Documents, this work, in whatever stage of completion, may be rejected by Owner.
- D. Materials shall conform to the manufacturer's standards in effect at the date of execution of the Contract Documents and shall be installed in strict accordance with the manufacturer's instructions, specifications and directions. Contractor shall, if required in writing by Owner and A/E, furnish satisfactory evidence regarding the kind and quality of any materials identifying thereon the source, and warranting their quality and compliance with the Contract Documents.
- E. All products and materials incorporated into the Project as part of the Work shall be certified as "asbestos-free" and "lead-free" by United States standards. At the completion of the Project Contractor shall submit Certifications of Asbestos-Free and of

Lead-Free Materials certifying that all materials and products incorporated into the Work meet the requirements of this section.

4.11 AVAILABILITY AND USE OF UTILITY SERVICES

A. Owner, at its option, may make utilities available to Contractor from existing outlets and supplies. Unless otherwise provided in the Contract Documents, the utility service consumed shall be charged to or paid for by Contractor. Contractor will carefully conserve any utilities furnished. Contractor shall, at its expense and in a skillful manner satisfactory to Owner, install and maintain all necessary temporary connections and distribution lines, together with appropriate protective devices, and all meters required to measure the amount of each utility used for the purpose of determining charges. Prior to the date of Final Acceptance, Contractor shall remove all temporary connections, distribution lines, meters, and associated equipment and materials.

Contractor shall confirm the location of each utility, shall excavate and dispose of each on-site utility and shall cap each off-site utility as required by the Work and as may be included in the Specifications.

4.12 TESTS AND INSPECTION

A. Contractor shall maintain an adequate testing and inspection program and perform such tests and inspections as are necessary or required to ensure that the Work conforms to the requirements of the Contract Documents. Contractor shall be responsible for inspection and quality surveillance of all its Work and all Work performed by any Subcontractor. Unless otherwise provided in the Contract Documents, Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to Owner, or with the appropriate public authority, and shall bear all related costs of tests, re-testing, off-site testing, inspections, and approvals. Contractor shall give Owner timely notice of when and where tests and inspections are to be made. Contractor shall maintain complete inspection records and make them available to Owner.

B. Owner may, at any reasonable time, conduct such inspections and tests as it deems necessary to ensure that the Work is in accordance with the Contract Documents. Owner shall promptly notify Contractor if an inspection or test reveals that the Work is not in accordance with the Contract Documents. Unless the subject items are expressly accepted by Owner, such Owner inspection and tests are for the sole benefit of Owner and do not:

1. Constitute or imply acceptance.
2. Relieve Contractor of responsibility for providing adequate quality control measures.
3. Relieve Contractor of responsibility for risk of loss or damage to the Work, materials, or equipment.

4. Relieve Contractor of its responsibility to comply with the requirements of the Contract Documents; or
 5. Impair Owner's right to reject defective or nonconforming items, or to avail itself of any other remedy to which it may be entitled.
- C. Neither observations by Owner, A/E, an inspector retained by Owner, the presence or absence of such inspector on the site, nor inspections, tests, or approvals by others, shall relieve Contractor from any requirement of the Contract Documents, nor is any such inspector authorized to change any term or condition of the Contract Documents.
- D. Contractor shall promptly furnish, without additional charge, all facilities, labor, material and equipment reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner, by A/E, by law, or by the Contract Documents. Owner may charge Contractor any additional cost of inspection or testing when Work is not ready at the time specified by Contractor for inspection or testing, or when prior rejection makes re-inspection or retest necessary. Owner shall perform its inspections and tests in a manner that will cause no undue delay in the Work.

4.13 CORRECTION OF NONCONFORMING WORK

- A. If a portion of the Work is covered contrary to the requirements in the Contract Documents, it must, if required in writing by Owner or A/E, be uncovered for Owner's or A/E's observation and be replaced at Contractor's expense and without change in the Contract Time.
- B. If, at any time prior to Final Completion, Owner or A/E desires to examine the Work, or any portion of it, which has been covered, Owner or A/E may request to see such Work and it shall be uncovered by Contractor. If such Work is in accordance with the Contract Documents, Contractor shall be entitled to an adjustment in the Contract Sum for the cost of uncovering and replacement, and, if completion of the Work is thereby delayed, an adjustment in the Contract Time, provided it timely makes a request therefore as provided in part 6. If such Work is not in accordance with the Contract Documents, Contractor shall pay the costs of examination and reconstruction, and the Contract Time shall not be adjusted.
- C. Contractor shall promptly correct Work found by Owner or A/E not to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. Contractor shall bear all costs of correcting such nonconforming Work, including additional testing and inspections.
- D. If, within one year after the date of Substantial Completion of the Work or designated portion thereof, any of the Work is found to be not in accordance with the requirements

of the Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner to do so. This period of one year shall be extended, with respect to portions of Work first performed after Substantial Completion, by the period of time between Substantial Completion and the actual performance of the Work. Contractor's duty to correct with respect to Work repaired or replaced shall run for one year from the date of repair or replacement. Obligations under this paragraph shall survive Final Acceptance.

- E. Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by Contractor nor accepted by Owner.
- F. If Contractor fails to correct nonconforming Work within a reasonable time after written notice to do so, Owner may replace, correct, or remove the nonconforming Work and charge the cost thereof to Contractor.
- G. Contractor shall bear the cost of correcting destroyed or damaged Work, whether completed or partially completed, caused by Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- H. Nothing contained in this section shall be construed to establish a period of limitation with respect to other obligations which Contractor might have according to the Contract Documents. Establishment of the time period of one year as described herein relates only to the specific obligation of Contractor to correct the Work and has no relationship to the time within which Contractor's obligation to comply with the Contract Documents or warranties may be sought to be enforced, including the time within which such proceedings may be commenced.
- I. If Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, Owner may do so instead of requiring its removal and correction, in which case the Contract Sum may be reduced as appropriate and mutually agreed.
- J. Eleven months after the date of Substantial Completion of the Work Owner and Contractor shall perform a walk through to determine punch-list items to be corrected by Contractor prior to the one-year warranty expiration.

4.14 CLEAN UP

- A. Contractor and all Subcontractors shall at all times keep the Project site, including hauling routes, infrastructures, utilities, and storage areas, free from accumulations of waste materials. Before completing the Work, Contractor shall remove from the premises its rubbish, tools, scaffolding, equipment, and materials. Upon completing the Work, Contractor shall leave the Project site in a clean, neat, and orderly condition satisfactory to Owner. If Contractor fails to clean up as provided herein, and after reasonable notice from Owner, Owner may do so and the cost thereof shall be charged to Contractor.
- B. In addition to general broom cleaning, Contractor shall perform, without limitation, the following final cleaning at completion of the Work, in addition to any cleaning required

under the Specifications:

1. Remove temporary protections.
2. Remove marks, stains, fingerprints, and other soils or dirt from painted, decorated and natural-finished woodwork and other Work.
3. Remove spots, plaster, soil and paint from ceramic tile, marble and other finished materials, and wash or wipe clean.
4. Clean fixtures, cabinet work and equipment, removing stains, paint, dirt and dust and leave same in undamaged, new condition.
5. Clean all metals in accordance with recommendations of the manufacturer.
6. Clean resilient floors thoroughly with a well rinsed mop containing only enough moisture to clean off any surface dirt or dust and buff dry by machine to bring out the surfaces to sheen.
7. Broom cleans all interiors, roof and parking lots;
8. Remove from and about the Property waste materials, rubbish, tools, construction equipment, machinery and surplus materials.
9. Remove all spillage and tracking arising from the performance of work from streets and sidewalks, maintaining a regular maintenance program of sweeping and hosing to minimize accumulation of dirt and dust upon such areas; and
10. Replace glass damaged or broken prior to completion of the glasswork phase of the Project. After damaged or broken glass has been replaced, removed all labels, wash and polish both sides of all glass.

4.15 ACCESS TO WORK

Contractor shall provide Owner and A/E access to the Work in progress wherever located. The presence of Owner or A/E on-site does not constitute acceptance of the Work.

4.16 SEPARATE CONTRACTS

Owner may undertake or award separate contracts for work or services at or near the Project site. Contractor shall reasonably cooperate with the separate contractors and with Owner's employees and shall carefully adapt scheduling and perform the Work in accordance with these Contract Documents to reasonably accommodate the separate contractor. Contractor shall reimburse Owner for costs incurred by Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of Contractor.

4.17 SUBCONTRACTORS AND SUPPLIERS

- A. Before submitting the first Application for Payment, Contractor shall furnish in writing to Owner the names, addresses, and telephone numbers of all Subcontractors, as well as suppliers providing materials. Contractor shall utilize Subcontractors and suppliers which are experienced and qualified, and meet the requirements of the Contract Documents, if any. Contractor shall not utilize any Subcontractor or supplier to whom Owner has a reasonable objection and shall obtain Owner's written consent before making any substitutions or additions.
- B. All Subcontracts must be in writing. By appropriate written agreement, Contractor shall require each Subcontractor, so far as applicable to the Work to be performed by the Subcontractor, to be bound to Contractor by terms of the Contract Documents, and to assume toward Contractor all the obligations and responsibilities which Contractor assumes toward Owner in accordance with the Contract Documents. Each Subcontract shall preserve and protect the rights of Owner in accordance with the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. However, nothing in this paragraph shall be construed to alter the contractual relations between Contractor and its Subcontractors with respect to insurance or bonds.
- C. Prior to any Subcontractor or lower-tier Subcontractor beginning work, Contractor shall submit to Owner a certification that a written agreement between Contractor and the Subcontractor or between Subcontractor and any lower-tier Subcontractor has been executed.
- D. Contractor shall schedule, supervise, and coordinate the operations of all Subcontractors. No subcontracting of any of the Work shall relieve Contractor from its responsibility for the performance of the Work in accordance with the Contract Documents or any other obligations of the Contract Documents.
- E. If Owner concludes that a proposed Subcontractor is not "responsible" as that term is defined in RCW 43.19.1911(9), Contractor shall replace the Subcontractor with no change to the Contract Sum. Such a replacement shall not relieve Contractor of its responsibility for the performance of the Work or compliance with all of the requirements of the Contract within the Contract Sum and Contract Time.
- F. Each Subcontract agreement for a portion of the Work is hereby assigned by Contractor to Owner provided that:
 - 1. The assignment is effective only after termination by Owner pursuant to Part 9 and only for those Subcontracts which Owner accepts by notifying the Subcontractor in writing; and
 - 2. After the assignment is effective, Owner will assume all future duties and obligations toward the Subcontractor which Contractor assumed in the Subcontract.
 - 3. The assignment is subject to the prior rights of the surety, if any, obligated under

any bond provided in accordance with the Contract Documents.

4.18 WARRANTY OF CONSTRUCTION

- A. Contractor warrants to Owner that materials and equipment furnished under the 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 not inherent in the quality required or permitted; the Work will conform to the requirements of the Contract Documents; that the Work will be performed in a skillful and workmanlike manner; and all punch list items shall promptly be made or repaired by Contractor. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by Owner, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. At its sole cost and expense, Contractor shall promptly pay and perform, to the reasonable satisfaction of Owner or its transferee, any repairs required of Contractor, in fulfillment of the foregoing warranty obligations. Should Contractor fail to perform any non-emergency maintenance or repair required pursuant to this Subparagraph within fifteen (15) days of notice thereof from Owner or any transferee of Owner shall be entitled to recover directly from Contractor the cost thereof (including attorney's fees) plus interest at the statutory rate thereon until repaid, immediately and upon demand by Owner therefore. Owner or its assigns shall be entitled to make emergency repairs to the Project whether or not within the warranty obligations of Contractor hereunder without providing Contractor prior notice thereof; provided however that notice and demand for repayment for such emergency repairs shall be provided to Contractor as soon thereafter as is reasonably practicable. Contractor's warranties shall be in addition to any manufacturer's warranties and Contractor agrees to assist Owner with prosecution of manufacturer's warranties. As used above, the term "defects" shall mean (a) any portions of the Work not in conformance with the Contract Documents or (b) any portion of the Work, which is otherwise incomplete, defective, not performed in a sound and workmanlike manner, or not performed in accordance with applicable laws, rules, codes, and ordinances, orders, or similar binding pronouncement enacted by any local, state or federal government agency, bureau, department or government.
- B. The obligations under this section shall survive Final Acceptance.

4.19 SUBSTITUTIONS

- A. Contractor may make substitutions only with the prior consent of Owner, after evaluation by Owner's Representative and A/E and in accordance with a Change Order. By making requests for substitutions, Contractor:
1. Represents that Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified.

2. Represents that Contractor will provide the same or better warranty for the substitution that Contractor would for that specified.
3. Certifies that the cost data presented is complete and includes all related costs under this contract including A/E's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
4. Will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be completed in all respects.

PART 5 - PAYMENTS AND COMPLETION

5.01 CONTRACT SUM

Owner shall pay Contractor the Contract Sum for performance of the Work, in accordance with the Contract Documents. The Contract Sum shall include all taxes imposed by law and properly chargeable to the Project, including sales tax.

By executing this Contract, the Contractor represents and acknowledges that the Contract Sum is reasonable compensation for all the Work that the Contract Time is adequate for the performance of the Work, and that it has carefully examined the Contract Documents.

5.02 SCHEDULE OF VALUES

Before submitting its first Application for Payment, Contractor shall submit to Owner for approval a breakdown allocating the total Contract Sum to each principal category of work, in such detail as requested by Owner ("Schedule of Values"). The approved Schedules of Values shall include appropriate amounts, and cost weighted percentage, for demobilization, record Drawings, Operation & Maintenance manuals, and any other requirements for Project closeout, and shall be used by Owner as the basis for progress payments. Payment for Work shall be made only for and in accordance with those items included in the Schedules of Values.

5.03 APPLICATION FOR PAYMENT

- A. **Draft Application for Payment.** At monthly intervals to be determined at the pre-construction meeting, Contractor shall submit to Owner a report on the current progress of the Work as compared to Contractor's Progress Schedule, and a draft, itemized application for payment for Work performed during the current calendar month on a form supplied or approved by Owner. This shall not constitute a payment request. Contractor and Owner shall confer regarding the current progress of the Work and the amount of payment to which Contractor is entitled. Owner may request Contractor to provide data substantiating Contractor's right to payment, such as copies of requisitions from Subcontractors of any tier, and reflecting retainage as provided elsewhere in the Contract Documents.
- B. After Contractor and Owner have conferred regarding the draft application, and Contractor has furnished all progress information required and all data requested

by Owner as provided above, Contractor shall submit to Owner an itemized Application for Payment for Work completed in accordance with the Contract Documents and the approved Schedules of Values for the prior month. Each Application shall be supported by such substantiating data as Owner may require.

- C. By submitting an Application for Payment, Contractor is certifying that all Subcontractors have been paid, less earned retainage in accordance with RCW 60.28.010, as their interests appeared in the last preceding certificate of payment. The Application shall also state that prevailing wages have been paid in accordance with the prefilled statements of intent to pay prevailing wages on file with Owner and that all payments due Subcontractors of any tier from Owner's payment the prior month have been made. THE SUBMISSION OF THIS APPLICATION CONSTITUTES A CERTIFICATION THAT THE WORK IS CURRENT ON THE CONTRACTOR'S CONSTRUCTION SCHEDULE, unless otherwise noted on the application. If required by Owner, Contractor shall submit proof of payment to Subcontractors for prior months, such as lien releases or cancelled checks.

By submitting an Application for Payment, Contractor is recertifying that the representations set forth are true and correct, to the best of Contractor's knowledge, as of the date of the Application for Payment. Such applications may not include requests for payment for portions of the Work for which Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom Contractor intends to pay. An Application for Payment shall not be valid unless it complies with the requirements of the Contract Documents.

- D. A list of all Subcontractors on site shall be provided to the Owner along with the Application for Payment, or payment will be delayed.
- E. At the time it submits an Application for Payment, Contractor shall analyze and reconcile, to the satisfaction of Owner, the actual progress of the Work with the Progress Schedule.
- F. If authorized by Owner, the Application for Payment may include request for payment for material delivered to the Project site and suitably stored, or for completed preparatory work. Payment may similarly be requested for material stored off the Project site, provided Contractor complies with or furnishes satisfactory evidence of the following:
1. The material will be placed in a bonded storage facility (warehouse) that is structurally sound, dry, lighted and suitable for the materials to be stored.
 2. The warehouse is located within a 10-mile radius of the Project. Other locations may be utilized, if approved in writing, by Owner.
 3. Only materials for the Project are stored within the warehouse (or a secure portion of a warehouse set aside for the Project).
 4. Contractor furnishes Owner a certificate of insurance extending Contractor's insurance coverage for damage, fire, and theft to cover the full value of all materials stored, or in transit.

5. The warehouse (or secure portion thereof) is continuously under lock and key, and only Contractor's authorized personnel shall have access.
6. Owner shall at all times have the right of access in company of Contractor.
7. Contractor and its surety assume total responsibility for the stored materials; and
8. Contractor furnishes to Owner certified lists of materials stored, bills of lading, invoices, and other information as may be required, and shall also furnish notice to Owner when materials are moved from storage to the Project site.

5.04 PROGRESS PAYMENTS

- A. Owner shall make progress payments, in such amounts as Owner determines are properly due, within 30 days after receipt of the properly executed (signed) progress payment request.
- B. For projects in excess of \$35,000 the Owner shall retain 5% of the amount of each progress payment in accordance with RCW 60.28, including, at Owner's request, consent of surety to release of the retainage. In accordance with RCW 60.28, Contractor may request that monies reserved be retained in a fund by Owner, deposited by Owner in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, or placed in escrow with a bank or trust company to be converted into bonds and securities, approved by Owner, to be held in escrow with interest to be paid to Contractor as the interest accrues. Owner may permit Contractor to provide an appropriate bond in lieu of the retained funds.
- C. Title to all Work and materials covered by a progress payment shall pass to Owner at the time of such payment free and clear of all liens, claims, security interests, and encumbrances. Passage of title shall not, however, relieve Contractor from any of its duties and responsibilities for the Work or materials, or waive any rights of Owner to insist on full compliance by Contractor with the Contract Documents.
- D. Payments due and unpaid in accordance with the Contract Documents may bear interest as specified in RCW 39.76.011.

5.05 LIENS

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

- B. Contractor shall defend, indemnify, and hold harmless Owner from any liens, including all expenses and attorneys' fees, except to the extent a lien has been filed because of failure of payment by Owner.

5.06 PAYMENTS WITHHELD

- A. Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to such extent as may be necessary to protect Owner from loss or damage for reasons including but not limited to:
 - 1. A State of Washington Department of Labor & Industries approved Intent to Pay Prevailing Wage form for work performed for the Contractor and any Subcontractor on file with Owner's office.
 - 2. 150% of the value of Work not in accordance with the Contract Documents.
 - 3. Reasonable evidence that the Work required by the Contract Documents cannot be completed for the unpaid balance of the Contract Sum.
 - 4. Work by Owner to correct defective Work or complete the Work in accordance with the general conditions.
 - 5. Third party claims filed or reasonable evidence indicating probable filing of such claims, unless Owner determines it is adequately secured against such claims with adequate retainage to protect against deficiencies in the Work.
 - 6. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay.
 - 7. Failure to perform in accordance with the Contract Documents; or
 - 8. Cost or liability that may occur to Owner as the result of Contractor's fault or negligent acts or omissions.

5.07 SUBSTANTIAL COMPLETION

- A. Substantial Completion is the stage in the progress of the Work (or portion thereof designated and approved by Owner) when the construction is sufficiently complete, in accordance with the Contract Documents, so Owner can fully occupy the Work (or the designated portion thereof) for the use for which it is intended. All Work other than incidental corrective or punch list work shall be completed. Substantial Completion shall not have been achieved if all systems, equipment and parts are not operational and functioning problem free for 30 continuous days, if utilities are not connected and operating normally, if all required occupancy permits have not been issued, or if the Work is not accessible by normal vehicular and pedestrian traffic routes. The date Substantial

Completion is achieved shall be established in writing by Owner. Contractor may request an early date of Substantial Completion which must be approved by Change Order. Owner's occupancy of the Work or designated portion thereof does not necessarily indicate that Substantial Completion has been achieved.

Upon execution of Certificate of Substantial Completion, Contractor shall attach a list of each outstanding and unresolved Claim or Lien; any Claim or Lien not so attached and identified, other than retainage and the undisputed balance of the Contract Sum, shall be deemed waived and abandoned.

- B. Date of Commissioning of Critical Systems: The following systems of the Work, and any other systems designated in the Contract Documents, are considered "Critical Systems": the HVAC system, the data communication system(s), the intercom system, the life safety system(s) and the security system. When Contractor considers that the Critical Systems are up and running and ready for normal operation as specified for each phase, Contractor shall so notify A/E in writing a minimum of 14 days prior to the Date of Substantial Completion for that portion or phase as fixed in the Contract Documents. The A/E will then schedule a pre-commissioning inspection of these systems to determine whether the Critical Systems are complete and ready for normal operation. If A/E's inspection discloses that the Critical Systems are not Substantially Complete or that any item which is not in accordance with the requirements of the Contract Documents, Contractor shall expeditiously, and before the Date of Commissioning, complete or correct such item upon notification by A/E. Contractor shall then submit a request for another inspection by A/E to determine completion of the Critical Systems and pay the costs associated with the re-inspection, including fees of A/E and its consultants. When the Critical Systems are complete, A/E will notify Owner in writing, which shall establish the Date of Commissioning. Warranties on the Critical Systems required by the Contract Documents shall commence on the Date of Commissioning, unless otherwise provided. The Date of Commissioning shall not have an effect on the duties of the parties at Substantial Completion.

5.08 PRIOR OCCUPANCY

Owner may, upon written notice thereof to Contractor, take possession of or use any completed or partially completed portion of the Work ("Prior Occupancy") at any time prior to Substantial Completion. Unless otherwise agreed in writing, Prior Occupancy shall not: be deemed an acceptance of any portion of the Work; accelerate the time for any payment to Contractor; prejudice any rights of Owner provided by any insurance, bond, guaranty, or the Contract Documents; relieve Contractor of the risk of loss or any of the obligations established by the Contract Documents; establish a date for termination or partial termination of the assessment of liquidated damages; or constitute a waiver of claims.

5.09 TRAINING

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Owner's Authorized Representative, training sessions for all

equipment and systems, as required in the individual specifications sections. Contractor shall schedule training sessions at least two weeks in advance of the date of the training to allow Owner personnel adequate notice. Training by video shall be conducted by contractor at owner's request as part of contract duties.

The O & M Manual shall be used as a basis for training. Training shall be a formal session, held after the equipment and/or system is completely installed and operational in its normal operating environment. All training shall be videotaped and recorded and provided by cloud based accessible electronic means acceptable to the owner.

5.10 FINAL COMPLETION, ACCEPTANCE, AND PAYMENT

- A. Final Completion shall be achieved when the Work is fully and finally completed in accordance with the Contract Documents. The date Final Completion is achieved shall be established by Owner in writing.
- B. Final Acceptance is the formal action of the City Council acknowledging Final Completion. Neither Final Acceptance nor final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the Performance Bond and Payment Bond or constitute a waiver of any claims by Owner arising from Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to Owner of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of Owner relating to or arising out of the Work, except for those Claims made in accordance with the procedures, including the time limits, set forth in part 8.
- D. Owner may, at Owner's option and to the fullest extent allowed by law, retain from final payment up to 150% of the value of any Work Owner determines to be incomplete, defective, or otherwise not in accordance with this Agreement and the Contract Documents, until such Work is repaired or performed to Owner's satisfaction.

5.11 RECORDS

- A. Contractor shall maintain books, ledgers, records, documents, emails, estimates, correspondence, logs, schedules, electronic data and other evidence relating or pertaining to the costs and/or performance of the Contract ("records") to such extent and in such detail as will properly reflect and fully support compliance with the requirements of the Contract Documents and with all costs, charges and other amounts of whatever nature. Contractor shall preserve such records for a period of seven (7) years following the date of Final Acceptance under the Contract and for such longer period as may be required by any other provision of the Contract. Within seven (7) days of Owner's request, Contractor agrees to make available at the office of Contractor during normal business hours all records for inspection, audit and reproduction (including electronic reproduction) by Owner or its representatives; failure to fully comply with this requirement shall constitute a material breach of contract.

- B. Each Subcontractor of any tier shall maintain books, ledgers, records, documents, estimates, correspondence, logs, schedules, electronic data and other evidence relating or pertaining to the costs and/or performance of the Contract ("records") to such extent and in such detail as will properly reflect and fully support compliance with the requirements of the Contract Documents and with all costs, charges and other amounts of whatever nature. Each Subcontractor shall preserve such records for a period of seven (7) years following the date of Final Acceptance under the Contract and for such longer period as may be required by any other provision of the Contract. Within seven (7) days of Owner's request, a Subcontractor shall make available at the office of the Subcontractor during normal business hours all records for inspection, audit and reproduction (including electronic reproduction) by Owner or its representatives; failure to do so shall constitute a waiver of all claims by that Subcontractor.
- C. Contractor agrees, on behalf of itself and Subcontractors of any tier, that any rights under RCW 42.17.260, "Disclosure," will commence at Final Acceptance, and that the invocation of such rights at any time shall initiate an equivalent right to disclosures from Contractor and Subcontractors of any tier for the benefit of Owner.

PART 6 - CHANGES

6.01 CHANGE IN THE WORK

- A. Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, solely by Change Order or Construction Change Directive, subject to the limitations stated herein and elsewhere in the Contract Documents. A Change Order shall be based upon agreement among Owner and Contractor. A Construction Change Directive is issued by Owner and may or may not be agreed to by Contractor.
- B. The Owner reserves the right to make, at any time during the Work, such changes in quantities and such alterations in the Work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the Contract nor release the Surety, and the Contractor agrees to perform the work as altered. Among others, these changes and alterations may include:
 - 1. Deleting any part of the work.
 - 2. Increasing or decreasing quantities.
 - 3. Altering Specifications, designs, or both.
 - 4. Adding new Work.
 - 5. Altering facilities, equipment, materials, services or sites, provided by the Owner.

6. Ordering the Contractor to speed up or delay the work.

- C. These changes in the Work shall be incorporated into the Contract Documents through the execution of Change Orders.
- D. If any change in the Work ordered by Owner causes an increase or decrease in the Contract Sum or the Contract Time, an adjustment may be made by Owner as provided herein, and such adjustment(s) shall be incorporated into a Change Order
- E. Change Order Proposals.
1. If Owner desires to order a change in the Work, it may request a written Change Order proposal from Contractor. Contractor shall submit a Change Order proposal within 10 days of the request from Owner, or within such other period as mutually agreed. Contractor's Change Order proposal shall be full compensation for implementing the proposed change in the Work, including any adjustment in the Contract Sum or Contract Time.
 2. Upon receipt of the Change Order proposal, or a request for an adjustment in the Contract Sum or Contract Time, or both, Owner may accept or reject the proposal, request further documentation, or negotiate acceptable terms with Contractor. Pending agreement on the terms of the Change Order, Owner may direct Contractor to proceed immediately with the Change Order Work by Construction Change Directive. Contractor shall not proceed with any change in the Work until it has obtained Owner's approval. All Work done pursuant to any Owner-directed change in the Work shall be executed in accordance with the Contract Documents.
- F. If and when Owner and Contractor reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, such agreement shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of all claims for time and for direct, indirect, and consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity, related to any Work either covered or affected by the Change Order, or related to the events giving rise to the request for an adjustment.
- G. If Contractor adds a reservation of rights that has not been initialed by Owner to any Change Order, Construction Change Directive, Change Order proposal, Application for Payment or any other document, all amounts therein shall be considered disputed and not due or payable unless and until costs are re-negotiated or the reservation is withdrawn or changed in a manner satisfactory to Owner. If Owner makes payment for a Change Order or an Application for Payment that contains a reservation of rights not initialed by Owner to indicate agreement with the reservation, and if Contractor negotiates the check for such payment, then the reservation of rights shall be deemed waived, withdrawn and of no effect.
- H. The Owner may direct the Contractor to proceed with a change in the work through a written Field Authorization (also referred to as a Field Order) when the time required to price and execute a Change Order would impact the Project.

The Field Authorization shall describe and include the following:

1. The Scope of Work
2. An agreed upon maximum not to exceed amount
3. Any estimated change to the Contract Time.
4. The method of final cost determination in accordance with the requirements detailed herein.
5. The supporting data to be submitted in accordance with the requirements detailed herein.

Upon satisfactory submittal by the Contractor and approval by the Owner of supporting cost data, a Change Order will be executed. The Owner will not make payment to the Contractor for Field Authorization work until that work has been incorporated into an executed Change Order

6.02 CHANGES IN THE CONTRACT SUM

A. General Application

1. The Contract Sum shall only be changed by a Change Order. Contractor shall include any request for a change in the Contract Sum in its Change Order proposal. Change Orders shall only be effective if signed by Owner.
2. If the cost of Contractor's performance is changed due to the fault or negligence of Owner, or anyone for whose acts Owner is responsible, Contractor shall be entitled to make a request for an adjustment in the Contract Sum in accordance with the dispute resolution procedure. No change in the Contract Sum shall be allowed to the extent: Contractor's changed cost of performance is due to the fault or negligence of Contractor, or anyone for whose acts Contractor is responsible; the change is concurrently caused by Contractor and Owner; or the change is caused by an act of Force Majeure as defined herein.
3. The value of any Work covered by a Change Order, or of any request for an adjustment in the Contract Sum, shall be determined by one of the following methods:
 - a. On the basis of a fixed price.
 - b. By application of unit prices to the quantities of the items involved. The unit prices should be used unless the quantity of the change order is in excess of 1.25 times the original bid quantity.

- c. On the basis of time and material.
- 4. When Owner has requested Contractor to submit a Change Order proposal, Owner may direct Contractor as to which method in subparagraph 3 above to use when submitting its proposal. Otherwise, Contractor shall determine the value of the Work, or of a request for an adjustment, on the basis of the fixed price method.

B. Pricing Components

Pricing proposals for adjusting the Contract Sum shall be submitted by Contractor and by Subcontractors through Contractor on a form acceptable to Owner for Change Proposal submittals. The total cost of any changed Work or increase or decrease in the Contract Sum, including Claims, shall be limited to the following components:

- 1. Direct Labor Costs: These are the estimated or actual labor costs calculated either (a) by multiplying the number of additional craft hours times the hourly costs necessary to perform the change in Work or (b) multiplying the unit labor costs times the additional material quantities, whichever is applicable according to industry practice. The costs shall not exceed the latest annual edition of the RS Means Building Construction Cost Data Book. The hourly cost shall be based upon the following:
 - a. Basic wages and fringe benefits: The hourly wage (without markup) and fringe benefits paid by Contractor as established by the Washington Department of Labor and Industries or contributed to labor trust funds as itemized fringe benefits, whichever is applicable, for the laborers, apprentices, journeymen, and foremen performing and/or directly supervising the Change in the Work on the site. The premium portion of overtime wages is not included unless pre-approved in writing by Owner. Costs paid or incurred by Contractor for vacations, per diem, subsistence, housing, travel, bonuses, stock options, or discretionary payments to employees are not separately reimbursable.
 - b. Workers' insurances: Direct contributions to the State of Washington as industrial insurance; medical aid; and supplemental pension by class and rates established by the Washington Department of Labor and Industries.
 - c. Federal insurances: Direct contributions required by the Federal Insurance Compensation Act (FICA); Federal Unemployment Tax Act (FUTA); and State Unemployment Compensation Act (SUCA).

No administrative time (at the job site, home office, or any other location) shall be allowed as a line item of the estimated cost of a change order, including the Superintendent's time. Administrative costs are considered to be part of the Fee set forth below.

- 2. Direct Material Costs: This is an itemization of the estimated or actual quantity

and cost of additional materials reasonable and necessary to perform the change in the Work. The unit costs shall be based on the following:

- a. The net costs after all offered or available discounts or rebates.
 - b. Freight costs; express charges; or special delivery costs when applicable.
 - c. No lump sum costs will be allowed except when approved in advance by A/E and Owner.
3. Construction Equipment Usage Costs: This is an itemization of the actual length of time that construction equipment appropriate for the Work is used solely on the change in the Work at the site times the following applicable rental. Actual, reasonable mobilization costs are permitted if the equipment is brought to the site solely for the change in the Work and compensation is permitted for furnishing all fuel, oil, lubrication, repairs, maintenance and insurance to the extent that such amounts are not included in the outside rental rate.
- a. Equipment rentals from an entity not related to Contractor or a Subcontractor of any tier shall be reimbursed at the actual rate paid to the unrelated third party as evidenced by rental receipts.
 - b. Equipment rentals from an entity related to Contractor or a Subcontractor of any tier shall not exceed the fair market rental price for that equipment established in the local prevailing rate of The Rental Rate Blue Book by Equipment watch (www.equipmentwatch.com).
 - c. Contractor's small tools are included in the Fee, and no separate charge will be permitted as part of any change in the Work. Small tools are \$500 or less in value and normally furnished by the performing contractor.
4. Subcontractor Costs: These are payments Contractor makes to Subcontractors for the cost of changed Work performed by or through such Subcontractors. Subcontractors' cost of changed Work shall be determined and itemized in the same manner as prescribed in 7.02(B)1 through 7.02(B)3 and shall not include consultant costs, attorneys' fees, or claim preparation expenses.
5. Fee. This is compensation for overhead, profit and all costs not included above, including without limitation all personnel not defined in 7.02(B)1; temporary construction facilities; office, home office costs and site overhead (including project manager, project engineer, other engineers, estimator, superintendent and their vehicles); office engineering and estimating costs; taxes (except for sales tax); employee per diem; subsistence and travel costs; warranty; safety costs; quality control/assurance, purchasing, small or hand tool or expendable charges; preparation of as-built drawings; schedule updating; impact on unchanged Work; proposal, Change Order and Claim preparation; consultant costs; attorneys' fees; and delay and impact costs of any kind, added to the total cost to Owner of any Change

Order, Construction Change Directive, Claim or any other claim of any kind on this Project. No Fee shall be due, however, for direct settlements by Owner of Subcontractor claims after Substantial Completion of Contractor's Work. The Fee shall be limited to a reasonable, mutually acceptable amount, but if none can be agreed upon, it shall be limited to the following:

- a. Contractor shall receive 15% of the cost of any materials supplied or work properly performed by Contractor's own forces.
- b. Contractor shall receive 10% of the amount owed directly to a Subcontractor for materials supplied or for work properly performed by that Subcontractor.
- c. Each Subcontractor shall receive 10% of the cost of any materials supplied or work properly performed by its own forces.
- d. Each Subcontractor shall receive 7% of the amount it incurs for materials supplied or work properly performed by its Subcontractors of any lower tier.
- e. The cost to which this Fee is to be applied shall be determined in accordance with 7.02(B)1 through 7.02(B)4.

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

6. Cost of change in insurance and bond premium. This is the actual cost of any changes in Contractor's liability insurance and statutorily required public works payment and performance bond premiums arising directly from the changed Work. This cost is calculated as a percentage of the sum of the costs determined in accordance with 7.02(B)1 through 7.02(B)5 and is subject to audit. Upon request, Contractor shall provide Owner with supporting documentation from its insurer and bonding company of any associated cost incurred.
 - a. Contractor's small tools are considered part of Contractor's Fee below and no separate charge will be permitted as part of any change in the Work. Small tools are \$500 or less in value.

6.03 CHANGE IN THE CONTRACT TIME

- A. The Contract Time may be changed only by a Change Order. Contractor shall include any request for a change in the Contract Time in its Change Order proposal.
- B. If the time of Contractor's performance is changed due to an act of Force Majeure, or due to the fault or negligence of Owner or anyone for whose acts Owner is responsible, Contractor shall be entitled to make a request for an adjustment in the Contract Time in accordance with the dispute resolution procedure of Part 8. No adjustment in the

Contract Time shall be allowed to the extent Contractor's changed time of performance is due to the fault or negligence of Contractor, or anyone for whose acts Contractor is responsible.

- C. Any change in the Contract Time covered by a Change Order, or based on a request for an adjustment in the Contract Time, shall be limited to the change in the critical path of Contractor's schedule attributable to the change of Work or event(s) giving rise to the request for an adjustment. Any Change Order proposal or request for an adjustment in the Contract Time shall demonstrate the impact on the critical path of the schedule. Contractor shall be responsible for showing clearly on the Progress Schedule that the change or event had a specific impact on the critical path, and except in case of concurrent delay, was the sole cause of such impact; and could not have been avoided by re-sequencing of the Work or other reasonable alternatives.
1. Contractor may request compensation for the cost of a change in Contract Time subject to the following conditions:
 2. The change in Contract Time shall solely be caused by the fault or negligence of Owner or A/E;
 3. Compensation under this paragraph is limited to changes in Contract Time for which Contractor is not entitled to be compensated under other sections.
 4. Contractor shall follow the procedure set forth herein.
 5. Contractor shall establish the extent of the change in Contract Time in accordance with paragraph 6.03C; and
 6. The daily cost of any change in Contract Time shall be limited to the items below, less funds that may have been paid pursuant to a change in the Contract Sum that contributed to this change in Contract Time:
 - a. Cost of nonproductive field supervision or labor extended because of the delay.
 - b. Cost of weekly meetings or similar indirect activities extended because of the delay.
 - c. Cost of temporary facilities or equipment rental extended because of the delay;
 - d. Extension of insurance because of delay

PART 7 - CLAIMS AND DISPUTE RESOLUTION

In an effort to reduce the incidence and costs to all parties of extended disputes, all Claims, direct or indirect, arising out of, or relating to, the Contract Documents or the breach thereof, except claims which have been waived under the terms of the Contract Documents, shall be decided exclusively by the following alternative dispute resolution procedure unless the parties

mutually agree in writing otherwise.

7.01 CLAIMS PROCEDURE

- A. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between Owner and Contractor arising out of or relating to the Contract Documents. Claims must be initiated in writing and include the information and substantiation required by the Contract Documents. The responsibility to substantiate Claims shall rest with the party making the Claim. Neither a Request for Information, nor a Construction Change Directive, nor a Change Order, nor a Change Order Proposal accepted by Owner, nor a reservation of rights, nor minutes of a meeting, nor a Daily Report, nor a ROM log entry, nor an Owner's request for or Contractor's response to a Change Order Proposal, nor a notice of a potential or future Claim, nor any other Claim or purported notice of Claim that fails to meet the requirements of the Contract Documents shall constitute a Claim.
- B. Notice. Except for Claims requiring notice before proceeding with the affected Work as otherwise described in the Contract Documents, Contractor shall submit written notice to Owner of such claim within 10 days after the date when Contractor first knew, or reasonably should have known, of the event or condition giving rise to the apparent claim. The notice must identify itself as a notice of a Claim and shall include a clear description of the event leading to or causing the Claim and describe the nature and impact of the Claim in reasonable detail. Notice is sufficient if the item is both discussed in the weekly meeting and listed in the "Notice" section of the meeting minutes as a notice item.
- C. Claim. Contractor shall submit a written Claim as provided herein within thirty (30) days of the notice. The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, impact, and consequential) to which Contractor may be entitled to. It shall be fully substantiated and documented. At a minimum the Claim shall contain the following information:
1. A detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of Work affected by the Claim;
 2. The date on which facts arose which gave rise to the Claim;
 3. The name of each employee of the Owner or A/E knowledgeable about the Claim;
 4. The specific provisions of the Contract Documents which support the Claim;
 5. Copies of any identified documents, other than the Contract Documents, that support the Claim;
 6. If an adjustment in Contract Time is sought: the specific days and dates for which it is sought; the specific reasons Contractor believes an extension in Contract

Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time;

7. If an adjusting in the Contract Sum is sought, the exact amount sought and a breakdown of that amount into categories as required herein;
8. A statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of the Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes the Owner is liable.

- D. After Contractor has submitted a fully documented Claim that complies with all of the contract provisions, Owner shall respond in writing, to Contractor as follows:
 1. If the Claim amount is less than \$50,000 with a decision within 60 days from the date the Claim is received; or
 2. If the Claim amount is \$50,000 or more, with a decision with 60 days from the date the Claim is received, or with notice to the Contractor of the date by which it will render its decision. Owner will then respond with a written decision in such additional time.
- E. To assist in the review of the Contractor's Claim, Owner may visit the Project site, or request additional information, in order to fully evaluate the issues raised.
- F. Failure to submit the notice or Claim in accordance with this Section shall constitute an absolute and unconditional waiver, bar and release of such claim.
- G. The fact that Owner and Contractor may continue to discuss or negotiate a Claim that has or may have been defective or untimely under the Contract shall not constitute waiver of the provisions of the Contract Documents unless Owner and Contractor sign an explicit, unequivocal waiver approved by Owner. Actual or alleged prejudice shall not be required to enforce a notice or Claim-submittal provision of this Contract.
- H. Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing, Contractor shall proceed diligently with performance of the Contract, and Owner shall continue to make payments in accordance with the Contract Documents. The time limits for submission of Claims are in addition to, and not in lieu of, the time limits for submission of requests for adjustments to the Contract Time and Contract Sum under Part 7.

7.02 CLAIMS AUDITS

- A. All Claims filed against Owner shall be subject to audit at any time following the filing of

the Claim. Failure of Contractor, or Subcontractors of any tier, to maintain and retain sufficient records to allow Owner to verify all or a portion of the Claim or to permit Owner access to the books and records of Contractor, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

B. In support of Owner audit of any Claim, Contractor shall, upon request, promptly, and in any event no later than the date provided by Owner, make available to Owner the following documents:

1. Daily time sheets and supervisor's daily reports;
2. Collective bargaining agreements;
3. Insurance, welfare, and benefits records;
4. Payroll registers;
5. Earnings records;
6. Payroll tax forms;
7. Material invoices, requisitions, and delivery confirmations;
8. Material cost distribution worksheet;
9. Equipment records (list of company equipment, rates, etc.);
10. Vendors', rental agencies', Subcontractors', and agents' invoices;
11. Contracts between Contractor and each of its Subcontractors, and all lower-tier Subcontractor contracts and supplier contracts;
12. Subcontractors' and agents' payment certificates;
13. Cancelled checks (payroll and vendors);
14. Job cost report, including monthly totals;
15. Job payroll ledger;
16. Planned resource loading schedules and summaries;
17. General ledger;
18. Cash disbursements journal;

19. Financial statements for all years reflecting the operations on the Work. In addition, Owner may require, if it deems it appropriate, additional financial statements for 3 years preceding execution of the Work;
 20. Depreciation records on all company equipment whether these records are maintained by the company involved, its accountant, or others;
 21. If a source other than depreciation records is used to develop costs for Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all such other source documents;
 22. All documents which relate to each and every Claim together with all documents which support the amount of any adjustment in Contract Sum or Contract Time sought by each Claim;
 23. Work sheets or software used to prepare the Claim establishing the cost components for items of the Claim including but not limited to labor, benefits and insurance, materials, equipment, Subcontractors, all documents which establish the time periods, individuals involved, the hours for the individuals, and the rates for the individuals; and
 24. Work sheets, software, and all other documents used by Contractor to prepare its bid.
- C. The audit may be performed by employees of Owner or a representative of Owner. Contractor, and its Subcontractors, shall provide adequate facilities acceptable to Owner, for the audit during normal business hours. Contractor, and all Subcontractors, shall make a good faith effort to cooperate with Owner's auditors.

7.03 RESOLUTION OF CLAIMS AND DISPUTES

- A. Upon receipt of a Claim against Contractor or at any time thereafter, A/E or Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a default by Contractor, A/E or Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.
- B. Within 30 days of Owner's receipt of the written Claim, Owner may require that an officer of Contractor, a principal of A/E, and Owner's City Manager or designee (all with authority to settle) meet, confer, and attempt to resolve the Claim during the following 10 days. Owner may continue the meeting to a time after it assembled and reviewed data.
- C. If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by A/E, by mediation or by litigation.
- D. **Mediation.** Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived shall, after completion of the dispute resolution process in Part 8, be subject to mediation as a condition precedent to the institution of

legal or equitable proceedings by either party. This requirement cannot be waived except by an explicit written waiver. The parties shall endeavor to resolve their Claims by mediation. A request for mediation shall be filed in writing with the other party to the Contract, and the parties shall promptly attempt to mutually agree upon a mediator. If the parties have not reached agreement on a mediator within thirty (30) days of the request, either party may file the request with the American Arbitration Association or such other alternative dispute resolution service to which the parties mutually agree, with a copy to the other party, and the mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association (or other agreed service) currently in effect. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation, unless stayed for a longer period by agreement of the parties or court order. The parties to the mediation shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. An officer of Contractor and Owner's City Manager or designee must attend the mediation session with authority to settle the Claim. To the extent there are other parties in interest, such as A/E or Subcontractors, their representatives, also with authority to settle the Claim, shall also attend the mediation session. Unless Owner and Contractor mutually agree in writing otherwise, all unresolved Claims shall be considered at a single mediation session that shall occur prior to Final Acceptance by Owner.

- E. **Litigation.** Contractor may bring no litigation on Claims unless such Claims have been properly raised and considered in the procedures of Part 8. Contractor shall have the burden to demonstrate in any litigation that it has complied with all requirements of Part 8. All unresolved Claims of Contractor shall be waived and released unless Contractor has complied with the time limits of the Contract Documents, and litigation is served and filed within the earlier of (a) one hundred twenty (120) days after the Date of Substantial Completion approved in writing by Owner or (b) sixty (60) days after Final Acceptance. This requirement cannot be waived except by an explicit written waiver signed by Owner and Contractor. The pendency of a mediation shall toll these deadlines until thirty (30) days after the date of the mediation session. Neither Contractor nor a Subcontractor of any tier, whether claiming under a bond or lien statute or otherwise, shall be entitled to attorneys' fees directly or indirectly from Owner (but may recover attorneys' fees from the bond or statutory retainage fund itself to the extent allowable under law).
- F. Owner may join Contractor as a party to any litigation/arbitration involving the alleged fault of Contractor or Subcontractor of any tier.

7.04 NOTICE AND CLAIMS

- A. All notices and Claims shall be made in writing as required by the Contract. Any notice of a Claim of Contractor against Owner and any Claim of Contractor, whether under the Contract or otherwise, must be made pursuant to and in strict accordance with the applicable provisions of the Contract. No act, omission, or knowledge, actual or constructive, of Owner or A/E shall in any way be deemed to be a waiver of the requirement for timely written notice and a timely written Claim unless Owner and Contractor sign an explicit, unequivocal written waiver approved by Owner's City Council.

- B. The fact that Owner and Contractor may continue to discuss or negotiate a Claim that has or may have been defective or untimely under the Contract shall not constitute waiver of the provisions of the Contract Documents unless Owner and Contractor sign an explicit, unequivocal waiver approved by Owner's City Council.
- C. Contractor's failure timely to submit required notices and/or Claims has a substantial impact upon and prejudices Owner, including but not limited to the inability to fully investigate or verify the Claim, mitigate damages, choose alternative options, adjust the budget, delete or modify the impacted Work, and/or monitor time, cost and quantities. For these and other reasons, actual or alleged prejudice shall not be required to enforce the notice or Claim provisions of this Contract.

PART 8 - TERMINATION OF THE WORK

8.01 TERMINATION BY OWNER FOR CAUSE

- 1. Owner may, upon 7 days' written notice to Contractor and to its surety, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for cause upon the occurrence of any one or more of the following events:
 - 2. Contractor fails to prosecute the Work or any portion thereof with sufficient diligence to ensure Substantial Completion of the Work within the Contract Time;
 - 3. Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency;
 - 4. Contractor fails in a material way to replace or correct Work not in conformance with the Contract Documents;
 - 5. Contractor repeatedly fails to supply skilled workers or proper materials or equipment;
 - 6. Contractor repeatedly fails to make prompt payment due to Subcontractors or for labor;
 - 7. Contractor disregards or fails to comply with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; or
 - 8. Contractor is otherwise in material breach of any provision of the Contract Documents.
- B. Upon termination, Owner may at its option:
 - 1. Take possession of the Project site and take possession of or use all materials, equipment, tools, and construction equipment and machinery thereon owned by Contractor to maintain the orderly progress of, and to finish, the Work;

2. Accept assignment of subcontracts pursuant to the applicable section; and
 3. Finish the Work by whatever other reasonable method it deems expedient.
- C. When Owner terminates the Work in accordance with this section, Contractor shall take the actions required herein, and shall not be entitled to receive further payment until the Work is accepted.
- D. If the unpaid balance of the Contract Sum exceeds Owner's damages and the cost of finishing the Work, including compensation for A/E's services and expenses made necessary thereby and any other extra costs or damages incurred by Owner in completing the Work, or as a result of Contractor's actions, such may be retained by Owner and Contractor shall have no claim thereon. If such costs and damages exceed the unpaid balance, Contractor shall pay the difference to Owner. These obligations for payment shall survive termination.
- E. Termination of the Work in accordance with this section shall not relieve Contractor or its surety of any responsibilities for Work performed.
- F. If Owner terminates Contractor for cause, and it is later determined that none of the circumstances set forth in paragraph 9.01A exist, then such termination shall be deemed a termination for convenience.

8.02 TERMINATION BY OWNER FOR CONVENIENCE

- A. Owner may, upon written notice, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for the convenience of Owner.
- B. Unless Owner directs otherwise, after receipt of a written notice of termination for either cause or convenience, Contractor shall promptly:
1. Stop performing Work on the date and as specified in the notice of termination;
 2. Place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Work as is not terminated;
 3. Cancel all orders and subcontracts, upon terms acceptable to Owner, to the extent that they relate to the performance of Work terminated;
 4. Assign to Owner all of the right, title, and interest of Contractor in all orders and subcontracts;
 5. Take such action as may be necessary or as directed by Owner to preserve and protect the Work, Project site, and any other property related to this Project in the possession of Contractor in which Owner has an interest; and

6. Continue performance only to the extent not terminated.
- C. If Owner terminates the Work or any portion thereof for convenience, Contractor shall be entitled to make a request for an adjustment for its reasonable direct costs incurred prior to the effective date of the termination, plus a reasonable allowance for overhead and profit on Work performed prior to termination, plus the reasonable administrative costs of the termination, but shall not be entitled to any other costs or damages, whatsoever, provided however, the total sum payable upon termination shall not exceed the Contract Sum reduced by prior payments. Contractor shall be required to make its request in accordance with the provisions of part 7.
- D. If Owner terminates the Work or any portion thereof for convenience, the Contract Time shall be adjusted as determined by Owner.

PART 9 - MISCELLANEOUS PROVISIONS

9.01 SUCCESSORS AND ASSIGNS

Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents.

9.02 MEANING OF WORDS

Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall be to the latest standard specification, manual, or code in effect on the date for submission of bids, except as may be otherwise specifically stated. Wherever in these Drawings and Specifications an article, device, or piece of equipment is referred to in the singular manner, such reference shall apply to as many such articles as are shown on the Drawings, or required to complete the installation.

9.03 TIME COMPUTATIONS

When computing any period of time, the day of the event from which the period of time begins shall not be counted. The last day is counted unless it falls on a weekend or legal holiday, in which event the period runs until the end of the next day that is not a weekend or holiday. When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.

9.04 ANTITRUST ASSIGNMENT

Owner and Contractor recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, Contractor hereby

assignsto Owner any and all claims for such overcharges as to goods, materials, and equipment purchasedin connection with the Work performed in accordance with the Contract Documents, except as toovercharges which result from antitrust violations commencing after the Contract Sum is established and which are not passed on to Owner under a Change Order. Contractor shall put a similar clause in its Subcontracts, and require a similar clause in its sub-Subcontracts, such that allclaims for such overcharges on the Work are passed to Owner by Contractor.

9.05 EMPLOYMENT PRACTICES

- A. Contractor shall comply with all applicable provisions of Chapter 49.28 RCW, "Hours of Labor." Contractor agrees that all persons employed in it and by any of its Subcontractors in work done pursuant to this Contract shall not be employed in excess of 8 hours in any one day, except as provided or allowed by law.

Pursuant to RCW 39.12, "Prevailing Wages on Public Works," no worker, laborer, or mechanic employed in the performance of any part of the Work shall be paid less than the "prevailing rate of wage" (in effect as of the date that bids are due) as determined by the Industrial Statistician of the Department of Labor and Industries. The schedule of the prevailing wage rates for the locality or localities where this contract will be performed is attached to the executed contract and made a part of the Contract Documents by reference as though fully set forth herein. Contractor shall provide the respective Subcontractors with a schedule of the applicable prevailing wage rates.

Pursuant to RCW 39.12.060, in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the Department of Labor and Industries of the state, and his or her decision therein shall be final and conclusive and binding on all parties involved in the dispute. Contractor shall defend, indemnify and hold Owner harmless, including attorneys' fees, from any violation or alleged violation by Contractor or any Subcontractor of any tier of RCW 39.12 ("Prevailing Wages on Public Works") and RCW 51 ("Industrial Insurance"), including without limitation RCW 51.12.050.

- B. Pursuant to Chapter 49.70 RCW et seq., "Worker and Community Right to Know Act," and Chapter 296-802 WAC et seq., Contractor shall provide Owner copies of and have available at the Site a workplace survey or material safety data sheets for all Hazardous Materials under the control or use of Contractor or any Subcontractor at the Site. Contractor shall not be entitled to any additional Contract Time or compensation arising from its failure or alleged failure to comply with this statute or regulation.

9.06 NO PERSONAL LIABILITY

No employee or officer of Owner shall be personally liable to Contractor, its owners or affiliates, in the event of any default or breach by owner or for any amounts which become due to Contractor, its owners or Affiliates, or on any obligation under the terms of this Agreement.

9.07 NON-WAIVER OF GOVERNMENTAL RIGHTS

By entering into this Agreement, Owner is specifically not obligating any governmental agency with respect to any discretionary or regulatory action relating to development or operation of the Project, including, but not limited to, rezoning, variances, environmental approvals, regulatory plan review, code compliance or any other governmental agency approvals or regulatory actions which are or may be required or authorized. By entering into this Agreement, Owner is binding itself to the covenants in the Agreement and such other covenants as may be implied from this Agreement, but Owner is not otherwise limiting its governmental authority; provided that Owner's exercise of any rights pursuant to this Agreement are not to be considered its "governmental" authority for purposes of this Section.

9.08 PARTIAL INVALIDITY

The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner the validity, enforceability, or effect of the remaining parts and provisions of the Contract Documents.

SECTION G: ADDENDUM OF REQUIRED FORMS

Bid Submission Form

Bid Alternate Form

Certification of Compliance with Wage Payment Statutes

List of Subcontractors

Proposal for incorporating recycled materials into the project

Bid Security Form

BID SUBMISSION FORM

Bidder: _____.

Bid Submission Date: _____

From: _____
Name of Contractor

Project Name: North Country EMS Station 52

Project Location: 15413 NE Fargher Lake HWY Clark County WA

Owner: North Country Emergency Medical services

Owner Project Number: #22-01

Architect: Hennebery Eddy

Architect Project Number: 20062

CERTIFICATIONS AND BASE BID

Base Bid, Single-Prime (All Trades) Contract: The undersigned Bidder, having carefully examined the Procurement and Contracting Requirements, Conditions of the Contract, Drawings, Specifications, and all subsequent Addenda, as prepared by Hennebery Eddy Architect's and consultants, having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of the above-named project, according to the requirements of the Procurement and Contracting Documents, for the stipulated sum of:

_____ Dollars (\$_____).

The above amount may be modified by amounts indicated by the Bidder on the attached Document "Bid Alternate Form."

BID GUARANTEE

The undersigned Bidder agrees to execute a contract for this Work in the above amount and to furnish surety as specified within [10] days after a written Notice of Award, if offered within [45] days after receipt of bids, and on failure to do so agrees to forfeit to Owner the attached cash, cashier's check, certified check, U.S. money order, or bid bond, as liquidated damages for such failure, in the following amount constituting five percent (5%) of the Base Bid amount above:

_____ Dollars (\$_____).

In the event Owner does not offer Notice of Award within the time limits stated above, Owner will return to the undersigned the cash, cashier's check, certified check, U.S. money order, or bid bond.

TIME OF COMPLETION

The undersigned Bidder proposes and agrees hereby to commence the Work of the Contract Documents on a date specified in a written Notice to proceed to be issued by Architect and shall fully complete the Work within 280 calendar days.

ACKNOWLEDGEMENT OF ADDENDA

The undersigned Bidder acknowledges receipt of and use of the following Addenda in the preparation of this Bid:

TBD

NOTE: Failure to acknowledge any issued Addenda will render proposal non-responsive and therefore void. It is the sole responsibility of the Bidder to learn of Addendum, if any. Such information may be obtained from the NCEMS website at: www.northcountryems.org

BID SUPPLEMENTS

The following supplements are a part of this Bid Form and are attached hereto.

Bid Alternates 1-3

CONTRACTOR'S LICENSE

The undersigned further states that it is a duly licensed contractor, for the type of work proposed, in the state of Washington and that all fees, permits, etc., pursuant to submitting this proposal have been paid in full.

SUBMISSION OF BID

The undersigned, under penalty of perjury, hereby certifies that said person(s), firm, association, LLC, or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

The undersigned declares that they have reviewed the insurance requirements listed in the Contract and have discussed both cost and availability of these insurance requirements with my insurance broker/agent. The bid being submitting accurately reflects the cost and availability of the insurance requirements as outlined by NCEMS, which I will abide by if awarded the contract.

The undersigned declares that before preparing their bid, they read carefully the specifications and requirements for bidders and that their bid is made with the full knowledge of the kind, quality and quantity of services and equipment to be furnished, and their said bid is as stated on these pages. **By signing this page of the bid, the Contractor acknowledges and agrees to the terms and conditions of each of the forms (the bid bond form must be signed separately), included in the bid documents.**

_____ Authorized Official (Signature)	_____ Date
_____ Print Name of Authorized Official	_____ Title of Authorized Official
_____ Company Name	_____ Telephone Number
_____ Address	_____ City, State, Zip
_____ E-mail Address	_____ Federal Employee I.D. #
_____ State Contractor's License Number	_____ Washington Unified Business Identifier (UBI#)
_____ Employment Security Reference Number	

NOTE:

1. If the bidder is a co-partnership, so state, giving firm name under which business is transacted.
2. If the bidder is a corporation or LLC, this proposal must be executed by a duly authorized official.
3. Proposals submitted must be complete and include pricing for the work to be completed, in whole, per the attached plans and specifications.

BID ALTERNATE FORM

PROJECT IDENTIFICATION: North Country EMS Station 52

BID ALTERNATE #1 (Southwest Drive): Deduct For all work shown on the Drawings and described in the Specifications and Contract Documents included as part of Bid Alternate #1, I/We agree to perform for the sum of:

_____ DOLLARS (_____)
(In case of discrepancy, written amount shall govern)

BID ALTERNATE #2 (Propane Tank): Add For all work shown on the Drawings and described in the Specifications and Contract Documents included as part of Bid Alternate #2, I/We agree to perform for the sum of:

_____ DOLLARS (_____)
(In case of discrepancy, written amount shall govern)

BID ALTERNATE #3 (Ceiling at Bunk Rooms): Add For all work shown on the Drawings and described in the Specifications and Contract Documents included as part of Bid Alternate #3, I/We agree to perform for the sum of:

_____ DOLLARS (_____)
(In case of discrepancy, written amount shall govern)

CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date December 1, 2021, that the bidder is not a “willful” violator, as defined in RCW 49.48.082, of any provision of Chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Bidder

Signature of Authorized Official*

Printed Name

Title

Date

City

State

Check One:

Individual Partnership Joint Venture Corporation

State of Incorporation, or if not a corporation, State where business entity was formed:

If a co-partnership, give firm name under which business is transacted:

* If a corporation, bid must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, bid must be executed by a partner.

LIST OF SUBCONTRACTORS

FAILURE TO SUBMIT THIS FORM WILL RENDER THE BID NON-RESPONSIVE AND, THEREFORE, VOID.

RCW 39.30.060-Public Works Subcontracting:

NCEMS has determined that RCW 39.30.060 applies to this contract and requires each bidder, regardless of the amount bid, to submit as part of the bid the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of heating, ventilation and air conditioning, plumbing as described in chapter 18.106 RCW, and electrical as described in chapter 19.28 RCW or to name itself for the work.

The bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the bidder must indicate which subcontractor will be used for which alternate. The requirement of this section to name the bidder’s proposed heating, ventilation and air conditioning, plumbing, electrical subcontractors, structural steel, and rebar installation applies only to proposed heating, ventilation and air conditioning, plumbing, electrical subcontractors, structural steel, and rebar installation who will contract directly with the general contractor submitting the bid to the public entity.

Failure of the bidder to submit as part of the bid the name(s) of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the bidder’s bid non-responsive and, therefore, void.

Will this project involve any of the following? If the answer is “yes” to any of the categories, the bidder must specify whether itself or a subcontractor will perform each type of work. If a subcontractor will perform the work, bidders must list the subcontractor’s name

Description of Work	Name of Subcontractor	Self-Perform	Work Not in Project
Electrical		<input type="checkbox"/>	<input type="checkbox"/>
Plumbing		<input type="checkbox"/>	<input type="checkbox"/>
HVAC		<input type="checkbox"/>	<input type="checkbox"/>
Concrete		<input type="checkbox"/>	<input type="checkbox"/>
Rebar Installation		<input type="checkbox"/>	<input type="checkbox"/>
Metal Siding		<input type="checkbox"/>	<input type="checkbox"/>
Wood Framing		<input type="checkbox"/>	<input type="checkbox"/>

By signing the signature page of the proposal, the Contractor acknowledges and agrees to the terms and conditions of this form.



Proposal for Incorporating Recycled Materials into the Project

In compliance with a new law that went into effect January 1, 2016 (SHB1695), the Bidder shall propose below, the total percent of construction aggregate and concrete materials to be incorporated into the Project that are recycled materials. Calculated percentages must be within the amounts allowed in Section 9-03.21(1)E, Table on Maximum Allowable Percent (By Weight) of Recycled Material, of the Standard Specifications.

Proposed total percentage: _____ percent.

Note: Use of recycled materials is highly encouraged within the limits shown above, but does not constitute a Bidder Preference, and will not affect the determination of award, unless two or more lowest responsive Bid totals are exactly equal, in which case proposed recycling percentages will be used as a tie-breaker, per the APWA GSP in Section 1-03.1 of the Special Provisions. Regardless, the Bidder's stated proposed percentages will become a goal the Contractor should do its best to accomplish. Bidders will be required to report on recycled materials actually incorporated into the Project, in accordance with the APWA GSP in Section 1-06.6 of the Special Provisions.

Bidder: _____

Signature of Authorized Official: _____

Date: _____

BID SECURITY FORM
Complete one of the following:

CASHIERS CHECK

Herewith find deposit in the form of a cashier's check in the amount of \$

,which amount is not less than five percent (5%) of the total bid.

Signature_

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, and _____
_____, as surety, are held and firmly bound unto North
Country EMS as Obligee in the penal sum of _____
_____dollars for the payment of which the Principal and the Surety bind
themselves, theirheirs, executors, administrators, successors, and assigns, jointly and severally,
by these presents.

The condition of this obligation is such that if the Obligee shall make any award to the Principal for:

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according to the terms of the proposal or bid made by the Principal therefore, and the principal shall dulymake and enter into a contract with the Obligee in accordance with the terms of said proposal or bid andaward and shall give bond for the faithful performance thereof, with Surety and Sureties approved by theObligee, or if the Principal shall, in case of failure so to do, pay and forfeit to the Obligee the penal amountof the deposit specified in the call for bids, then this obligation shall be null and void, otherwise it shall beand remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligee, as penaltyand liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS _____ day of _____, 2022.

Principal

Surety
