

AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 14th day of June in the year 2023
(In words, indicate day, month, and year.)

BETWEEN the Owner:

(Name, legal status, address, and other information)

The City of St. Helens an Oregon municipality
265 Strand Street
St. Helens, OR, 97051

and the Construction Manager:

(Name, legal status, address, and other information)

Balfour Beatty Construction, LLC dba Howard S. Wright a Delaware limited liability company
1455 NW Irving Street, Suite 400
Portland, OR 97209
CCB# 191495

for the following Project:

(Name, location, and detailed description)

CITY OF ST HELENS NEW PUBLIC SAFETY BUILDING
Corner of Old Portland Road and Kaster Road in St. Helens ,Oregon

The Construction manager will lead and assist with the preconstruction and construction phases of the new Public Safety Building. The current Police Station was built in 1971 as 2,200 square foot, wood framed building with a detached garage. The garage was updated in 1988 and a second floor has been in the planning stages since the early 1990s but never constructed due to budget constraints. As the current station was built for a police force that didn't need to handle digital data or face current issues such as active shooters, school shootings, online child pornography, or the opioid and mental health crises of today, an entirely new building is needed. Mackenzie Inc. has designed a new public safety building that will provide a safe space for a modern police force, be ADA compliant, improve evidence storage and ensure the privacy of crime victims. It will also create a space for an emergency preparedness center where first responders can coordinate a response to local disasters. The City has approved \$12.6 million for the project budget and we hope to have the doors open April 2025.

The Architect:

(Name, legal status, address, and other information)

Mackenzie Inc. Architecture Planning & Interior Design an Oregon corporation
1515 SE Water Ave, Suite 100
Portland, OR 97214

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Mackenzie Inc. has designed a new public safety building that will provide a safe space for a modern police force, be ADA compliant, improve evidence storage and ensure the privacy of crime victims. It will also create a space for an emergency preparedness center where first responders can coordinate a response to local disasters. The Program is set forth in the plan set and specifications dated July 25, 2023.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

This Project is located at the corner of Old Portland Road and Kaster Road in St. Helens ,Oregon. The Construction manager will lead and assist with the preconstruction and construction phases of the new Public Safety Building. The current Police Station was built in 1971 as 2,200 square foot, wood framed building with a detached garage. The garage was updated in 1988 and a second floor has been in the planning stages since the early 1990s but never constructed due to budget constraints. As the current station was built for a police force that didn't need to handle digital data or face current issues such as active shooters, school shootings, online child pornography, or the opioid and mental health crises of today, an entirely new building is needed. Mackenzie Inc. has designed a new public safety building that will provide a safe space for a modern police force, be ADA compliant, improve evidence storage and ensure the privacy of crime victims. It will also create a space for an emergency preparedness center where first responders can coordinate a response to local disasters. The City has approved \$12.6 million for the project budget and we hope to have the doors open April 2025

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

TBD – Owner's total budget for all costs associated with the Project is \$12.6 million. Owner will work with Construction Manager to identify the "Budget" amount as defined in Article 6.

§ 1.1.4 The Owner's anticipated design and construction milestone dates (See RFP and Proposal):

- .1 Design phase milestone dates, if any:
See Master Schedule attached to RFP
- .2 Construction commencement date:
See Master Schedule attached to RFP
- .3 Substantial Completion date or dates:
See Master Schedule attached to RFP
- .4 Other milestone dates:
See Master Schedule attached to RFP

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

See RFP, Proposal

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

David Lintz, Senior Project Manager/Client Services Manager
808 SW Third Avenue, Suite 800
Portland, OR 97204
Email: david.lintz@otak.com
Phone: 503.318.1750

The following persons shall be copied upon communications with the Owner's Representative:

(1) John Walsh, City Administrator
265 Strand Street
St. Helens, OR 97051
jwalsh@sthelensoregon.gov
(503) 366-8211

(2) Sharon Darroux, PMP, Engineering Manager
265 Strand Street
St. Helens, OR 97051
sdarroux@sthelensoregon.gov
(503) 936-0813

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

TBD

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Architect:

Haley & Aldrich, Inc. a Delaware corporation
70 Blanchard Road, Suite 204
Burlington, MA 01803
Luke Kevan
971-808-5159

.2 Civil Architect: (Retained by Mackenzie Inc. Architecture Planning & Interior Design)

Ralph Henderson, PE
See contact information for Mackenzie

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Adrienne Linton, Architect

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RiverEast Center
1515 SE Water Avenue, Suite 100
Portland, Oregon 97214
ALinton@mcknze.com
Phone: 971-346-3680

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Ryan McGrew, Senior VP, or, Troy Dickson, President
1455 NW Irving Street, Suite 400
Portland, OR 97209
503-220-0895
mcgrewr@hswc.com dicksont@hswc.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

See list identified in Proposal

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

See ORS 279C.337(3), RFP and Proposal

§ 1.1.15 Other Initial Information on which this Agreement is based:

See RFP and Proposal

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party. Owner shall have sole discretion to approve any replacement representative proposed by Construction Manager.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to

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furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, as amended, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.3 In the event of a conflict between this document and AIA Document A201–2017, this document shall be controlling.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201–2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, if any, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates within a reasonable amount of time to allow for the orderly progress of the Project.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities. Any significant change in law during the performance of the Contract shall be subject to the change process to the extent there is a cost or time impact on the Project.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

See RFP and Proposal

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner. Construction Manager shall submit the daily logs to Owner monthly.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 [Omitted].

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information, if reasonably available, or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to reasonably rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish, if reasonably available, surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid

unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described herein, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

See Proposal. Hourly up to the not-to-exceed amount of \$116,852. If a follow up construction contract is executed with Contractor, the not-to-exceed amount shall be \$58,426.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Proposal

Individual or Position	Rate
------------------------	------

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 [Omitted].

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid () days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

(Insert rate of monthly or annual interest agreed upon.)

%

See Amendment No. 1 to AIA Document A133-2019

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

See Proposal – 2.95%

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

See Proposal – 2.95%

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

See Proposal

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§6.1.6.1 The Construction Manager and Owner acknowledge that in the event that the Construction Manager fails to achieve Substantial Completion of the work by the date of Substantial Completion, as adjusted, in accordance with this Agreement, the Owner will incur substantial damages and the extent of such damages shall be incapable of accurate measurement. Nonetheless, the parties acknowledge that on the date of this Agreement, the amount of liquidated damages set forth below represents a good faith estimate as to the actual potential damages that the Owner would incur as a result of late Substantial Completion of the Project. Such liquidated damages shall be the sole and exclusive remedy of the Owner for late completion of the Project, and the Owner hereby waives all other remedies available at law or in equity with respect to losses resulting from late completion. The amount of the liquidated damages calculated hereunder does not include any penalty.

§6.1.6.2 If the Construction Manager fails to achieve Substantial Completion of the Work on or before the date of Substantial Completion, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the Owner liquidated damages in the amount of \$ To be agreed upon as part of GMP Amendment, plus any attorneys' fees and expert fees assessed in connection with the enforcement of any provision of this Agreement, per Calendar Day for each Calendar Day the date of Substantial Completion is delayed beyond the Date of Substantial Completion. To the extent the Owner takes legal occupancy of the Project and has the opportunity to use the Project for its intended purpose after the Date of Substantial Completion; payment of liquidated damages shall be made contemporaneously with the Owner's required payment to the Construction Manager at Final Completion, and such payments may be offset against each other. Notwithstanding such offset, the Construction Manager reserves the right to challenge its liability for liquidated damages pursuant to the dispute resolution procedures of this Agreement.

§6.1.6.3 Excusable Delays. To the extent any of the following events result in an actual delay in the Work affecting the Work activities on the critical path schedule, such shall constitute an "Excusable Delay" (to the extent not set forth below, a delay will be considered an "Inexcusable Delay."

1. Failure or inability of the Owner to make available any or the entire site of the Project in accordance with the requirements of the Project Schedule.
2. Failure or inability of the Owner or the Construction Manager to obtain necessary zoning changes, variances, code changes, permits, or approvals from any governmental authority, or failure to obtain any street or alley vacations required for the performance of the Work, except to the extent due to the sole fault or sole neglect of the Construction Manager.
3. Delays resulting from acts or omissions of separate contractors (not Subcontractors), except to the extent separate contractors perform their work properly and in accordance with Construction Manager schedules.
4. Delays resulting from Force Majeure.
5. Differing, unusual, or concealed site conditions that could not be reasonably anticipated by the Construction Manager in preparing the Project Schedule, including, without limitation, archaeological finds, and soil conditions (including rock or other geological conditions), underground foundations, abandoned utility lines, and water conditions.
6. Delays resulting from the existence or discovery of hazardous materials on the Project site not brought to the site by the Construction Manager.

7. Delays resulting from changes in Applicable laws after the date of Execution of this Agreement.
8. Delays occurring due to the acts or omissions of the Owner and those within the control of the Owner, including, but not limited to, separate contractors.
9. Delays resulting from local utility providers.
10. Weather impact delays beyond 20 scheduled work days. A weather impact day shall be a day in which a full day's critical path activity cannot be accomplished.

§ 6.1.7 Other:

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

Any savings the Construction Manager realizes in performing the public improvement contract will accrue to the Owner.

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner. All savings will be for the benefit of Owner. Construction Manager shall not share in any savings.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.1.4 Special Cost Terms. Notwithstanding anything herein to the contrary, the parties agree that the following special terms shall apply to the identified costs:

- A. Insurance/Bond Cost – shall be reimbursed at 1.10 % and .80% of the GMP, respectively.
- B. General Conditions (Appendix E – General Conditions Matrix) - The table found in Appendix E states the categories of specific General Conditions Work costs that support the cost for General Conditions Work that will be payable under the Contract. The total cost for General Conditions Work in Appendix E, based on the categories of General Conditions Work in the table, shall not to exceed the sum of \$1,043,695, i.e., that will be the maximum amount payable to Construction Manager for General Conditions Work identified in Appendix E, regardless of the final Project cost or the actual construction period required to complete the Project. All items of General Conditions Work listed by Owner in the table in Appendix E will be compensated either in a lump sum, fixed amount, or a not to exceed amount on a cost reimbursement basis. As identified in the GMP Amendment. Any item of Work that might customarily be considered to be General Conditions Work by Construction Manager but which is not listed in the table may be compensated on a cost reimbursement basis if it is otherwise described as a compensable Cost of the Work in this Article 7.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3. Reimbursement for the costs to be incurred by Contractor as contemplated by this paragraph 7.2.4 shall be at the fixed rate of Sixty Five Percent (65%) for direct work. Indirect work wages shall be reimbursed at the fixed rate as proposed in the RFP.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of

the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable. Costs paid or incurred by the Construction Manager for the Corporate Activity Tax directly related to the Work shall be considered a cost of the Work provided that such tax shall be excluded from the cost of the Work for the purpose of calculating the Construction Manager's fee.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld, so long as such dispute is not caused by Construction Manager's negligent or wrongful acts or omissions.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs necessary to complete the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work in a manner that meets GAP, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts,

Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of ten years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Progress Payments shall be made in accordance with provisions in Amendment No. 1

(Paragraphs deleted)

§ 11.1.8 Retainage

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

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

See Amendment No. 1

§ 11.1.8.1.1 The following items are not subject to retainage:

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

N/A

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

See Amendment No. 1

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

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

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

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect and Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect or Owner has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect or Owner has made exhaustive or continuous on-site inspections; or (3) that the Architect or Owner has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager
(Paragraphs deleted)
in accordance with AIA Document A201-2017.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

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

See Amendment No. 1

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

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

%

See Amendment No. 1

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. .

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

N/A

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

- ☒ [X] Arbitration pursuant to Article 15 of AIA Document A201–2017
- ☐ [] Litigation in a court of competent jurisdiction
- ☐ [] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an

- amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

N/A

If any termination for cause is found to be improper for any reason, it shall be converted to a termination for convenience and Construction Manager's remedy shall be limited to as if it has been a termination for convenience from inception.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201-2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201-2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than See Exhibit B) for each occurrence and See Exhibit B) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than One Million (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and / or umbrella liability insurance, provided that such primary and / or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any umbrella liability insurance provide narrower coverage than the primary policy. .

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than Five Hundred Thousand (\$ \$500,000).

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than See Exhibit B) per claim and See Exhibit B) in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
Pollution Liability Insurance	Not less than \$1,000,000 each loss / \$1,000,000 aggregate

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

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

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

Email addressed to [TBD] with subject line of "OFFICIAL CONTRACT NOTICE"

§ 14.5 Other provisions:

See Amendment No. 1

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed, to be issued in the Construction Phase and completed at the time of Amendment
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds, if executed, to be issued in the Construction Phase and completed at the time of Amendment
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .5

(Paragraphs deleted)

Other Exhibits:

(Check all boxes that apply.)

☐ AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:

(Insert the date of the E234-2019 incorporated into this Agreement.)

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.6 Other documents, if any, listed below:

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

Exhibit C - Proposal

Exhibit D - Request for Proposal for CM/GC Services for City of St. Helens New Public Safety Building
[Incorporated by reference only]

Amendment No. 1 to AIA Document A133-2019

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

OWNER (Signature)

(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Troy Dickson - President

(Printed name and title)

Init.

DRAFT AIA® Document A133™ – 2019

Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the « » day of « » in the year « », is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the « 14th » day of « June » in the year « 2023 » (the “Agreement”)
(In words, indicate day, month, and year.)

for the following **PROJECT:**
(Name and address or location)

« CITY OF ST HELENS NEW PUBLIC SAFETY BUILDING »
« Corner of Old Portland Road and Kaster Road in St. Helens ,Oregon »

THE OWNER:
(Name, legal status, and address)

« The City of St. Helens » «an Oregon municipality»
«265 Strand Street»
«St. Helens, OR, 97051 »

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

« Balfour Beatty Construction, LLC dba Howard S. Wright » «a Delaware limited liability company »
« 1455 NW Irving Street, Suite 400 »
« Portland, OR 97209 »
« CCB# 191495 »

TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE**
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed « » (\$ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 **Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.

(Provide itemized statement below or reference an attachment.)

« See attached Itemized Statement »

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 **Alternates**

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
------	-------

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ A.1.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

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

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☐ The date of execution of this Amendment.

☐ Established as follows:

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

« »

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

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 **Substantial Completion**

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

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User Notes:

(1684949838)

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

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

[☐] By the following date:

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<input type="text"/>	<input type="text"/>

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

The daily rate for Section 6.1.6 of the Agreement shall be \$.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

§ A.3.1.2 The following Specifications:

(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

« »

Section	Title	Date	Pages
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

§ A.3.1.3 The following Drawings:

(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

« »

Number	Title	Date
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ A.3.1.4 The Sustainability Plan, if any:

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
<input type="text"/>	<input type="text"/>	<input type="text"/>

Other identifying information:

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User Notes:

(1684949838)

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

« »

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

« »

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)

« »

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

OWNER (Signature)

« »« »

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

AIA® Document A133® – 2019 Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the 14th day of June in the year 2023
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

CITY OF ST HELENS NEW PUBLIC SAFETY BUILDING
Corner of Old Portland Road and Kaster Road in St. Helens ,Oregon

THE OWNER:
(Name, legal status, and address)

The City of St. Helens an Oregon municipality
265 Strand Street
St. Helens, OR, 97051

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Balfour Beatty Construction, LLC dba Howard S. Wright a Delaware limited liability company
1455 NW Irving Street, Suite 400
Portland, OR 97209
CCB# 191495

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 [OMITTED]**
- B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201TM-2017, General Conditions of the Contract for Construction.

(Paragraphs deleted)

ARTICLE B.2 [OMITTED]

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Document A201TM-2017, General Conditions of the Contract for Construction. Article 11 of A201TM-2017 contains additional insurance provisions.

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ B.3.2 Construction Manager's Required Insurance Coverage

§ B.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below: *(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)*

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Construction Manager shall acquire and supply Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Five Million (\$ 5,000,000) each occurrence, Ten Million (\$ 10,000,000) general aggregate, and Ten Million (\$ 10,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

Construction Manager shall require its subcontractors to provide and supply Commercial General Liability insurance in their usual policy limits, but not less than One Million (\$ 1,000,000) each occurrence, Two Million (\$ 2,000,000) general aggregate, and Two Million (\$ 2,000,000) aggregate for products-completed operations hazard.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than One Million (\$ 1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ B.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ B.3.2.4.1 Builder's Risk for the full amount of the GMP.

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits not less than One Million (\$ 1,000,000).

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Two Million (\$ 2,000,000) per claim and Four Million (\$ 4,000,000) in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than One Million (\$ 1,000,000) per claim and One Million (\$ 1,000,000) in the aggregate.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.3.3 Construction Manager's Other Insurance Coverage

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

Property Insurance – See AIA 201 11.2.

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[X] § B.3.3.2.1 Property
(Paragraphs deleted)
Insurance – See AIA 201 11.2.

[] § B.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.

[] § B.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[] § B.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[] § B.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.

[] § B.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
----------	--------

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum (\$See Amendment 1)
Payment Bond	See Amendment 1
Performance Bond	See Amendment 1

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

| See Amendment 1



Init.

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User Notes:

(2018396241)



EXHIBIT C



City of St. Helens New Public Safety Building

Response to Request for Proposal
Construction Manager / General Contractor (CM/GC) Services
May 16, 2023

4. PROPOSAL FORM

CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) SERVICES

City of St. Helens New Public Safety Facility

The undersigned proposer submits this proposal in response to the City's Request for Proposals (RFP) for the contract named above. The proposer warrants that proposer has carefully reviewed the RFP and that this proposal represents proposer's full response to the requirements described in the RFP. The proposer further warrants that if this proposal is accepted, the proposer will contract with the City, agrees to all terms and conditions found in the attached contract, and will provide all necessary labor, materials, equipment, and other means required to complete the work in accordance with the requirements of the RFP and contract documents.

No proposal will be considered unless the proposer is licensed with the State of Oregon Construction Contractors Board, pursuant to ORS 701.055 (1), prior to submitting a proposal. The proposer hereby acknowledges the requirement to carry or indicates the ability to obtain the insurance required by the contract documents. Indicate in the affirmative by initialing here:



The proposer hereby acknowledges receipt of Addendum Nos. 1, 2, , to this RFP.

Company Proposing: Balfour Beatty Construction, LLC dba Howard S. Wright

State of Oregon Construction Contractors Board License No: 191495

Business Address: 1455 NW Irving Street, Suite 400, Portland, Oregon 97209

Authorized Signature: 

Printed/Typed Name: Ryan McGrew

Title: Senior Vice President

Email Address: mcgrewr@hswc.com

Telephone Number: 503-220-0895 Date: May 16, 2023

Note: Complete and execute this form and include as the first page of the proposal.

City of St. Helens New Public Safety Facility

Construction Manager/General Contractor (CM/GC) Services RFP

May 16, 2023

John Walsh, City Administrator
City of St. Helens
265 Strand Street
St. Helens, OR 97051

Re: CM/GC Services for City of St. Helens New Public Safety Building

Dear John and Selection Committee Members,

Our company, as well as our proposed team, have the necessary experience to make the Public Safety Building project a success. We understand CM/GC, Public Safety Facilities, and Target Value Design and are ready to start providing solutions for your project. Equally important is our understanding of collaborative decision making. Our approach will be open communication, utilizing the project goals as the road map for decision making, and a shared trust in all project participants.

- **A Proven Team** – Our core team of Matt Kania (Superintendent), Aaron Braun (Senior PM), and Bill Jensen (Preconstruction) were our key team members for the recently completed Lake Oswego Public Safety Building / City Hall project. Working closely with Mackenzie and Day CPM (now OTAK), they were able to overcome the budget, pandemic, and supply chain challenges this project faced and turn the project over on-time and on-budget.
- **CM/GC & Public Safety Facility Authorities** – We have a broad range of public sector CM/GC experience coupled with an extensive Public Safety Facilities resume which makes us an ideal match for your project. Our expertise, depth, and track record of performance combined with our unique ability to manage cost and schedule during preconstruction, makes Howard S. Wright among the best in the industry.
- **Target Value Design (TVD) Experts** – We are a proven, solutions-oriented team that is passionate about partnering with you to make your vision a reality. Utilizing the TVD process, we are confident that we can keep your project on budget without sacrificing functionality or quality.

We look forward to the opportunity to partner with you and your project stakeholders and being able to discuss our approach further during interviews.

Sincerely,
Howard S. Wright (HSW)Ryan McGrew
Senior Vice PresidentRequired Information/Acknowledgments:

- Proposing Name/Legal Name: Balfour Beatty Construction, LLC dba Howard S. Wright
- CM/GC Authorized Representative(s):
Ryan McGrew, Senior VP; email: mcgrewr@hswc.com; phone 503.220.0895
Troy Dickson, President, NW; email: dickson@hswc.com; phone 503.220.0895
- Business Address: 1455 NW Irving Street, Suite 400, Portland, OR 97209
- Howard S. Wright accepts all terms and conditions contained in the RFP and CM/GC Agreement.

Executive Summary

HSW PUBLIC SAFETY BUILDING PROJECTS

Over the past decade, HSW has completed a number of Public Safety Facility projects around the State of Oregon. The knowledge we have gained from these projects will be applied to your project.

- 6 Projects
- 3 Ground-up Buildings
- 3 Renovations

250,000 Total Square Footage

\$70M Total Value

McMinnville Public Safety Building



Lake Oswego Public Safety Building



Eugene Police Station



Bend Police Station



Klamath Falls Police Station



Lebanon Justice Center

HSW FIRM HISTORY

HSW has operated in the Northwest since 1885 and we have been working in Oregon for over 40 years. Originally from Nova Scotia, Howard Sprague Wright—cabinetmaker, draftsman and framing superintendent—founded the company in Port Townsend, Washington. He quickly established himself as a builder in this small frontier town before eventually moving to Seattle in 1929. Purchased in 2011 by Balfour Beatty Construction (BBC), HSW still operates in the Pacific Northwest under the original owner's name.

ANNUAL VOLUME - NORTHWEST DIVISION

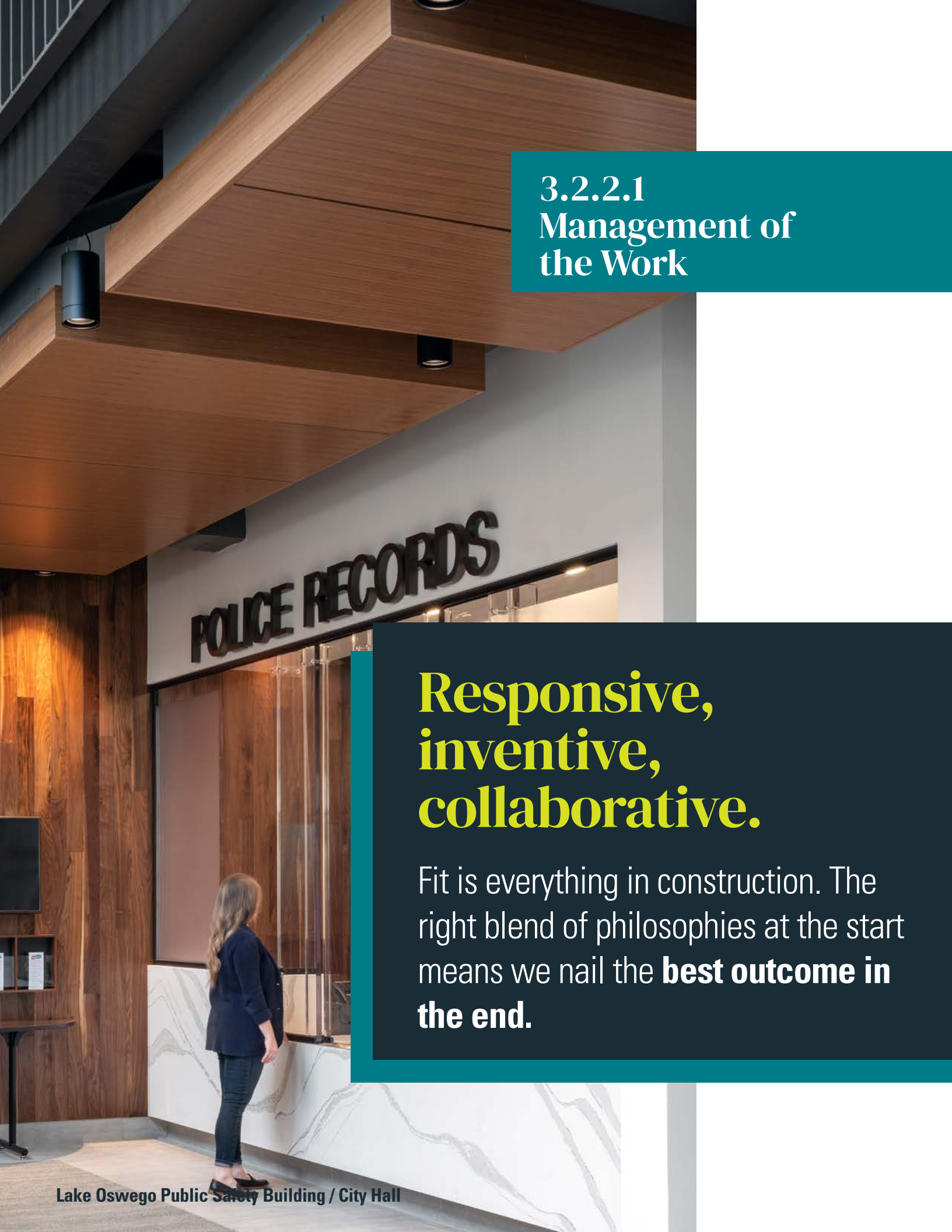
Year	Volume
2022	\$1,000M
2021	\$1,059M
2020	\$1,060M
2019	\$840M
2018	\$923M

Public Safety Building / City Hall

CITY OF LAKE OSWEGO

Aaron was able to navigate a complex and high-profile project even through the challenges of the pandemic, supply chain issues, snow/ice storms and local fires. He was able to see the big picture and keep the project moving forward and was always the constant professional. I was grateful to have Matt on this project. He's one of those guys you'd take into battle, knowing that he'd get the job done with no reservations. He was also a constant professional under great pressure and responsive to city and neighborhood requests. He's a great asset to HSW and you guys are lucky to have him on your team.

Sidaro Sin, Redevelopment Manager, City of Lake Oswego

The image shows the exterior of a modern building with a prominent wooden overhang and a glass entrance. A woman is standing in front of the entrance, looking at the glass. The building has a clean, contemporary design with wood and stone accents.

3.2.2.1 Management of the Work

**Responsive,
inventive,
collaborative.**

Fit is everything in construction. The right blend of philosophies at the start means we nail the **best outcome in the end.**

3.2.2.1 Management of the Work

We have the resources and the results orientated attitude to deliver the highest quality construction project to the community of St. Helens and the surrounding community. This experience brings the ability to anticipate challenges early in preconstruction and bring resolutions long before it impacts your project, which results in no project delays, no budget creep, and no rework.

1. PRECONSTRUCTION SERVICES PLAN

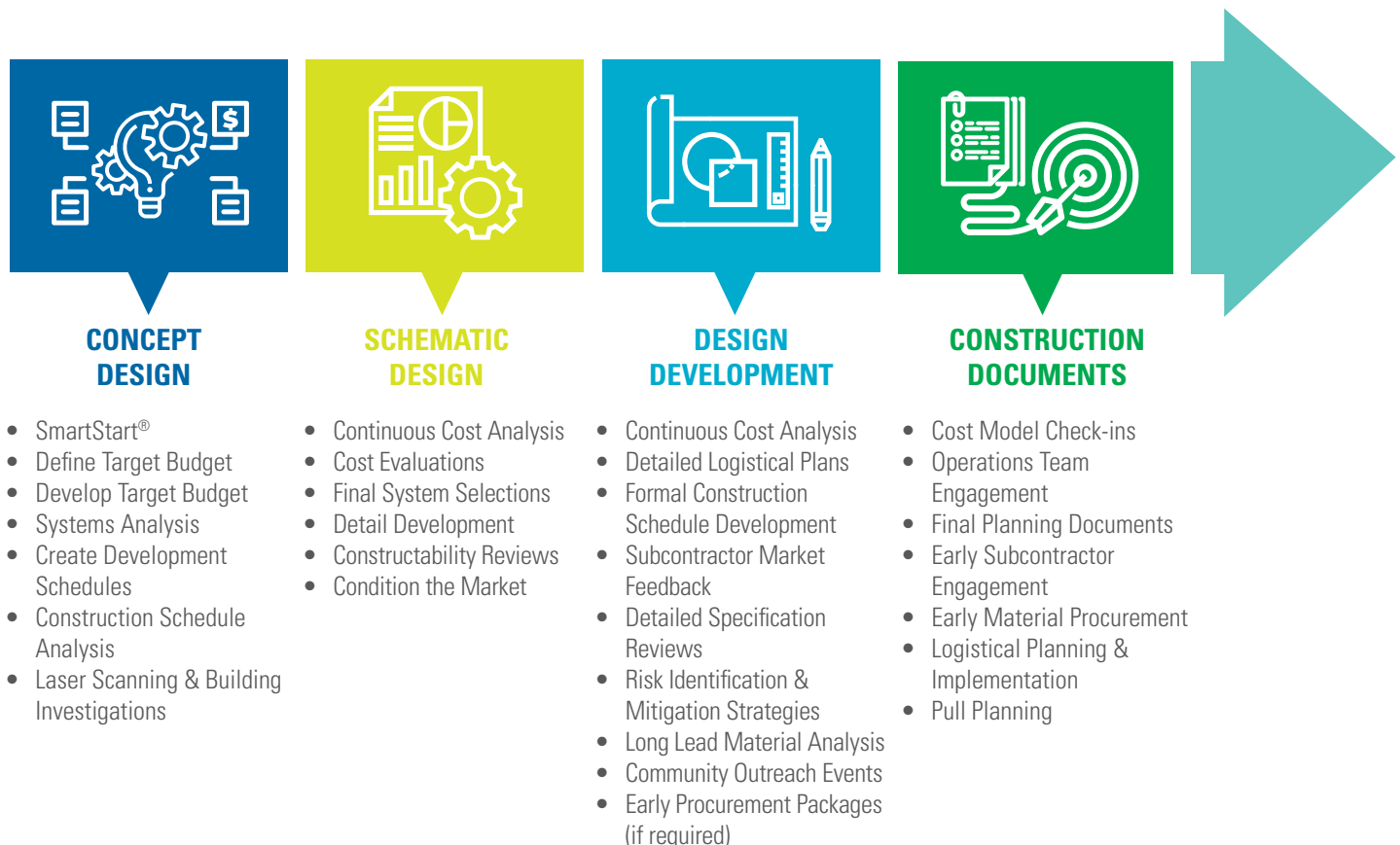
Describe your proposed Preconstruction Services Plan that defines each preconstruction service you intend to provide.

HSW provides preconstruction services that add value to our clients by providing certainty to the cost, schedule, and quality of your project. This is accomplished by:

- Focusing on understanding the client's needs and values.
- Building an effective team and leveraging our relationships to add value.
- Being fully engaged to support good decision making.
- Being good stewards of your money.

We utilize a preconstruction process which combines proven methodologies with innovative technologies to aid in pricing, tracking, decision making, and reporting. **However, the real value is never found just in tools and processes, it's in our people!** HSW fosters a performance driven culture where our people roll up their sleeves and dive into the details of what is shown/not shown and said/not said to proactively solve issues.

Howard S. Wright's Preconstruction Process



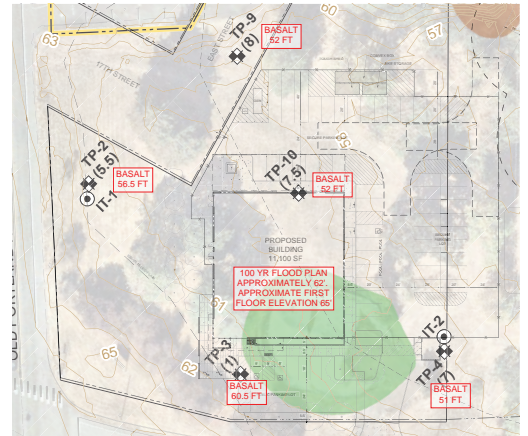
3.2.2.1 Management of the Work

1.A INVESTIGATION OF EXISTING CONDITIONS

Investigation of existing conditions and all material provided by the City to ensure construction documents reflect the actual site conditions.

Our primary concern with the existing conditions would be the **layer of Grande Ronde Basalt** encountered in all of the test pits. Although the Soils Report indicates that the site will receive fill varying in depth from three to seven feet, there is still a possibility that rock may be encountered in utility trenches and excavation for retention basins. Removal of these materials can be costly and time consuming, particularly when encountered in unexpected locations. For this reason, we would recommend additional test pits be dug in select locations, especially where any deep utilities are located, to confirm that the proposed civil design is keeping the rock excavation to an absolute minimum.

The Geotechnical Report also indicated that there may be widespread zones of **near-surface fills** across the site and that loose or debris-laden undocumented fill materials will need to be removed from or reworked under the building footprint. Determining the quantity of unsuitable materials that will require removal prior to establishment of the GMP is not possible. We will work closely with the team to determine an appropriate allowance to be carried within the GMP for this item.



3.2.2.1 Management of the Work

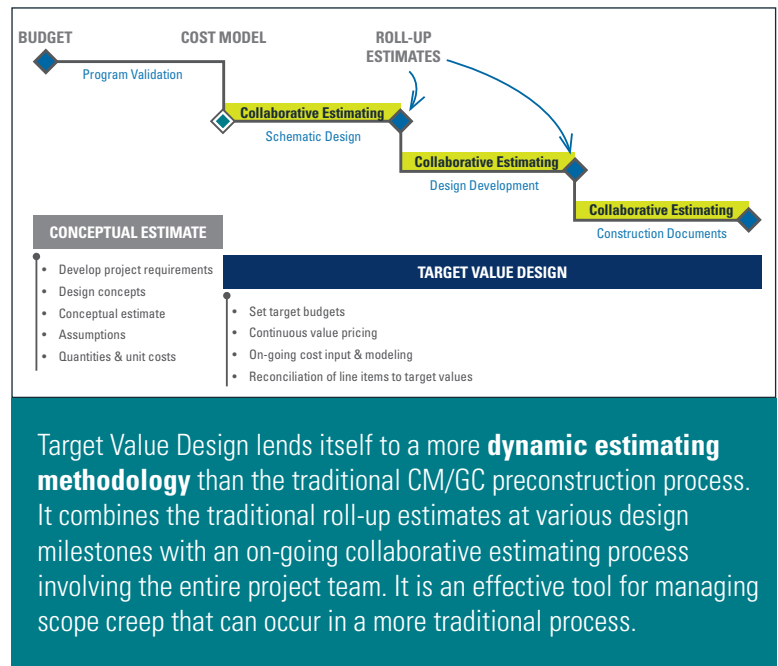
1.C COST VALIDATION

Design and target cost validation, budgeting; cost estimating and tracking and reconciliation with second parties. How do you manage price volatility and market conditions, including staffing shortages when providing cost estimates during the design phase without being unreasonably conservative.

Cost Certainty

Establishing the correct target values for the initial cost model is critical to the TVD process. They become the baseline for the design team to work towards, and thus it is imperative that they are both accurate as well as realistic in today's marketplace. We validate our estimated costs with a combination of the following methods:

- Utilization of our extensive database of historical cost records and parametric data for completed projects.
- Current project buyout analysis for key trades.
- Confirmation of pricing with Subcontractors and Suppliers.



Cost Consultant

HSW has a strong relationship with the firms that provide second-party estimating services. We recognize the value they bring to the project from the Owner's perspective. To ensure a smooth reconciliation process, we have found the following actions are essential:

- Agreement on estimating format and organization.
- Sharing of GC negotiated cost items (general conditions, taxes, fee, bonds, and insurance) that the third-party estimator may not be party to.
- Alignment on appropriate escalation and contingency factors.
- Define what the outcome from the reconciliation looks like beforehand.

An important piece of our preconstruction process is our Estimate Variance Review. It is also an effective tool for **Cost Consultant Estimate Reconciliations**. Shown here is the recap sheet our initial estimate comparison for the recently completed Clackamas Community College SSCC project. Utilizing this tool allows the team to quickly determine where the major difference occur and where the reconciliation efforts need to be focused.

CCC Student Services & Community Center						
System	HSW Estimate 1.1 Date: October 17, 2019 GSF: 45,364 SF			DCW Estimate Date: October 19, 2019 GSF: 46,881 SF		
	Unit Cost	Total		Unit Cost	Total	Variance
Sitework	\$ 31.04	\$	1,407,927	\$ 35.84	\$ 1,680,401	\$ (272,474)
Demolition	\$ 4.46	\$	202,400	\$ 6.13	\$ 287,335	\$ (84,935)
Foundations	\$ 3.31	\$	150,336	\$ 9.53	\$ 446,586	\$ (296,250)
Substructure	\$ 4.75	\$	215,443	\$ -	\$ -	\$ 215,443
Superstructure	\$ 23.01	\$	1,043,967	\$ 30.36	\$ 1,423,152	\$ (379,185)
Exterior Closure	\$ 39.17	\$	1,776,972	\$ 23.98	\$ 1,124,258	\$ 652,714
Roofing	\$ 12.75	\$	578,254	\$ 8.74	\$ 409,527	\$ 168,727
Interior Construction	\$ 57.40	\$	2,603,925	\$ 51.02	\$ 2,391,882	\$ 212,043
Conveying Systems	\$ 3.14	\$	142,300	\$ 4.66	\$ 218,500	\$ (76,200)
Mechanical	\$ 51.80	\$	2,349,763	\$ 26.45	\$ 1,239,867	\$ 1,109,896
Electrical	\$ 36.56	\$	1,658,509	\$ 55.22	\$ 2,588,886	\$ (930,377)
Site Requirements	\$ 19.29	\$	875,235	\$ 15.11	\$ 708,523	\$ 166,712
Subtotal	\$ 286.68	\$	13,005,031	\$ 267.04	\$ 12,518,917	\$ 486,114
Estimating Contingency	8.00%	\$	22,93	\$ 25.19	\$ 1,180,871	\$ (140,469)
Subtotal	\$ 309.62	\$	14,045,433	\$ 292.22	\$ 13,699,788	\$ 345,645
PV Allowance	\$ 4.64	\$	210,681	\$ -	Included	\$ 210,681
General Conditions	\$ 24.65	\$	1,118,418	\$ 23.86	\$ 1,118,418	\$ -
Insurance	0.90%	\$	138,371	0.90%	\$ 2.84	\$ 133,364
Builders Risk DIC	0.05%	\$	7,756	0.05%	\$ 0.16	\$ 7,476
Corporate Activity Tax	0.40%	\$	62,083	0.40%	\$ 1.28	\$ 59,836
Performance & Payment Bond	0.73%	\$	118,308	0.73%	\$ 2.34	\$ 109,638
Overhead & Profit	3.25%	\$	510,284	3.25%	\$ 10.49	\$ 491,677
Total		\$	16,211,334		\$ 15,620,197	\$ 591,137

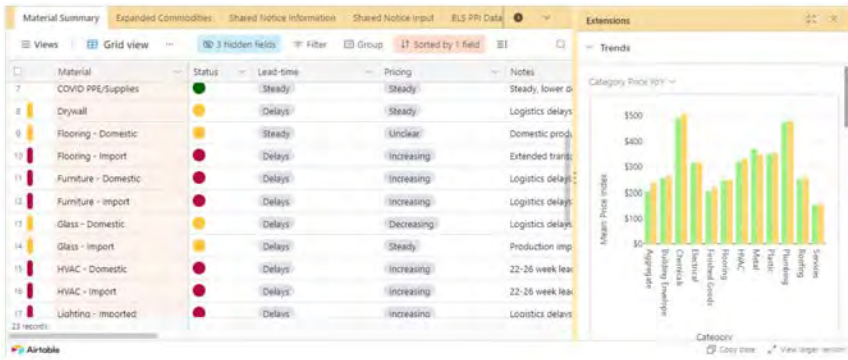
3.2.2.1 Management of the Work

Price Volatility

The construction industry continues to be in midst of a period of volatile price escalation and compounded by major supply chain challenges, and labor shortages. These uncertain times can create unreasonably conservative estimates which we believe can create more risk to a project than not being conservative enough.

Howard S. Wrights in-depth and detailed supply chains insight tool allows our teams to provide accurate and up to date cost and lead time information to all our clients and design teams.

This allows us to keep the team aware of current trends and ensure that we are providing our clients and project teams with real-time decision making tools.

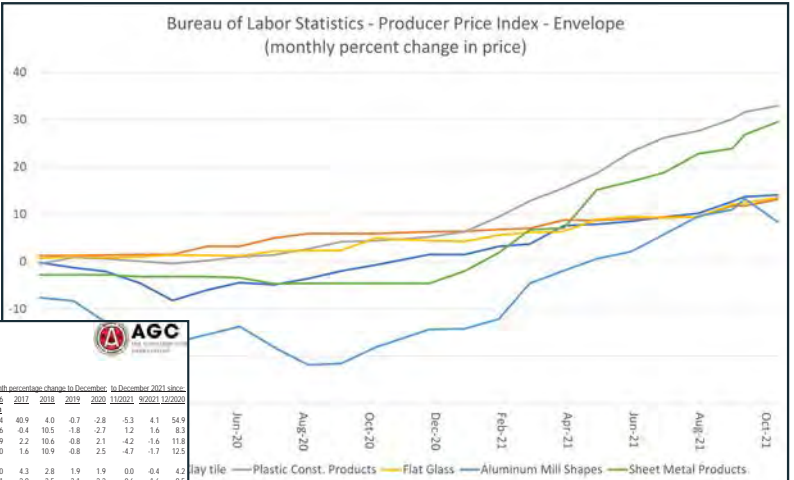


Howard S. Wright & BBC maintain and track all material supplier notices, current lead times nationally, and pricing trends based on multiple sources on our internal Supply Chain Insights tool. This allows our teams to provide real-time accurate information to our owners, designers, and project teams.

Management of cost escalation and material lead times in the current volatile market is essential to a projects success. Our team will continually work with the City and OTAK to find solutions and recommend strategies that will keep the New Public Safety Building project on budget. Some of the strategies that we utilize are:

- **Early Work Authorizations & Material Release Packages** - This strategy allows us to lock in material pricing and delivery dates providing price certainty. Our team will work with the City, OTAK, and our design team partners to identify long lead or price volatile materials and develop a strategy collectively to get the required design information allowing us to go procure and buy those scopes.
- **Material Management & Procurement Plan** - Our team will develop a project specific material management and procurement plan that outlines the critical material lead times and risks and develop a plan if needed to warehouse or store materials off-site to mitigate lead time delays and/or price increases. We know from recent similar projects at least electrical equipment and ballistic rated items will require early procurement release to maintain the project master schedule.
- **Labor & Subcontractor Manpower** - Our preconstruction team meets with multiple different local subcontractors on a monthly basis to keep up to date on what is occurring within our local market with craft labor. This data allows us to better understand timing of when to buy scopes and plan our work around what is currently being bought and where manpower availability may create challenges within our schedules.

Percentage Change in Producer Price Indexes (PPIs) and Employment Cost Indexes (ECIs) for Construction, 2016-2021																			
BLS Series ID						BLS Series ID													
Table 1: Changes in consumer, producer & construction prices						Table 5: Changes in PPIs for processed goods important to construction													
12-month percentage change in December, to December 2021 since						12-month percentage change in December, to December 2021 since													
2016	2017	2018	2019	2020	12/2021	2016	2017	2018	2019	2020	12/2021								
Table 1: Changes in consumer, producer & construction prices						Table 5: Changes in PPIs for processed goods important to construction													
CPIUR00050A0	Consumer price index (CPI-U)	2.1	2.1	1.9	2.3	1.4	0.3	1.6	7.0	WPU057303	#2 diesel fuel	21.4	40.9	4.0	0.7	-2.8	5.3	4.1	54.9
WPU0104	Producer price index (PPI) for final demand	1.7	2.5	2.6	1.4	0.8	0.0	1.4	9.7	WPU1394	Paving materials and blocks (asphalt)	5.6	6.4	10.5	-1.8	-2.7	1.2	1.6	8.3
WPU0103	Final demand construction	0.5	1.1	5.2	3.9	1.2	0.3	6.7	12.4	WPU1316	Asphalt felts and coatings	1.9	2.2	10.6	0.8	2.1	4.2	1.6	11.8
WPU01031	Construction for private capital investment	0.8	3.1	5.3	3.8	1.3	0.4	7.6	13.4	WPU1361	Prepared asphalt & roofing & siding products	-1.0	1.6	10.9	0.8	2.5	-4.7	-1.7	12.5
WPU01032	Construction for government	0.3	3.1	4.7	4.0	0.9	0.1	5.0	10.5	WPU1322	Cement	5.0	4.3	2.8	1.9	1.9	0.0	0.4	4.2
WPU01033	Construction (partial)	0.9	2.7	4.5	3.5	0.9	0.3	5.6	11.9	WPU1311	Concrete products	3.1	2.9	3.5	3.1	2.2	0.6	1.6	8.5
WPU01034	New nonresidential building construction	0.4	3.1	5.4	4.0	1.3	0.3	7.1	12.5	WPU13111	Concrete block and brick	2.0	2.9	3.1	3.6	3.0	-0.1	0.8	5.1
WPU01035	New warehouse building construction	1.3	3.5	4.0	4.5	0.1	0.2	12.8	20.5	WPU1332	Concrete pipe	2.2	0.5	2.3	4.1	2.6	1.3	5.0	11.2
WPU01036	New school building construction	-0.3	3.5	5.4	4.7	1.2	0.0	5.8	9.6	WPU1333	Ready-mixed concrete	3.7	3.1	3.2	2.7	2.2	0.7	1.1	7.1
WPU01037	New office building construction	1.3	2.6	5.6	3.6	1.2	0.7	4.7	13.1	WPU1334	Precast concrete products	0.5	3.5	4.0	3.9	3.0	0.5	2.0	11.6
WPU01038	New industrial building construction	0.0	4.0	5.9	4.5	2.0	0.5	8.8	13.7	WPU1335	Prestressed concrete products	11.1	1.9	4.1	2.5	-1.2	0.4	3.0	15.3
WPU01039	New health care building construction	0.1	2.6	5.0	3.1	1.4	0.1	5.4	10.9	WPU1342	Brick and structural clay tile	1.0	1.7	1.3	1.8	3.3	0.3	2.6	6.2
WPU01040	Market & resale of new buildings (partial)	2.3	1.2	2.4	2.2	0.2	0.3	1.3	10.1	WPU0721	Plastic construction products	-0.1	4.7	2.5	0.4	5.4	1.3	5.7	34.0
Table 2: Changes in PPIs for new, repair & maintenance work by subcontractors						Table 6: Changes in PPIs for inputs to construction industries, excluding capital investment, labor and inputs													
12-month percentage change in December, to December 2021 since						12-month percentage change in December, to December 2021 since													
2016	2017	2018	2019	2020	12/2021	2016	2017	2018	2019	2020	12/2021								
PCU2281X23811K	Concrete contractors, nonresidential building work	4.4	3.0	6.2	4.7	0.9	0.2	11.0	17.4	WPU1017	Steel mill products	8.6	7.5	19.3	16.0	5.2	0.2	7.0	127.2
PCU2281X23816K	Roofing contractors, nonresidential building work	1.5	1.8	1.0	3.6	3.2	0.6	3.0	9.8	WPU10706	Steel pipe and tube	5.4	10.2	20.0	9.0	1.9	2.3	12.5	80.0
PCU2281X23817K	Electrical contractors, nonresidential building work	-1.1	3.7	4.8	3.6	2.0	0.1	4.3	9.2	WPU102502	Copper and brass mill shapes	21.1	9.0	5.7	0.6	23.6	-3.3	-1.8	23.4
PCU2281X23822K	Plumbing contractors, nonresidential building work	-0.8	3.6	5.2	3.7	0.0	0.6	2.0	8.9	WPU102501	Aluminum mill shapes	5.5	10.1	6.8	4.4	-1.7	-4.9	1.2	29.8
Table 3: Changes in PPIs for inputs to construction industries, excluding capital investment, labor and inputs						Table 7: Changes in PPIs for inputs to construction industries, excluding capital investment, labor and inputs													
12-month percentage change in December, to December 2021 since						12-month percentage change in December, to December 2021 since													
2016	2017	2018	2019	2020	12/2021	2016	2017	2018	2019	2020	12/2021								
WPU0P20000	Inputs to construction industries	4.0	1.4	5.5	0.5	1.5	17.8	WPU1017	Steel mill products	8.6	7.5	19.3	16.0	5.2	0.2	7.0	127.2		
WPU0P200001	Inputs to construction industries, goods	2.0	5.0	3.8	0.8	2.6	1.9	22.3	WPU10706	Steel pipe and tube	5.4	10.2	20.0	9.0	1.9	2.3	12.5	80.0	
WPU0P2000012	Inputs to construction industries, energy	5.0	3.7	-11.0	-4.3	0.1	51.7	WPU102502	Copper and brass mill shapes	21.1	9.0	5.7	0.6	23.6	-3.3	-1.8	23.4		
WPU0P2000013	Inputs to construction industries, goods less food and energy	5.0	3.5	4.8	1.4	4.3	19.7	WPU10703	Sheet metal products	2.2	2.2	7.6	-1.3	-0.3	2.7	6.6	36.9		
WPU0P200002	Inputs to construction industries, services	4.6	2.1	9.1	0.3	2.1	11.2	WPU10705	Fabricated structural metal	2.3	3.5	14.8	-3.3	-0.5	1.4	2.9	44.9		
WPU0P200003	Inputs to new construction	4.0	1.4	5.6	0.5	1.7	18.3	WPU1070514	Fabricated structural metal bar joists & truss	4.9	4.5	12.1	-2.9	0.5	-2.0	2.6	52.4		
WPU0P200004	New nonresidential construction	4.3	1.8	4.4	0.5	2.3	19.6	WPU1070514	Fabricated structural metal for non-industrial builds	4.0	-1.3	13.1	-3.8	0.2	2.1	2.4	62.3		
WPU0P200005	Commercial structures	-0.7	1.6	4.2	0.8	2.9	20.7	WPU1070513	Fabricated structural metal for bridges	4.8	-0.4	15.0	-4.9	-0.4	1.6	3.3	41.6		
WPU0P200006	Healthcare structures	4.2	1.7	5.0	1.0	3.2	19.8	WPU107048	Ornamental and architectural metal work	2.2	3.5	11.5	0.1	4.8	1.0	14.0	54.4		
WPU0P200007	Industrial structures	4.0	3.2	3.8	0.6	2.3	18.5	WPU10706	Fabricated steel plate	0.2	1.4	2.9	-1.3	1.8	0.0	0.0	40.2		
WPU0P200008	Other nonresidential	4.3	1.7	4.3	0.3	2.1	19.3	WPU10709	Prefabricated metal buildings	4.8	3.1	11.7	-5.3	12.0	0.2	0.9	40.9		
WPU0P200009	Highways and streets	5.0	1.4	1.8	-0.2	1.3	18.8	WPU10712	Construction machinery and equipment	0.9	0.9	3.4	2.3	1.1	0.9	4.3	10.1		
WPU0P200010	Power and communications structures	3.6	1.5	1.6	0.2	1.9	20.0	WPU07100105	Truck & bus (incl. off-highway) pneumatic tires	2.7	1.8	2.5	-0.1	0.3	0.5	0.1	11.2		
WPU0P200011	Extruded and cast-in-place structures	4.2	1.6	0.8	-1.1	1.4	19.1												



The AGC collects data monthly from the U.S. Bureau of Labor Statistics "Producer Prices Indexes." We then create our own graphical summaries grouped by building systems which help us better understand the direction the market is headed for a particular scope. In this example, components associated with the building façade are bundled into a summary graph.

3.2.2.1 Management of the Work

1.D CONSTRUCTABILITY ANALYSIS & SAFE WORK PRACTICES

Constructability issues including assistance identifying safe work practices and requirements for construction.

Each milestone set of drawings will be closely examined for constructability concerns and tracked using our **Design Issues Tracking Log**. Our Senior Project Manager, Aaron Braun, and Superintendent, Matt Kania, will take the lead in drawing review with support from the rest of our project team. We will actively take part in design meetings and will request individual meetings with Mackenzie's design team members to discuss specific aspects of their design for components such as the building enclosure.

Specific actions that we will take during preconstruction include:

- Advise design team of any concerns we have regarding design elements that might be difficult to implement utilizing safe work practices.
- Encourage the incorporation of safety considerations for the final product (parapet heights, roof access, etc.)
- Review specifications and drawings to assure Construction Document development is consistent with defined quality goals.
- Review tolerances and industry standards for proposed materials.
- Build QA/QC into each bid package by incorporating clear, defined, and quantifiable quality control expectations and reporting requirements.
- Perform detailed scope review with each subcontractor and supplier prior to award.
- Coordinate requirements for any on-site or off-site mock-ups, destructive testing, or special inspection requirements.

1.E VALUE ENGINEERING & COST OPTIONS

Value Engineering and alternative construction options, products and engineering systems for cost savings and life cycle cost design considerations.


Value Engineering

Value engineering is not scope reduction. While some projects require scope reduction in order to meet budget constraints, this should never be confused with a true value engineering effort. Scope reduction is HSW's last resort. It takes the whole team to successfully accomplish value engineering, and as part of your Public Safety Building team we can provide innovative, creative solutions and alternates to achieve your vision for this building.

Our approach to value engineering is a team driven, structured, function orientated approach to cost reduction which is applied during the planning, design, and construction phases of the project. Our team will work with the City, OTAK, and Mackenzie to find design alternatives that yield savings without compromising the design intent or quality. These solutions are obtained through a careful evaluation of building systems, construction technologies, and material selections.

Cost Options

Ensuring the City and its residents are maximizing the power of every dollar spent through this bond measure requires smart decision making by the project team. To ensure that data driven decisions are being made, we will generate Cost Studies to help evaluate different options being considered by the design team. We understand the need to get answers quickly so as to not hold up the design process.

 Howard S. Wright a Ballou Realty company				
Project:	Lake Oswego City Hall		Estimate No.:	n/a
Location:	Lak Oswego, OR		Date:	10-Aug-18
Owner:	LORA		Estimator:	Jensen
Architect:	Mackenzie			
Description	Quantity	Unit Price	Price	Comments
Exterior Deck - Corner of Building				
Structural Steel Floor Framing Modifications	1,200 lbs	\$2.25	\$2,700	2.00 lbs/sf
Overhead Support Steel for Internal Façade	5,000 lbs	\$2.25	\$11,250	100 lbs/lf
Waterproofing	600 sf	\$20.00	\$12,000	
Exterior Deck - IPE	600 sf	\$50.00	\$30,000	
Ornamental Railing	50 lf	\$400.00	\$20,000	
Column Cladding	100 sf	\$75.00	\$7,500	30" x 30" x 10'0"
Exterior Doors	2 opng	\$5,000.00	\$10,000	
Exterior Soffit - Wood	600 sf	\$35.00	\$21,000	
Interior Construction	(600) sf	\$25.00	(\$15,000)	50% Credit
Adder for Dry Sprinkler Heads	4 ea	\$150.00	\$600	
Roof Drain & Lateral	1 ea	\$5,000.00	\$5,000	
	Subtotal		\$105,050	
	Markups		\$23,468	
	Total		\$128,518	
Exterior Deck - Side of Building				
Structural Steel Floor Framing Modifications	1,200 lbs	\$2.25	\$2,700	2.00 lbs/sf
Support Steel for Internal Façade	7,000 lbs	\$2.25	\$15,750	100 lbs/lf
Waterproofing	600 sf	\$20.00	\$12,000	
Pedestal Pavers	600 sf	\$30.00	\$18,000	
Ornamental Railing	30 lf	\$400.00	\$12,000	
Storefront Window System	400 sf	\$85.00	\$34,000	
Exterior Doors	2 opng	\$5,000.00	\$10,000	
Exterior Soffit - Wood	600 sf	\$35.00	\$21,000	
Interior Construction	(600) sf	\$25.00	(\$15,000)	50% Credit
Adder for Dry Sprinkler Heads	4 ea	\$150.00	\$600	
Roof Drain & Lateral	1 ea	\$5,000.00	\$5,000	
	Subtotal		\$116,050	
	Markups		\$25,926	
	Total		\$141,976	

For the Lake Oswego project, the City asked what it would cost to create a covered deck area on the Second Floor adjacent to the Break Room. We looked at two different options to help them determine which was the most economically feasible.

3.2.2.1 Management of the Work

1.F LONG LEAD PROCUREMENT

Schedule, change recommendations and advice of long-lead procurement packages.

Specific sectors of our industry continue to struggle with supply chain challenges even as the crippling effects of the pandemic have eased. In particular **mechanical equipment, electrical gear, switchboards, and generators** continue to be problematic with lead times approaching 12 months or more after approvals. We will likely recommend that early onboarding of MEP subs using a best value or similar approach be permitted in order to mitigate the effects of these lead times.

Additionally, we will want to closely monitor the lead times associated with **open web joists and metal decking** which are currently specified for the roof structure. A large distribution entity had tied up a significant portion of the manufacturing capacity for these products, but there have been multiple project cancellations resulting in an easing of demand for these products. We have also seen long lead times associated with some **roofing products** and will therefore want to investigate which roofing system makes the most sense from both a cost and availability standpoint.

1.G PHASING & SEQUENCING

Recommended phasing and sequencing of work to maximize construction site efficiencies.

We have detailed a construction schedule included on page 26 which takes into consideration several elements of risk to the project. The first area of risk is the long fabrication duration associated with electrical switch gear. On recent projects we have seen this duration as long as 72-weeks which obviously does not work on a 52-week construction schedule. We cannot wait until CD documents are complete to order the electrical gear. HSW will work with Mackenzie/PAE for early procurement of the electrical gear during DD documents to preserve the project schedule. After procurement concerns are address and construction starts, the project will be constructed in the following sequences;

- Site Set-up – Fencing, erosion control measures, signage & trailer set-up
- Earthwork – Unsuitable soil removal, import of fill and utility excavation
- Foundations & Slab – Forming, reinforcing and placement of foundations and slabs
- Structure – Structural steel erection and masonry
- Enclosure – Window and exterior framing
- Mechanical/Electrical/Plumbing (MEP) & Finishes – Overhead MEP, inwall MEP, drywall, painting and flooring
- Site work – Permanent fencing/gates, asphalt, site accessories and carports

The Geotechnical Report dictates a large amount of unsuitable soil removal and the possibility of hardened basalt rock removal. This combined with the large amount of structural fill makes for a significant earthwork phase. We have consulted with several earthwork trade partners to ascertain efficiency of utilizing the 2.5+ acre site to stockpile, sort and haul. We have also determined local vendors can be used to supply the structural fill and also receive the unsuitable soils. By utilizing local sources the project carbon footprint is reduced, less fuel cost is incurred and the schedule is maintained.

1.H SITE LOGISTICS

Assessment and recommended site logistics requirements.

Early in the preconstruction process, our team will conduct a detailed site assessment which includes a traffic analysis, observation of pedestrian movements, and study of existing site conditions. We will meet with appropriate City officials and, if needed, community members to discuss their needs and concerns. Our team will utilize this information to create our logistics plan as well as our phasing and sequencing plans for the project.

1.I PROCUREMENT PLAN

Subcontract Plan preparation and procurement buyout planning.

Our planning and preparation for subcontractor and vendor buyout focuses on the following key steps:

- Custom Procurement Plan - Explore alternative procurement strategies w/ City.
- Subcontractor Utilization Plan - Bid package right sizing.
- Project Specific Outreach Plan - Condition the market!
- Project Open Houses - Meet w/ local subs/vendors before bidding.

How we achieve and implement our plan is further described in detail in our response to Question 3.2.2.6

3.2.2.1 Management of the Work

1.J COST ESTIMATING METHODOLOGY

Cost estimating methodology, and systems utilized to adhere to funding requirements for detailed accounting & tracking of costs in accordance with the project budget.

Target Value Design (TVD) is a unified process of establishing budgets by system and discipline while addressing design value, quality, and schedule. It is an integrated conversation that begins in pre-design with the project team that transfers design intent, constructability, costs, schedule, and ideas across disciplines and sets a clear direction for the project.

The foundation of our estimating process is an **Accurate First Estimate**. How is this even possible when the project parameters are just being defined? We utilize a parametric estimating process that looks at historical and statistical data to help develop the initial cost model. We will also consult with our trade partners to get their cost opinion on key scopes of work. This initial estimate forms the basis for the Target Value Design process.

Even in a TVD environment, there will be program and scope changes that affect the bottom line and result in variations from one estimate to the next. To help explain these deviations, we utilize what we call a **Variance Review** to document what has changed and why. It is a valuable tool because it clearly summarizes to all project team members the often dynamic changes that have occurred during the 45-60 day period since the previous estimate.

Our **Budget Revision Tracker** tool is used to log and communicate all Value Engineering, Cost Studies, and other cost considerations that impact the bottom line. The log is updated continuously and gives the project team an instantaneous snapshot of the current budget between milestone estimates. Please see our response to Question 3.2.2.3 on page 21 which addresses the systems utilized to adhere to funding requirements for detailed accounting and tracking of costs.

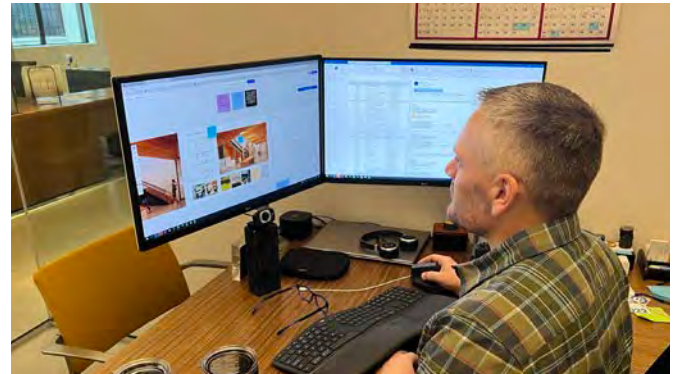
Detailed Estimates – We pride ourselves on producing estimates that are easy to understand yet provide the appropriate level of detail. This is accomplished by using a Systems Format Estimate that categorizes work by building element rather than by construction trade. Costs are accumulated at three levels – summary, component, and detail. This format dovetails well with the TVD process by providing a clear picture of where the money is going to be spent, is easily compared to similar projects, and is useful for determining Value Engineering target areas.

Cost Tracking - Budget Revision Tracker

BUDGET REVISION TRACKER						
Salem Library						
Update: 12/18/2019		Current Estimate 3.1		\$16,740,092		
Item No.	Description	Estimated Value	Revised/Original P=Pending A=Accepted	Rejected	Pending	Accepted
200	Seismic/Structural Modifications					
201	Target Structural Steel VE - Reduce Steel Sizing/Weld Requirements	(\$100,000)	A			(\$100,000)
300	Exterior Closure					
302	Seismic Window Film in Lieu of Replace Storefront	(\$329,660)	P		(\$329,660)	
500	Interior Construction					
502	ACT-2 in lieu of ACT-1 at All Locations	(\$50,449)	A			(\$50,449)
503.1	ACP Scope Correction	(\$123,224)	A			(\$123,224)
503.2	ACT-1 in lieu of ACP	(\$10,280)	P		(\$10,280)	
504	VE Carpet Material	(\$21,174)	A			(\$21,174)
505	Reduce Access Control/Panic Hardware at Existing Doors	(\$36,926)	P		(\$36,926)	
506	Eliminate AWP	(\$22,873)	A			(\$22,873)
700	Mechanical					
701	Add Sprinkler Riser Replacement	\$45,747	R	\$45,747		
800	Electrical					
801	Credit Access Control and Security to be by Owner	(\$385,226)	A			(\$385,226)
802	Add 1st Floor LED Retrofit Kits at Public Areas Where Existing Ceiling is to Remain	\$63,588	P		\$63,588	
803	Add 1st Floor LED Retrofit Kits at BOH Areas Where Existing Ceiling is to Remain	\$45,061	R	\$45,061		
804	C70 2x2 Lights in Lieu of C01 Linear Fixtures	(\$61,301)	A			(\$61,301)
805	Lighting VE	(\$187,417)	P		(\$187,417)	
Adds					\$90,808	\$90,808
Deducts					\$0	\$0
Total					\$90,808	\$90,808
Adjusted Total						\$16,349,284
Target Budget						\$15,691,563
Variance						\$657,721

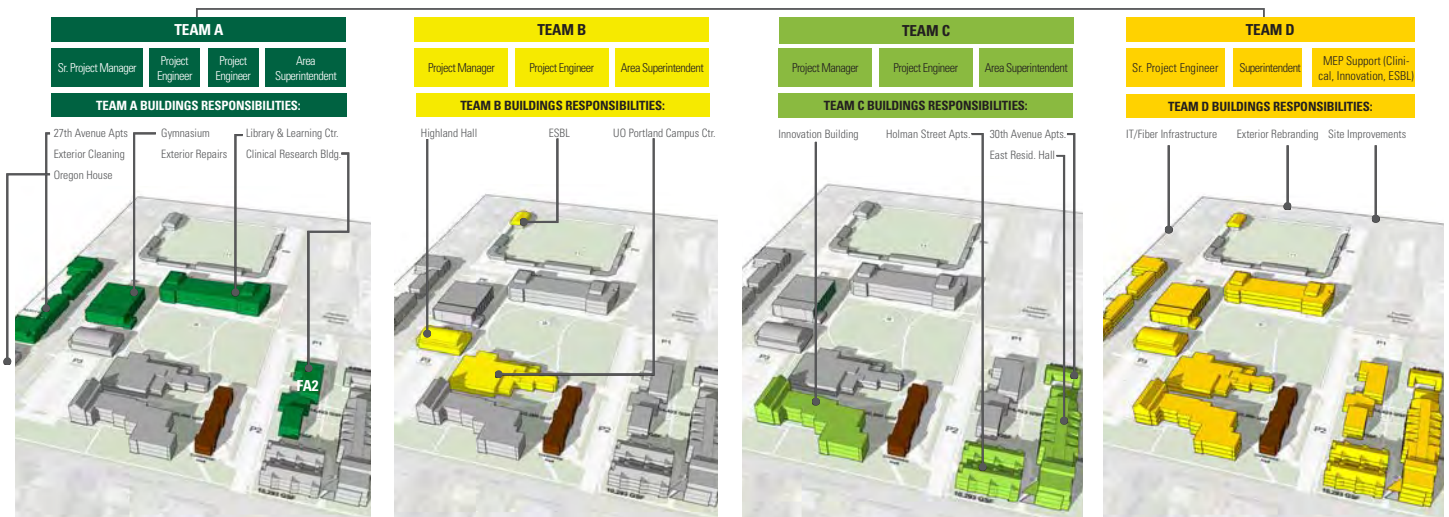
3.2.2.1 Management of the Work

One of the newest tools in our preconstruction tool kit is the utilization of an **online whiteboard product from Miro®**, often referred to as a Miro Board. This virtual platform, typically managed by the design team, allows the entire project team to collaborate in real time on any number of design decisions from layouts and elevations to renderings and material selections. Team members can share inspiration photos or sketches, provide comments via virtual “sticky notes,” or peruse the design as it is being developed. This benefits the project as it allows us to provide real-time feedback to the design team on potential cost and constructability concerns. It also helps limit surprises that can arise when there is less transparency between the design and preconstruction teams.



Chief Estimator Scott Maxwell reviewing Miro® Board images prior to an OAC Meeting.

UO Portland Campus: Enhanced Cost Tracking Pilot Program



14 concurrent estimates and 8 different design teams. Tracking all these estimates and the associated cost decisions would be problematic using our conventional approach of a Budget Revision Tracking Log. For this reason, we are testing a cloud platform known as Join for this project before deciding if it is a tool that should be rolled out company wide. Join automatically records the who, what, when, and why of each decision allowing the team to know which ideas have been accepted, rejected, incorporated, or are under consideration — in real-time. With Join, our client has all the information they need to make decisions so the project keeps moving forward.

3.2.2.1 Management of the Work

2. ROLES & DELIVERABLES

Address the person(s) responsible for each service, a description of the deliverable(s) that will be provided to the City and design team upon completion of each service and the action you intend to take or intend for the design team to take based on the information contained in each deliverable.

Item	Service/ Deliverable	HSW Person(s) Responsible	Action By:		Actions Required
			A/E	City	
1.A	Investigation of Existing Conditions	All	x		Revisit design if A/E and HSW have differing data
1.B	Documents Coordination & Review	All	x		Review Design Issues Log off-line or at OAC
1.C	Cost Tracking & Reconciliation	Estimators	x	x	Use Budget Revision Tracker as a tool for VE, if required
1.D	Constructability Analysis	Superintendent/PM	x		Review comments, and where appropriate, incorporate into next drawing release
1.E	VE, Cost Studies, Life Cycle Analysis	Estimators	x	x	Timely decision making so as not to impede design process
1.F	Identify & Procure Long Lead Items	Estimators/PM	x	x	A/E - Develop early release drawings/spec packages; City - Allow multi-phase contract
1.G	Phasing Plan & Schedule	Superintendent	x	x	Review and comment
1.H	Site Logistics Plan	Superintendent		x	Review and approve
1.I	Procurement Plan	Estimators/PM		x	Assist with outreach to local subcontractors and suppliers
1.J	Cost Estimating	Estimators/PM	x	x	Review the detail, not just the bottom line
	Site Specific Safety Plan	Superintendent/ Safety Manager	x	x	Download and read the "Visitor Guidelines for Jobsites" from our website prior to your initial site visit



Collaborative
Delivery

The City of St. Helens, OTAK, Mackenzie, and HSW would each bring a unique expertise and skill-set to this project. This should be respected, valued, and depended upon by all parties. The team relationship must be based on openness and trust to be successful. Along these lines, duties must be clear, and each member must be allowed to do what they do best to make this project a true partnering success.

CITY'S ROLE AS OWNER

- Know the project's programming needs
- Communicate the needs of the users
- Provide single point Owner contact
- Make timely design decisions
- Provide timely info on owner-furnished items
- Provide timely progress payments
- Honest and open communication
- Provide clear procedures for project administrative requirements

MACKENZIE'S ROLE AS ARCHITECT

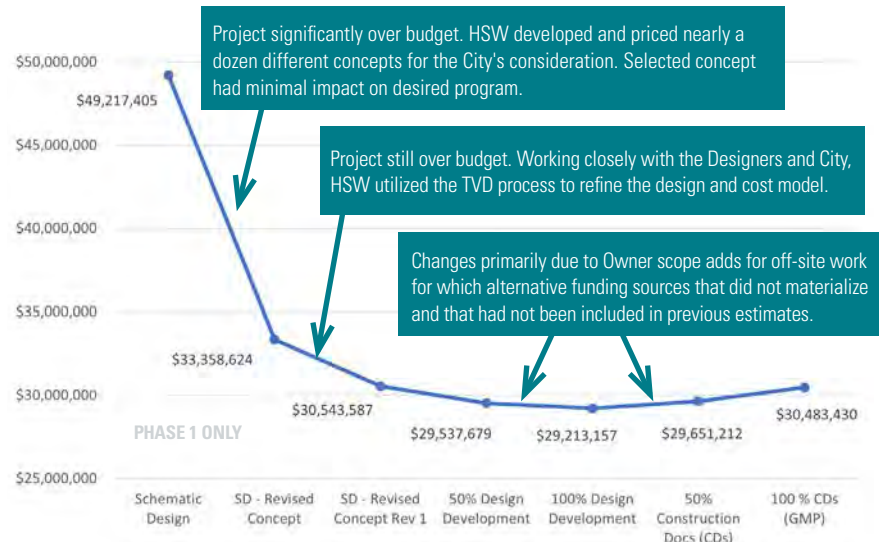
- Design quality contract documents
- Expert in scale, function, color, light, etc.
- Provide prompt responses on design issues
- Design functional MEP systems
- Coordinate consultants
- Know the budget
- Partner in value engineering process
- On-site availability to resolve design issues
- Honest and open communication

3.2.2.1 Management of the Work

3. PRECONSTRUCTION SERVICE EXAMPLES

Briefly identify three or more examples of projects that demonstrate the range of Preconstruction Services your firm has provided on similar previous public sector CM/GC projects with a guaranteed maximum price (GMP). Also provide a concise description of the proposer's ability to satisfy the requirements of this RFP.

Lake Oswego Public Safety Building / City Hall CM/GC



This 72,000 sf four-level facility encompasses a multitude of uses:

- Parking Level – Secure Parking for LO Police along with Intake, Detox, Armory, and Fitness.
- Level 1 – LO Police and 911 Call Center (LOCOM.)
- Level 2 – Planning, Booktique, and Arts Council.
- Level 3 – Finance, Courtroom and Associated Spaces, and Council Chambers.

// Target Value Design (TVD)

We joined the project team after the initial design concepts had been presented to the community and stakeholders. Unfortunately, our initial estimates showed a significant budget gap. Working closely with the designer (Mackenzie), the City, and owner representative (OTAK formerly Day CPM), we studied a dozen different design concepts before arriving at a solution. Approximately \$20 million was saved with minimal reduction to the program area and the loss of only a few parking spaces. The cost model for the approved concept was then utilized as the baseline for design by the A/E team. Their work was continuously monitored for alignment with the TVD cost model and the team was kept apprised of any cost deviations. **We believe this project epitomizes our commitment to the TVD process and the level of effort you can expect from HSW during the preconstruction phase.**



1. **Schematic Design:** 1/2 Block Concept, \$20M over budget.
2. **Massing Study:** One of a dozen different concepts we studied. This concept was ultimately selected as the most viable for design development and formed the baseline for our TVD cost model.
3. **Preliminary Rendering:** The Exterior Closure is often times the most challenging to budget during the preliminary stages of design. One of the first steps the team took after choosing a concept was to validate the Exterior Closure assumptions used in the TVD cost model utilizing preliminary renderings and elevations.
4. **Final Product**

3.2.2.1 Management of the Work



University of Oregon - Jane Sanders Stadium CM/GC

This state-of-the-art project consisted of a 1,500 fixed seat stadium, team spaces, locker rooms, meeting spaces, offices, training rooms, and equipment space.

// Timely Estimates

Expectations were high in Eugene - the Ducks softball team was coming off an appearance in the College World Series earlier in the year. Minimal design work had been done at the time of our selection in late fall, which meant there were only 16 months to completely design and construct the project in order to ready for the home opener in the spring. We met the need to provide rapid cost estimates and Value Engineering options to get through the design phase and leave enough time for construction. ***We have a deep group of estimators and are able to provide timely estimates and cost options for all of our clients.***



Oregon State University - Student Success Center CM/GC

This ground-up, \$10.4 million, 3-story facility houses existing and new programs including academic support, counseling services, learning laboratories, and proactive services to help students transition from high school to college-level learning.

// Innovative Cost Savings

Just as this project was getting ready to break ground, it went on a two-year hold due to funding issues within the Oregon University System. When it came back to life, the project was funded, but at the previous estimate value. Working closely with the University, we were able to identify additional Value Engineering options as well as additive cost alternates (Priority Add Backs) that could be incorporated into the project at a later date once cost projections were firmer. ***We understand that Value Engineering and scope reduction are not the same thing and work creatively to reduce costs wherever possible.***



Vancouver Community Library CM/GC

A new 90,000 sf Library, LEED Gold, 4-story building above-grade and one level below-grade.

// Creative Ideas

Our initial estimates for this project were more than \$5,000,000 above the funding cap prescribed by the voter-approved bond measure. We suggested a different stacking option that reduced the overall gross square footage by less than 10% but reduced costs by nearly 20%. Most importantly, these revisions to the layout minimally effected the public's overall user experience. ***We are out of the box thinkers and are not afraid to propose options, as crazy as they may initially seem. We encourage all team members to adopt this mindset during preconstruction.***

Ability to Satisfy RFP Requirements

Howard S. Wright is fully prepared to provide the Preconstruction Services as detailed in Section 2.7.1 (page 13) of the RFP. In addition to our Estimating staff and VDC/BIM group, our proposed project team of Aaron, Matt, and Eric are committed to providing the level of service shown in our example projects.

3.2.2.1 Management of the Work

4. KEY ISSUES & POTENTIAL RISKS

To clearly show an understanding of the scope and complexity of the work, identify key issues and/or potential constraints and risks anticipated for the project, including areas of design, construction, and management. Describe the plan for addressing these issues and maintaining the progress of the work.

Howard S. Wright is a solutions provider. We see the heart of a problem to understand the resolution. We address challenges early and learn from issues to avoid repeats in future work. Below we have identified key issues and potential risks on the St. Helens New Public Safety Building project.

CHALLENGE	SOLUTION
Design	
Design matches construction budget	As a part of target value design our team will verify and validate the documents are aligning with the TVD budget
Low voltage system ownership	Develop a responsibility matrix that addresses design, pathway, parts and smarts, and installation.
Establish criteria for level of finishes in early designs (and estimates)	If the Schematic Design documents don't address (fairly common), HSW will prepare a draft finish schedule for team review prior to finalization of initial estimates.
MEP Coordination and Routing	Simplify through the BIM process.
Construction	
Long Lead Equipment	Identification, tracking, and ensuring release of long lead materials early in design.
Avoiding disruptions to neighboring business	Utility tie-in plan, potholing of existing utilities, site fencing, signage, flaggers, weekly construction updates to the neighbors.
Excavation of bedrock	Specialized equipment and methods of excavation.
Undocumented site fill	Complete removal of fill materials and correct imported materials.
Management	
Maintaining Neighboring Wetlands	Robust Erosion & Sediment Control Plan. Daily inspection and maintenance of control measures.
Keeping the neighbors happy	Traffic control plan, regular street sweeping, providing contact information to neighbors.
Local subcontractor participation	Vigorous outreach.
Maintain Schedule	Pull Planning.
Cost Management	Detailed cost event log and communication on design deliverables and critical Owner decision dates

3.2.2.1 Management of the Work

5. WORK SEQUENCING & PHASING PROCESS

Describe the work sequencing and phasing process that will be employed to ensure that existing adjacent businesses are maintained throughout construction operations. With the understanding that a team effort by the City, the design team, and the selected proposer will be required to develop an approach to the design and construction sequencing and phasing; include a discussion of the process employed by your firm to develop sequencing, phasing, and a site logistics plan, that minimize disruptions to existing adjacent businesses.

PHASING PROCESS

We view the St. Helens Public Safety Building as a one construction phase project. This is based on no other structures on the project site to tie into or construct around. The construction phase will be broken down into the following segments which are also noted in our project schedule;

- Site Set-up
- Earthwork
- Foundations & slab
- Structure
- Enclosure
- MEP & Finishes
- Site work and Carports

HSW will work with the City, Mackenzie, and OTAK to develop construction sequencing and logistics that minimizes disruptions to existing adjacent business. This will include outreach during preconstruction to the adjacent business to gain an understanding of their concerns and peak business hours.

HSW will also pot-hole existing utilities to verify depths and locations. This information will be included in the project BIM Model to assure existing utilities are not damaged during construction. HSW is committed to zero unplanned utilities disruptions during construction.

SUCCESSFULLY PLANNED LOGISTICS

Howard S. Wright believes that no matter the size of the project or site, each project requires a thoughtful and complete logistics plan to ensure not only the safety of our employees and subcontractors, but efficiency of the project. We are firm believers in developing our logistic plans concurrent with the design documents to ensure any constructability considerations (equipment installations, utility routings, etc..) are considered both in the design and construction planning phases for the project.

Once developed, site logistic plans are an effective tool to communicate the construction approach to all the relevant stakeholders including potential Subcontractor and Suppliers. These plans are utilized to communicate the work plan in many ways including:

- Coordination with building officials and local emergency departments
- Public and community protection measures
- Coordination with local utility and service providers
- Coordination of delivery routes and equipment movement zones
- Controlled Access Zones (CAZ's)
- Site Signage and orientation information



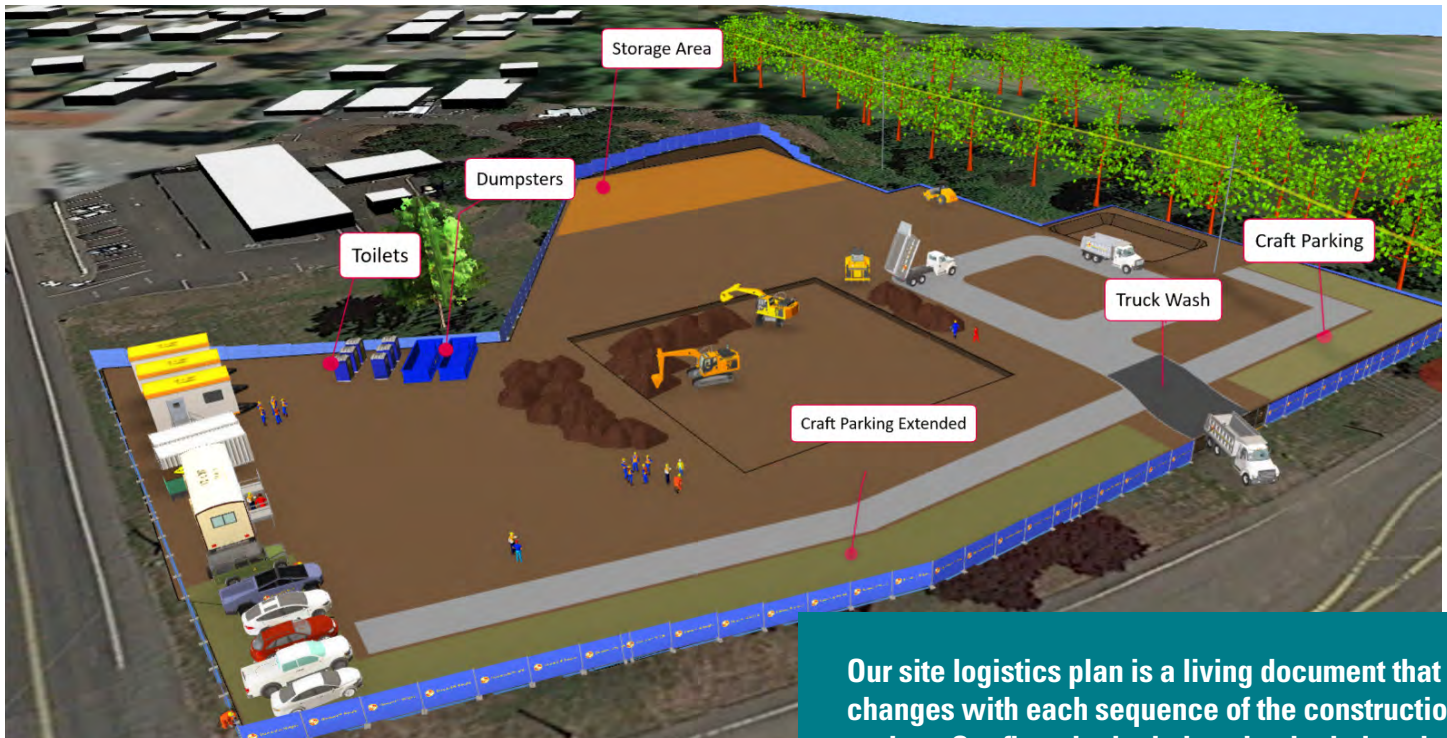
See our preliminary site logistics plan for the St. Helens Public Safety Building on the following page.

Our logistics plans are maintained and updated throughout the life of the project as work activities evolve. We use this tool to communicate to our subcontractors, clients, neighbors and the public what will be happening both onsite and off-site as required.

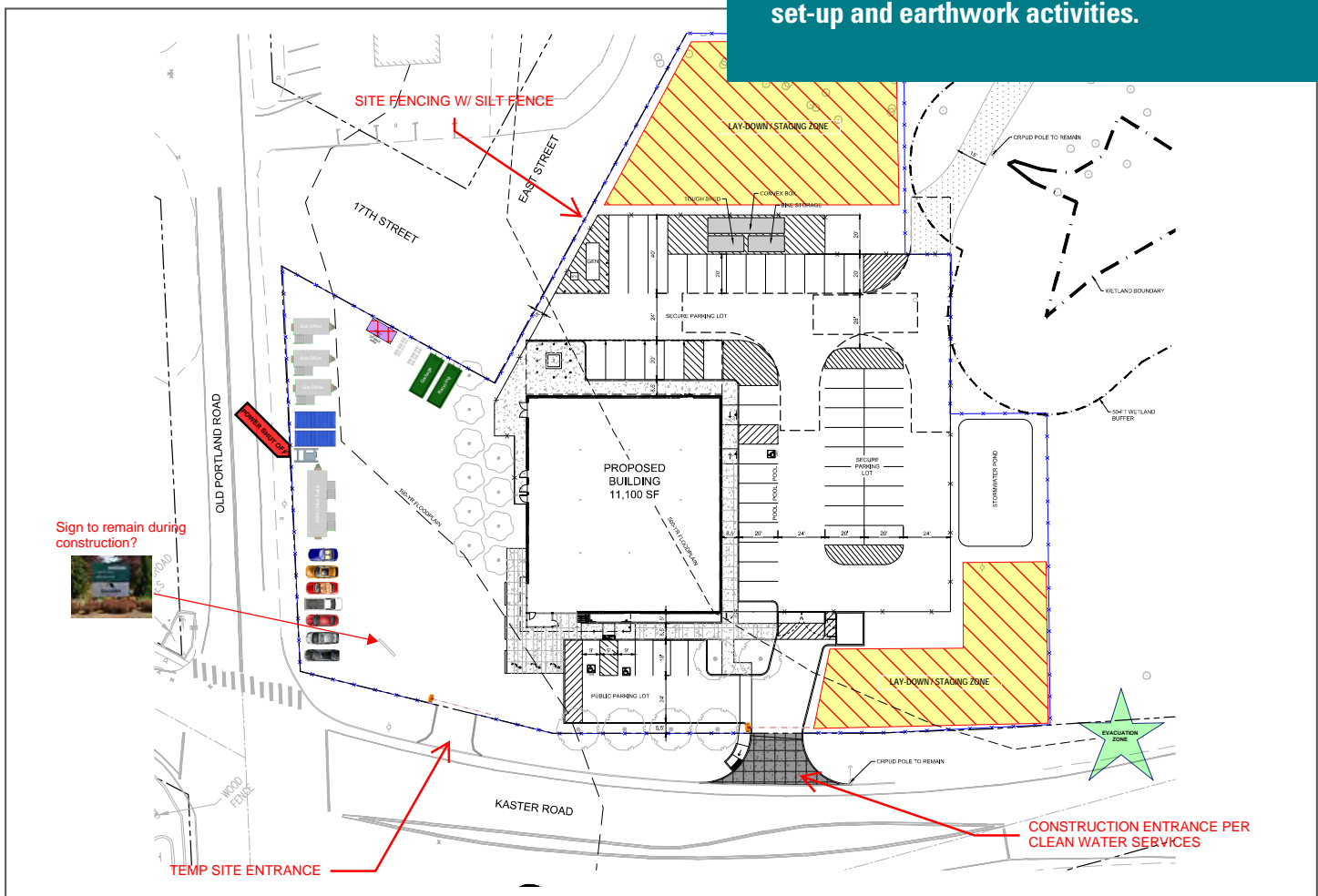
SITE LOGISTICS PLAN COMPONENTS

- Hoisting
- Sidewalk closures
- Lane closures
- Tenant impacts and closures
- Trade partner field offices
- Co-located field office
- Interior laydown
- Exterior laydown/ deliveries
- Emergency egress plan
- Temp power plan
- Temp lighting plan (egress)
- Trash removal plan
- Dust control plan
- Climate control measures
- Temp roof protection plan
- Interior finishes protection

3.2.2.1 Management of the Work



Our site logistics plan is a living document that changes with each sequence of the construction project. Our first site logistics plan includes site set-up and earthwork activities.



3.2.2.1 Management of the Work

6. MANAGING FAST TRACK SCHEDULES

Describe your firm's approach toward managing fast track projects with critical timelines which have completion dates that cannot be moved.

The project schedule is the roadmap to a successful project, serving as the key tool for tracking project progress towards critical milestones. In the fast track project environment, this comprehensive scheduling approach starts with developing a schematic outline of the project phases, creating milestones and decision points and coordinating predecessor and successor activities to milestones across the overlapping phases. As an overview of the phases:

- **Design Development** – The design development schedule is part of the early Workgroup discussions involving input from the entire team. This schedule phase incorporates key decisions points for Mackenzie and the City, board reviews and pre-approval milestones, stakeholder review sessions, and decision timelines, ensuring the team understands all work necessary to obtain approvals and advance the project forward.
- **Permitting & Land Use** – The design development timeline is coordinated with the permitting schedules, identifying preconstruction deliverables (such as cost estimates, system studies, and constructability reviews) to support timely decision-making. Cross-coordinating the design development timeline and decision-making framework against the permit schedules allows the team to explore different scenarios to adjust the design and preconstruction activities against any gains or setbacks in the permit schedule, such as extended review durations or the potential for land use review.
- **Procurement and Contracting** – This phase addresses timeline of bid package development, selecting bidders and evaluating proposals in alignment with our subcontractor selection plan. The relative time that a scope will be bought out is driven by the complexity of scope and procurement risk, submittal durations, and material procurement timelines.
- **Construction** – Beginning with an outline CPM Master schedule, detail is added to the construction activities by phase with information garnered from historical data from similar projects and pull planning sessions with our trade partners. Activities are grouped by phase, including Foundations, Structure, Exterior, Interior, and Hardscape/Landscape.

7. GOOD RELATIONSHIPS & PRODUCTIVE COMMUNICATION

Describe the plan to establish and maintain good relationships and foster open and productive communications with the City, Project Managers, the design team, and the public, including communication of current and upcoming construction activities.

Team Relationships

Much of the inefficiency that can be experienced on a project is invisible - disguised as ambiguous goals, approach and roles, subtle personality conflicts, insufficient support mechanisms, lack of awareness and/or underlying pervasive problems with team performance. HSW's SmartStart® one-day workshop process pro-actively addresses these issues by using the beginning of a project (ideally the first 90 days) to kick start the project team. SmartStart® is a comprehensive process that focuses on:

- Behavioral and values alignment
- Custom design of the process
- Integrated project planning
- Thoughtful development of the project support system

Public Relationships

Our team's plan to foster open and productive communication with the public includes the following methods, which can all be customized in accordance with City of St. Helens and OTAK staff objectives:

- Help publicize the positive, sustainable aspects of the project with any requested **tours, open houses, or community events**.
- Learn neighborhood priorities and **establish lines of communication** to let neighbors know how to contact us any time. Our superintendent Matt Kania will play an essential role in this.
- Hold bi-weekly **"Coffee & Donuts with Matt"** get-togethers for the public and facility staff to attend. This will be great opportunity for Matt to provide project updates and develop personal relationships with neighbors, City staff, and the police department.
- Establish and maintain **good housekeeping protocols** that show we care about our surroundings and the City of St. Helens.
- Prevent windblown trash, keep the streets free from mud and debris, and **keep the site looking neat and tidy**.
- Senior Project Manager Aaron Braun will attend City Council meetings and project updates.



3.2.2.2 Proposed Personnel & Organization

**Reputation is
everything.**

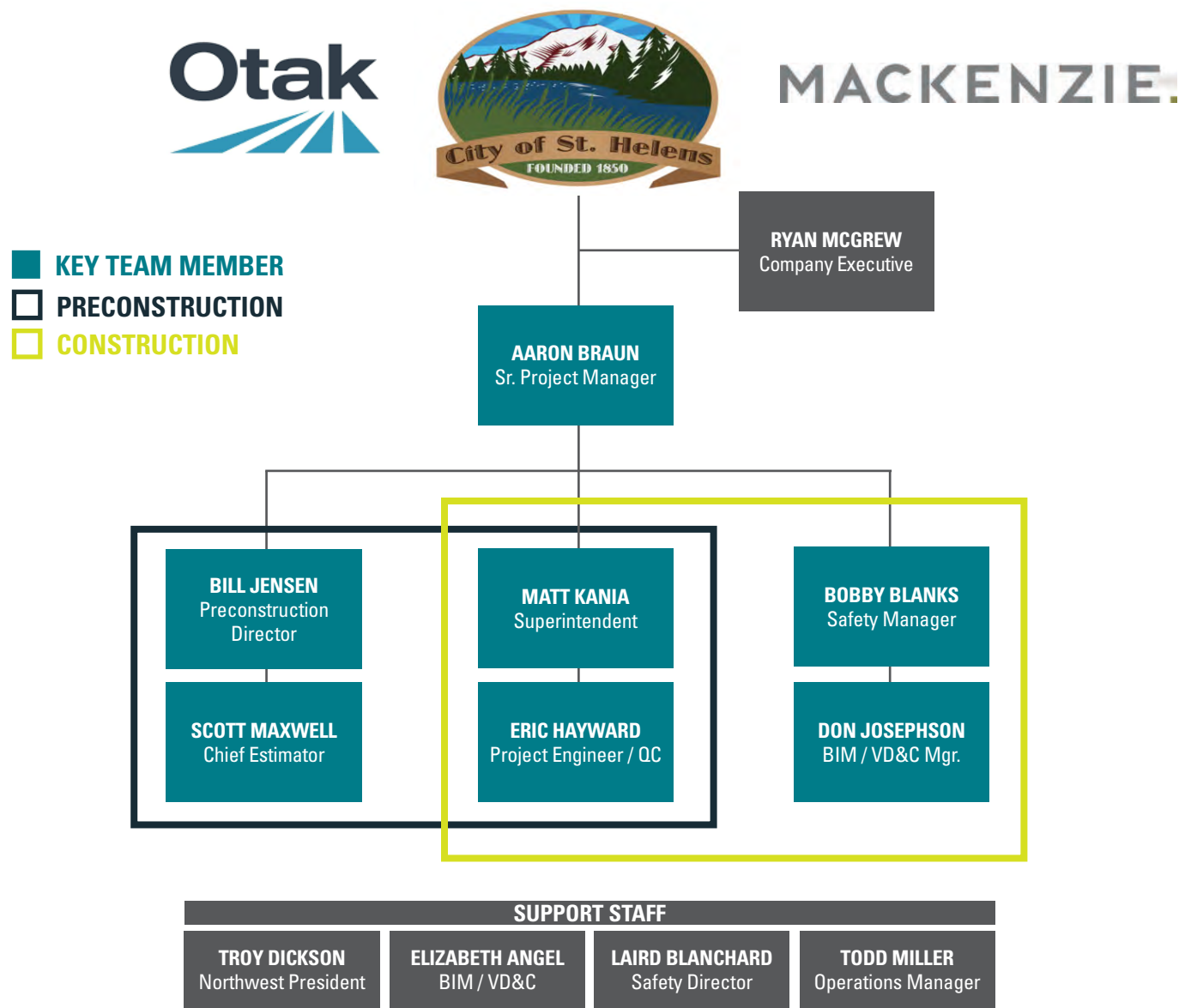
With a legacy for delivering beautiful projects on time and under budget, our solutions-oriented team is **passionate about partnering with you** to make your vision a reality.

3.2.2.2 Proposed Personnel & Organization

We have the resources and the results orientated attitude to deliver the highest quality construction project to the City of St. Helens and the surrounding community. This experience brings the ability to anticipate challenges early in preconstruction and bring resolutions long before it impacts your project, which results in no project delays, no budget creep, and no rework.

PROJECT ORGANIZATIONAL CHART

Provide a project organization chart showing the proposed key staff for this project in the following areas (at a minimum): • Company executive with responsibility for the project and the authority to bind the company • Project management • Construction management and supervision • Estimating • Safety • Quality control



3.2.2.2 Proposed Personnel & Organization

KEY STAFF DUTIES & RESPONSIBILITIES

Describe the duties and responsibilities for all key staff positions. Indicate the approximate percentage of each week that each person shown on the organization chart is anticipated to be working on the project and their primary work location during the design and construction phases of the work.

Company Executive

Preconstruction: 10%
Construction: 10%
Location: HSW Portland Office



Ryan McGrew Company Executive

- Overall Strategic Leadership
- Review GMP Estimates
- Quarterly Safety Audit
- Market Trending Analysts

Project Management

Preconstruction: 20%
Construction: 100%
Location: Project Jobsite



Aaron Braun Sr. Project Manager

- General Project Oversight
- Development of the GMP Estimate
- Subcontractor Buyout Process
- Project Management
- Submittal & Procurement Mgmt
- Weekly Owner Meeting Facilitation
- Project Planning
- Budget Revision Tracker

Construction Management & Supervision

Preconstruction: 10%
Construction: 100%
Location: Project Jobsite



Matt Kania Superintendent & Quality Control

- Safety Planning & Site Utilization
- Detailed Work Sequencing
- Constructability Reviews
- Schedule Development
- Field Operations
- Safety Program
- Quality Control Subcontractor Management

Quality Control

Preconstruction: 10%
Construction: 100%
Location: Project Jobsite



Eric Hayward Project Engineer & Quality Control

- Commissioning Lead
- Closeout Specialist
- As-Built Coordinator
- Field Inspections
- Review Subcontractor QA/QC Plans
- Lead Subcontractor Kick-Off Mtg
- Constructability Reviews
- Track Submittals

Estimating

Preconstruction: As Needed
Construction: As Needed
Location: HSW Portland Office



Bill Jensen Preconstruction Director

- Value Engineering
- Estimating
- Constructability Reviews
- Target Value Design
- Finalize GMP Value
- Subcontractor Buyout

Preconstruction: 50%
Construction: 10%
Location: HSW Portland Office



Scott Maxwell Chief Estimator

- General Oversight
- Market Trending Analysis
- Final Estimate Approval
- Bid Package Coordination
- Variance Analysis
- Final Estimate Assembly
- Value Engineering
- Budget Management

Safety

Preconstruction: As Needed
Construction: As Needed
Location: HSW Portland Office



Bobby Blanks Safety Manager

- Issues Project Safety Plan
- Zero Harm Implementation
- Manages Jobsite Safety Efforts
- Safety Compliance
- Promote Safety Awareness
- Mitigates Risks
- Jobsite Safety Walks
- Safety Orientations

3.2.2.2 Proposed Personnel & Organization

RESUMES

Include resumes for all key individuals shown on the chart. Resumes shall include education, work history, length of tenure with the proposing company, and specific project experience in the role proposed for this project. Each project experience example shall include the title, description, construction cost, dates and durations for the project and the name, company name, position title, and telephone number for the client representative that was responsible for the project.

Please see appendix for project team resumes.

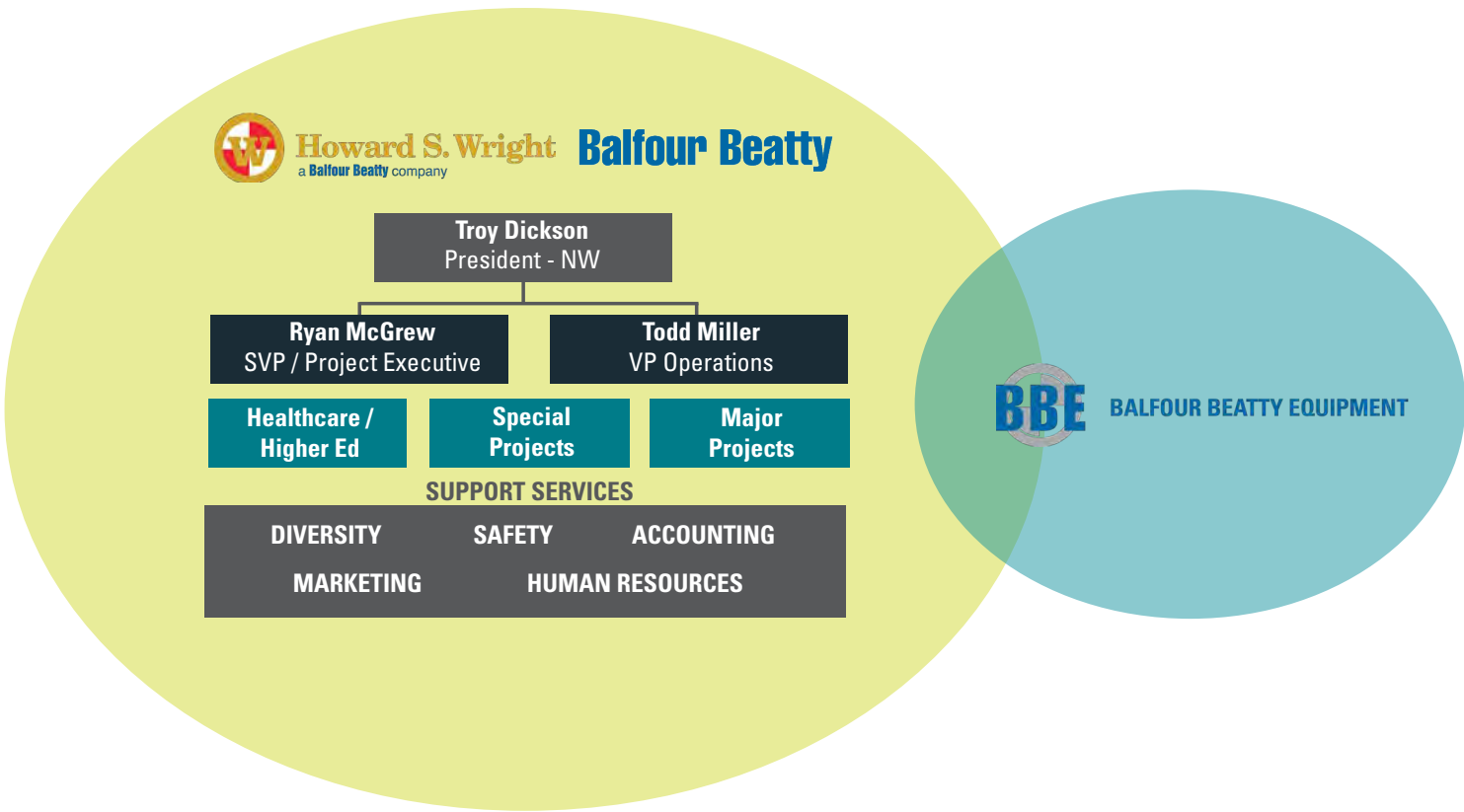
COMPANY ORGANIZATIONAL CHART

Provide an organizational chart of the company. Include all wholly owned subsidiary companies and define their relationship in providing personnel or equipment for the project.

As 138 year residents of the Pacific Northwest, with an office in Oregon since 1980, we enjoy serving local businesses and watching our community grow together. Our focus, and commitment, is to be a valued team member that has a “project first” mentality as we work together to meet or exceed the City’s goals for the Public Safety Building project. Below we have outlined our company organizational chart.

Firm Organizational Chart - Oregon Division

HSW uses an affiliated company for equipment rental. HSW’s equipment rental company is called “Balfour Beatty Equipment, LLC”. It is a wholly owned subsidiary of HSW and a separate limited liability company with warehouse locations across the United States. This practice significantly benefits our clients and projects by ensuring rental and consumable prices are competitively discounted and, in virtually all cases, below market rates.



The image shows the exterior of the Klamath Falls Police Department building at dusk. The building is a two-story structure with a modern design, featuring large glass windows and a flat roof with a dark metal finish. The interior lights are on, and the sky is a deep blue. In the foreground, there is a concrete wall with the department's name and address. A small tree is visible in front of the building.

3.2.2.3 Cost Management

KLAMATH FALLS
POLICE DEPARTMENT
2501 SHASTA WAY

Sky high expectations.

Greatness happens when you expect more from yourself than a client could ever imagine. It's where the **extras** become the **must-haves**.

3.2.2.3 Cost Management

Our proven cost control procedures ensure that the City of St. Helens and the project team will have adequate time to make informed cost-related decisions throughout the life of the project.

1. COST ESTIMATING & VALUE ENGINEERING

Describe how the proposer will approach cost estimating and value engineering.

Our approach to Cost Estimating and Value Engineering is addressed in our response to Question 3.2.2.1.1 – Preconstruction Services Plan. The final part of the estimating process is the incorporation of Subcontractor and Supplier bids into a GMP Estimate.

The 100% CD package will be used for most bid packages and will serve as the basis for the GMP. To establish the estimated value of each bid package, the 50% CD Estimate will be resorted from a Systems Estimate format to grouping by Bid Package. These values will then flow into our Bid Analysis Worksheets which are used to evaluate and level all quotes for a given package. The HSW estimated value and the low apparent Sub/Vendor values will then be summarized on a report that captures all bid packages along with the variance from the estimate.

A new estimate will then be produced that incorporates the Sub/Vendor pricing along with any quantity or scope revisions that may have occurred between 50% and 100% CDs.

2. COST TRACKING

Describe the plan for managing and tracking the cost for the work in adherence to the GMP. Include descriptions of cost tracking tools and summary reports.

It is Howard S. Wright's philosophy to maintain an "open book" approach to all cost accounting activities with our CM/GC clients. The City is provided complete access to all relevant financial information in the GMP, including subcontractor buyout, general conditions/requirements costs, and change order requests, and has oversight for expenditures of all contingencies on the project.

- **Subcontractor Procurement & Commitments** – As part of subcontractor procurement efforts, Howard S. Wright will create clear and concise bid packages (with pre-defined bid forms) for all major scopes to ensure we obtain the most competitive pricing possible. We perform pre-bid meetings to clarify the scope and post-bid meetings with low responsive subcontractor(s) to ensure they have all required scope. Howard S. Wright then prepares a Bid Tally for each scope along with a Subcontractor Buy-out Status Log which is reviewed with the City and OTAK on a periodic basis.
- **Change Order Request Tracking** – Howard S. Wright uses Procore's Construction Management software for tracking change order requests. All potential change issues are entered into the Procore system and tracked on a minimum weekly basis utilizing our Cost Event Log. Subcontractors are required to prepare detailed pricing, reviewed by Howard S. Wright, that includes unit takeoff quantities and prices for the evaluation of changes to their subcontracts.

PCO		Fund*	RFI	CCD	Description	Owner Change Order	CM/GC Contingency	Allowances	Comments
002	A				Utility Conflict @ SE Sanitary MH Tie-In	\$0	\$0	\$2,315	UG Utility Conflict Allowance
007	O				Remove Additional Trees North of Arnold Hall - Qty of 5	\$5,855	\$0	\$0	Proceed T&M per OSU on 7/26/11
008	O	023			Revise Walk off Mats to Carpet Tile in lieu of Pedimat	(\$8,185)	\$0	\$0	
010	O	005			Triple Glazing Locations	(\$10,197)	\$0	\$0	
014	C				Revise foundation at NE corner of building	\$0	\$8,158	\$0	Deducted from CM/GC contingency
017	O				Accepted Alternates: # 2, 8, 11, 12 & 13	\$64,808	\$0	\$0	
020	O				Remove & Replace Sidewalks NW of Arnold Hall (2 sections)	\$13,514	\$0	\$0	
021	O				New Trash Compactor at Arnold Hall - Provide & Install	\$36,306	\$0	\$0	
023	O				Buyout - Security Allowance	(\$28,768)	\$0	\$0	
029	O				New pathway around SSC for future Chavez location	\$16,879	\$0	\$0	NTE accepted by OSU on 3/16/12
030	A				Exterior Scaffolding & weather protection	\$0	\$0	\$52,119	Weather protection allowance
031	O	072	006		Electrical changes to MDF/IDF Rooms & Cable Tray Revisions	\$3,340	\$0	\$0	
033	C				Credit back unused Contractor Contingency	\$0	(\$100,000)	\$0	
039	O				Delete sitework from scope at south side of parking garage	(\$27,260)	\$0	\$0	
040	O				Added coin return locks to lockers in Corridors H203 & H303	\$2,563	\$0	\$0	
043	O				Cable tray covers & stainless trim at elevator wood slat wall	\$4,752	\$0	\$0	
049	O				GMP Reconciliation	(\$177,734)	(\$177,734)	\$0	
TOTAL						(28,601)	(289,576)	124,412	
REMAINING AMOUNT							0	28,253	

* B - Buyout, O - Owner Contingency, C - Contractors contingency, A-Allowances

Our Cost Event Log lists potential cost issues and their value. The total of this list is then tracked with the Owner's budget and/or contingency to keep the team up to date on total project costs.

3.2.2.3 Cost Management

- **Claims Management** – The best means to manage claims, is to avoid ever having them. Howard S. Wright prides itself on developing well thought-out project execution plans that meet the needs of the client and can effectively be executed by subcontractors. Should a claim occur, Howard S. Wright works to identify the issue early and develop options to mitigate or eliminate the impacts through alternative construction sequencing or means of construction. Claims are managed in our Cost Event Log, and if required, recovery schedules can be developed utilizing our Primavera P6 scheduling software. Once the best path forward is identified, the recovery plan is communicated to all affected parties.
- **Unforeseen Conditions** – At project inception, Howard S. Wright prepares a Project Risk Register to identify any and all potential challenges which may be incurred on the project. The Risk Register is shared with the project team and updated monthly. It includes categories such as site and environment conditions, project execution risks, weather risks, quality control events, and safety and loss control. As part of this process, the team determines any survey or investigation efforts that can be performed to bracket the risk, a probability of occurrence is assigned, and a mitigation plan conceptualized. If a high risk of occurrence is determined (for example: poor soil conditions), a budget to mitigate the risk and schedule float is contemplated in the GMP agreement to be carried by the City or CM/GC.

3. CONTINGENCY MANAGEMENT

Describe the approach for establishing and maintaining a GMP contingency fund to ensure that the project budget is not exceeded and your willingness to comply with the use of this contingency described in 2.7.3 (7) Special Requirements above.

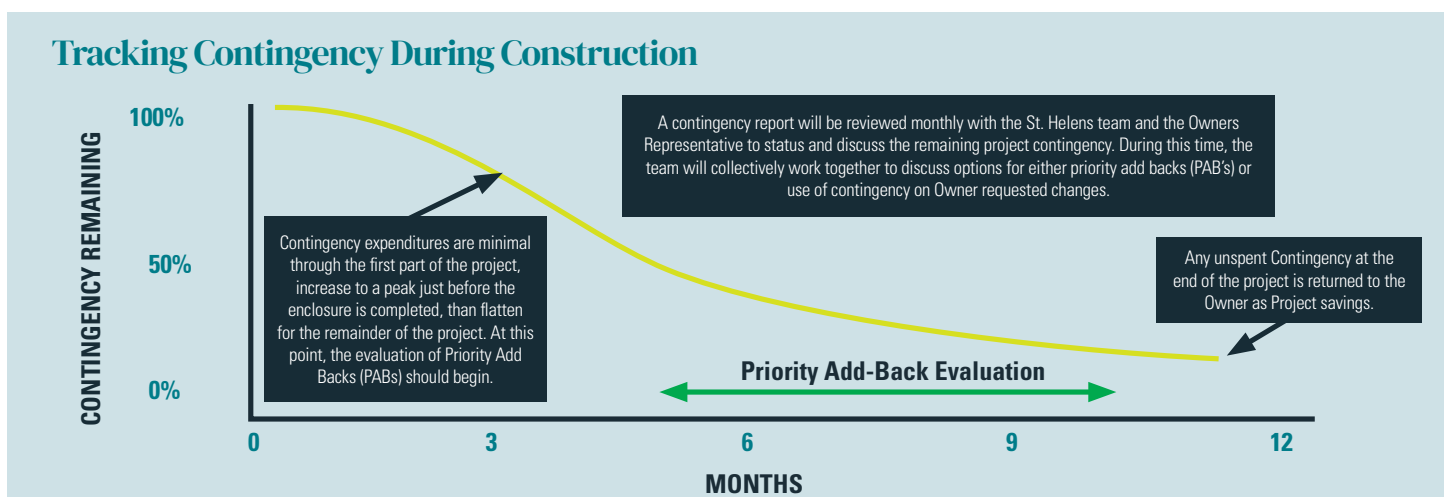
Budget Accountability

Howard S. Wright believes in a process of transparency and accountability when it comes to communicating contingency and budget items with our clients. Our team will work with the City and OTAK to establish an agreed upon contingency value at each project phase that accurately represents the financial risks still present and then on an agreed upon schedule to reduce that contingency as project partners are brought in and the project is bought out.

As project risks are identified, we will establish line item contingencies so we can accurately “bracket” these risks in a format that is easily communicated and managed. This is also how we’ll establish any allowances in the project and as those allowances or unknowns are finalized, we can return those dollars back to the project and maximize taxpayer value. Throughout the process Howard S. Wright is committed to an open book policy where contingency is discussed and managed collaboratively.

Priority Add Back

An important element in Contingency Management is understanding when it is acceptable to relinquish portions of the contingencies as risks and changes become more defined. We utilize a Priority Add Back (PAB) list to track scopes that may have been reduced or eliminated during the Value Engineering process due to budget constraints that can be added back into the project as funds are identified. Timing is critical – holding onto contingency for too long may not allow enough time for the additional work to be completed within the contracted schedule, and for this reason the PAB list also includes a decision date.



3.2.2.3 Cost Management

As the project progresses through preconstruction and into construction, our team will utilize a priority add back list to track items could not be incorporated at the time of the GMP. As the project progresses, scopes are fully bought out, and risks are mitigated, our team with the direction of the City of St. Helens will work to incorporate this list of items back into the project with savings and contingency usage. Our goal is to ensure that any savings throughout construction are used to add back the scope to enhance the overall project.

PRIORITY ADDBACK LIST

BPM Office

Update: Jul 1, 2022



GMP Estimate: \$17,000,000
Remaining Contingency: \$850,000

PRIORITY ADDBACK LIST								
Item No.	Description	Estimated Value	# of Items	Rejected	Pending	Accepted	Required Decision Date	Comments
	CAS (Cellular Enhancement) Garage Only	\$75,000	P		\$75,000		12/15/2020	9.15.18: This provides cellular enhancement to the parking levels of the building per required by Department. If decision to make 101, savings will be \$25k to eliminate surface mounting the conduit. 10.2.19: Owner asked to table cost to a later date as this cost reflects surface mount conduit. 11.30.19: Per QAC this cost is rejected and may be evaluated at a later date.
	CAS (Cellular Enhancement) Remaining Building	\$50,000	P		\$50,000		6/1/2020	9.15.18: This will provide the cellular enhancement as required within the remaining portions of the building. Following final building testing, this may be required by the City of Portland. Currently pathway for this cabling is being installed up the building. This cost is for distribution, cabling, and equipment. 11.30.19: Per QAC this cost is rejected and may be evaluated at a later date.
	Painting of Garage Ceilings	\$36,000	P		\$36,000		7/15/2020	11.16.19: Work will be priced as an add alternate to the painting scope at GMP Part 3 buyout.
	Add Veneer Plaster at Sloped Columns	\$65,000	P		\$65,000		6/1/2020	12.16.19: Move the plaster to an add back. Base to be skin coated and painted.
	Added hose bibs on west side of core for floors P4 thru P1	\$23,000	P		\$23,000		7/15/2020	10.2.19: Add a hose bib on the west side of the core on floors P4 - P1 to provide hose water without having to go thru a lobby or around the core. Coordinated with Rhonda S. 11.19.19: BPM (Rhonda) has approved current design without the added hosebibs. These added hose bibs can be done at a later date. 12.16.19: Move to a priority addback item. This can be added in at a later date.
404	Added Traffic Coating at Below Grade Garage Levels	\$35,000	P		\$35,000		7/15/2020	1.16.20: Added scope shown in 50% CD's. Cost is for drive aisles and parking spaces. 2.20.20: Add to addback list per BPM.
Add:					\$7	\$7		
Subtotal:					\$7	\$7		
Total:					\$7	\$7		

Acknowledgment

We acknowledge Special Requirements 2.7.3 (7) pertaining to GMP Contingency and as such will adhere to those stipulations.

4. GMP DOCUMENTATION

Describe the proposed method of documenting the line-item components of the Guaranteed Maximum Price (GMP) and the method of determining whether project changes are inside or outside the scope of the GMP.

GMP Transparency

Howard S. Wright will provide line of sight to each scope item in the GMP for project stake holders. Each GMP line item will track to an individual scope buyout summary that details what subcontractor is completing the scope and any items that are still outstanding, what we call "yet to buy".

During the creation of the GMP we will work to create clear, concise, and unambiguous bid packages so we have cost certainty for each scope of work. We also hold "close down" meetings where we walk through each scope of work with subcontractors so there are no surprises or unaccounted for scope gaps in the GMP.

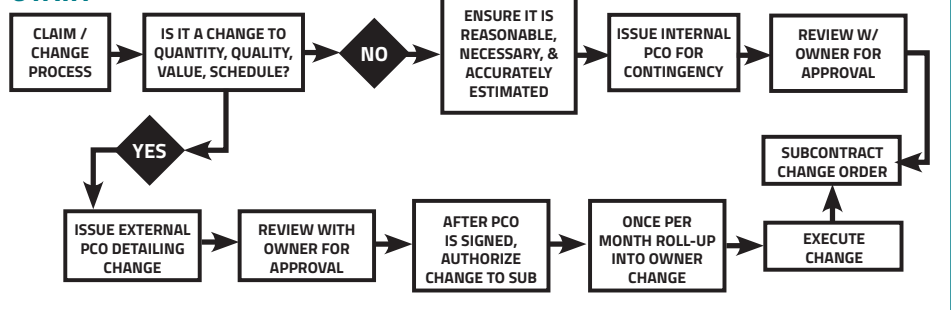
Changes During Construction

During construction changes can occur, and we follow a simple process to determine if those changes should have been accounted for in the final scope and GMP. At all times, Howard S. Wright's goal is to be a good steward of the public's money and will evaluate all changes in a clear and transparent manner, identifying what should have reasonably been included in the GMP.

If the change does represent a material change in scope, i.e. a change from the contract documents in scope, schedule, quantity, or quality, then the team will

identify the change in our weekly meeting with the project team and track it on our potential change order log that is discussed in detail during our weekly meeting with the project team. At this discussion, we will mutually determine with the project team if the change is outside the GMP and if there are potential opportunities to offset additional costs such as alternate design ideas, approaches to the work, schedule, or other creative solutions to accomplish the work for the original price.

START



The Change Process

We minimize changes, plan the work, and keep the construction team informed. Changes undergo a detailed analysis to determine whether they are covered by the Contractor Contingency or the Owner Contingency (Owner changes, design changes, unforeseen conditions, or jurisdictional changes).

3.2.2.3 Cost Management

5. PAST PERFORMANCE

Describe past performance on other CM/GC and design/build contracts within the past five (5) years. For each project, list the project name, client name, completion date, contract GMP, dollar amount of change orders, and client contact person including phone number.



Lake Oswego Public Safety Building / City Hall CM/GC

- // **Client Name** City of Lake Oswego, OTAK
- // **Completion Date** 03/09/2021 (City Hall Building - Phase 1)
- // **Contract GMP (Phase 1 & 2)** \$34,039,671
- // **Change Order Amt** \$3,393,743 (Owner Scope Additions)
- // **Contact Person** Sidaro Sin, (503) 687-7421



Pioneer Courthouse Square CM/GC

- // **Client Name** City of Portland
- // **Completion Date** 10/2017
- // **Contract GMP** \$6,924,740
- // **Change Order Amt** \$170,270 (Owner Scope Additions)
- // **Contact Person** Lauren McGuire, (503) 823-5591



10th & Yamhill SmartPark Garage CM/GC

- // **Client Name** City of Portland
- // **Completion Date** 02/2020
- // **Contract GMP** \$18,160,552
- // **Change Order Amt** \$307,881 (Owner Scope Additions)
- // **Contact Person** Grant Morehead, (503) 823-9701



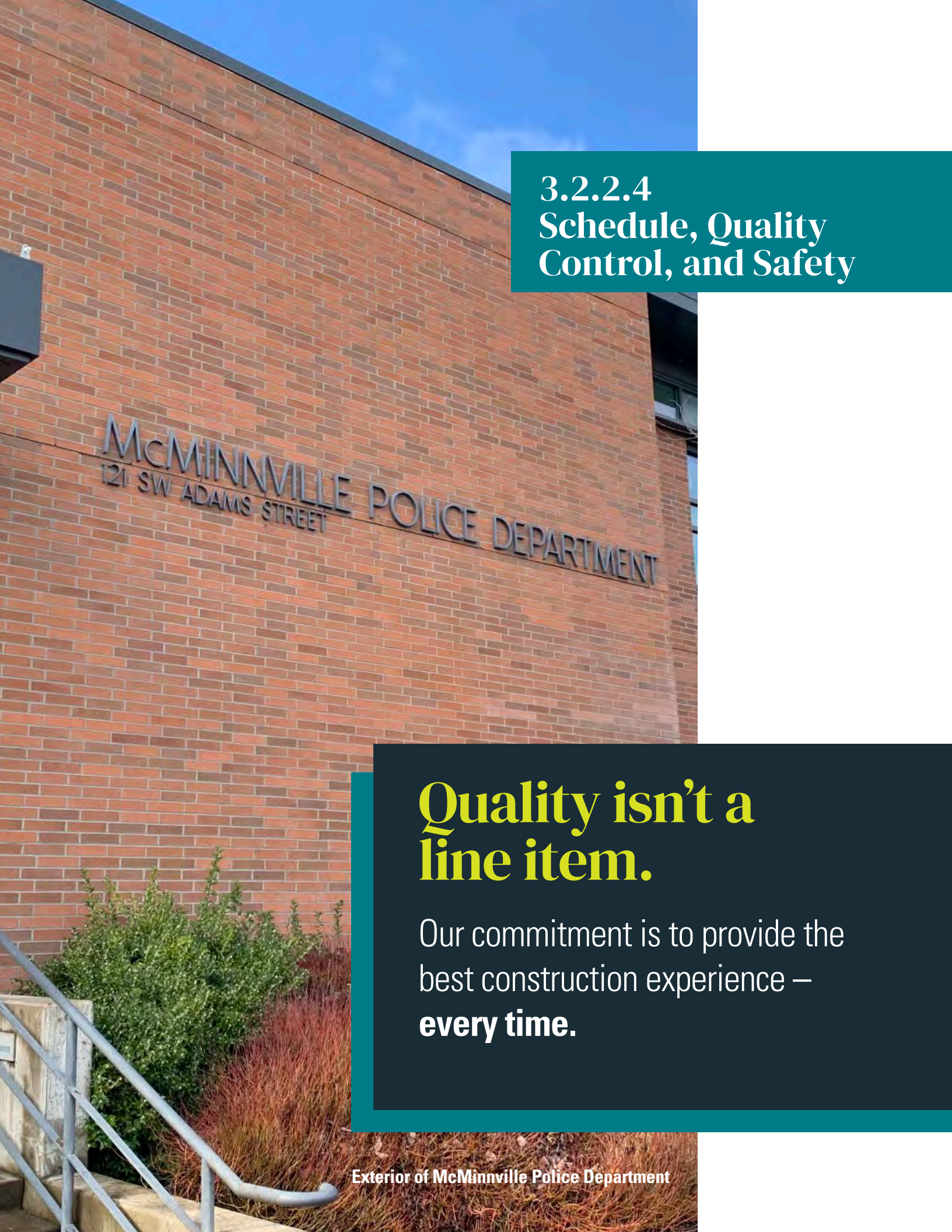
Salem Public Library DESIGN/BUILD

- // **Client Name** City of Salem, OTAK
- // **Completion Date** 07/14/2021
- // **Contract GMP** \$17,875,918
- // **Change Order Amt** \$2,139,155 (Owner Scope Additions)
- // **Contact Person** Aaron Kimsey, (503) 588-6211



Salem Public Works Operations Center DESIGN/BUILD

- // **Client Name** City of Salem
- // **Completion Date** 08/31/2023
- // **Contract GMP** \$31,024,574
- // **Change Order Amt** \$1,029,119 (Owner Scope Additions)
- // **Contact Person** Allen Dannen, (503) 588-6211

A photograph of the exterior of the McMinnville Police Department building. The building is constructed of red brick and features a large, raised metal sign that reads "McMINNVILLE POLICE DEPARTMENT" and "121 SW ADAMS STREET" below it. In the foreground, there are some green bushes and a metal railing. The sky is blue with some light clouds.

3.2.2.4 Schedule, Quality Control, and Safety

**Quality isn't a
line item.**

Our commitment is to provide the
best construction experience —
every time.

Exterior of McMinnville Police Department

3.2.2.4 Schedule, Quality Control, and Safety

Our working knowledge of local conditions enables us to see and resolve a problem long before it impacts your project, leaving more time to seek opportunities to lower project cost, accelerate schedule, and deliver a project that exceeds your expectations.

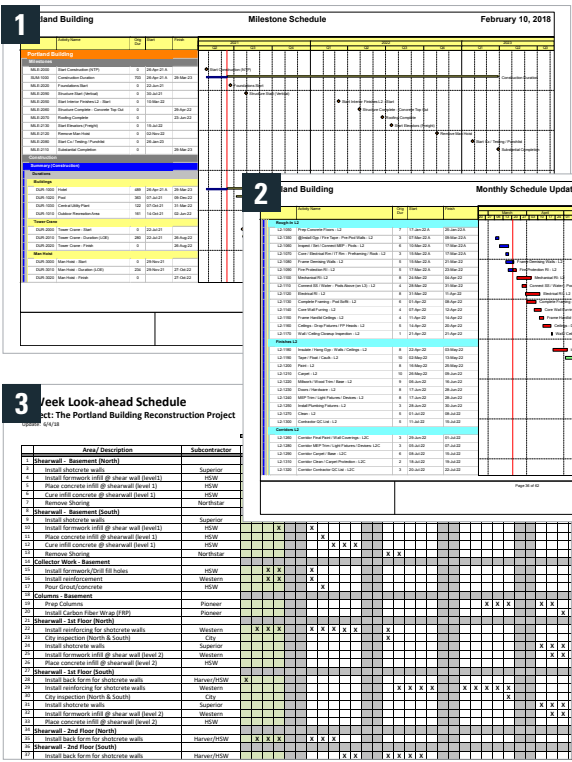
1. MANAGING THE SCHEDULE

Describe approach to managing the construction schedule. Include a description of the elements of this project that are likely to put the schedule at risk and how they would be proactively managed. Include descriptions of schedule tracking tools and summary reports.

Scheduling Risks

CHALLENGE	SOLUTION
Electrical Gear Fabrication Duration	Early Procurement Package
Specialty Items (Ballistic Glass, etc.) Fabrication Duration	Early Identification / Tracking
Basalt Rock Removal Cost & Schedule Impact	Define Scope & Required Specialty Equipment During Buy Out
Undocumented Fill Removal Cost & Schedule Impact	Onsite Investigation & Proper Buy Out
Large Site Fill Requirements	Locally Sourced Fill Materials
Pathway For Owner Low Voltage Vendors Not Included in Design Documents	Early Coordination Meetings. Integrate Into Project Documents & Schedule

Scheduling Tools



1. Milestone Schedule

Key milestones and summary level project information are included in our design phase and master project schedules. This global information helps keep the project team informed of the general project status and the upcoming critical events, at-a-glance.

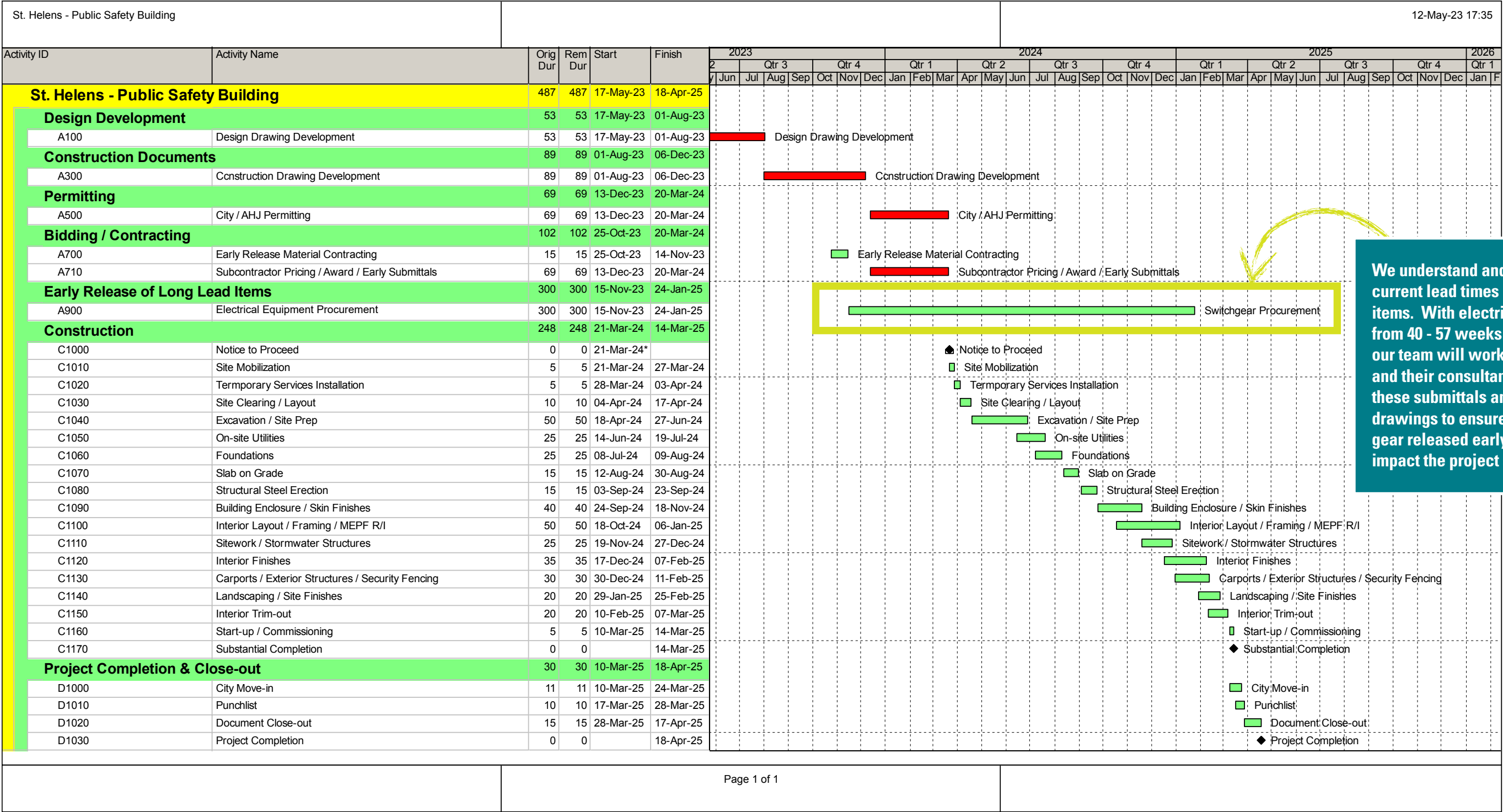
2. Detailed Level Schedule

Beginning with our earliest planning schedules, and carrying through with our Baseline and Construction Master schedules, each of the phases and major events are broken into detailed activities that incorporate sequencing logic and resource considerations.

3. Short Interval Schedule

These schedules further break down the detailed schedule activities into daily tasks that help to drive the pace of the project. These are built from the most current Master Schedule and are the basic tool used for communication with all project participants.

3.2.2.4 Schedule, Quality Control, and Safety



Page 1 of 1

We have studied the RFP Master Schedule and have noted the 12-month desired construction duration. This fast-tracks schedule highlights the urgency of the St. Helens Police Department moving into their home. You will see our draft project schedule getting ahead of this 12-month construction duration. We have also highlighted the urgency of early Switch Gear Procurement and other long lead materials. The construction schedule also accounts for large export and import earthwork activities which we validated with a local Earthwork Trade Contractor. Based on our recent law enforcement project experience, the start-up commissioning and Owner move-in durations have been validated.

3.2.2.4 Schedule, Quality Control, and Safety

2. LABOR & MATERIALS

Describe expectations for labor and materials availability on this project. Describe how anticipated challenges with availability of labor or materials could be mitigated. Explain the plan to generate sufficient subcontractor and/or material supplier competition in the bidding to minimize project costs.

Labor and materials availability continues to challenge projects in the Portland Metro area and will likely be a challenge for the New Public Safety Building project. Howard S. Wright has been successful mitigating these challenges on recent projects using the following strategies:

Mitigation Plan

- **Early Budgeting** – Howard S. Wright collaborates with our trade partners to provide early budgets. In doing so, they can review the drawings and specifications and identify materials that may have long lead times. This helps us to determine if early release packages are required.
- **Early Release Packages** – Early release packages allow for procurement of long lead time items and cost certainty for a given scope. Another benefit of early release packages is it provides subcontractors a firm commitment for future work so they can plan out their work forces.
- **Labor Productivity** – The Metro area construction market continues to be very active which, at times, has resulted in a shortage of skilled workers. The industry in all disciplines is hiring new workers and expediting apprentice programs to meet the workforce needs. These less experienced workers lower productivity rates for most subcontractors. As part of the procurement process, Howard S. Wright will look to evaluate the backlogs of key subcontractors to ensure they can provide a skilled workforce and to leverage a greater quantity of firms which can in return place more core productive workers on this project. This is a perfect project to ensure a skilled workforce can help train the next generation of workers on a project while also ensuring the City gets the best value.
- **Off-site Prefabrication** – Howard S. Wright will look for opportunities during design and procurement to leverage off-site prefabrication of materials. Prefabricated systems can be constructed independent of the project's construction sequence and delivered just-in-time to the project. Benefits include a relaxed schedule for assembly, non-union wages, and being able to construct assemblies in controlled environments which saves the City money and reduces the need for on-site labor.
- **Material Sourcing** – Shipping is becoming a larger factor in material availability. Not only is the cost of shipping increasing, but the time frame to ship materials is becoming longer as well. Howard S. Wright will work with the City and design team to identify local and domestic products when available in an effort to minimize the unpredictable nature of today's shipping market.

Off-Site Prefabrication: Improving Efficiency

Our team worked with the owner and local subcontractors to craft a prefabricated bathroom pods strategy that saved material, labor, and transportation costs needed to fabricate the bathroom pods in our ongoing Ilani Casino Hotel project. The team was able to fabricate each bathroom pod in a centralized area, provide ongoing QC checks, and then package and deliver them well ahead of schedule to the project.



3.2.2.4 Schedule, Quality Control, and Safety

Competition

- **Conditioning the Market** – The best way to ensure adequate competition is to generate excitement about the project. We call this “Conditioning the Market.” Essentially, this is advising potential subcontractors and suppliers of upcoming bid opportunities weeks, or in some cases, months in advance of the actual release of the bid documents. This is particularly important for many small businesses that have limited estimating bandwidth and must be selective about which projects they choose to pursue. We want to be sure this project is on their bid calendar well in advance of the actual Invitation to Bid being issued. Once the time comes to issue the bid documents, we do not just rely on emailing solicitations. Our project team will follow up with phone calls to discuss the bid opportunity, making sure that they got the invitation and checking to see if they have any concerns.
- **Cast a Wide Net** – We also increase competition during bidding by seeking out all qualified subcontractors. Just because we have multiple committed bidders doesn’t mean we ease off the gas pedal. We continue to seek new bidders throughout the process to increase competition and ensure we tap the full subcontractor community, not just the ones with the largest estimating departments.
- **“Right Sized” Packages** – Another strategy is to right size bid packages based on our subcontractor community. By “right sizing” our packages we don’t exclude qualified subcontractors due to labor availability, bonding capacity, or hesitancy. We’ll create options to “partner” different subcontractors where possible to ensure we get the best pricing for these scope packages and involve as many subcontractors, regardless of size, where possible.

3. PROJECT OPPORTUNITIES & CHALLENGES

Discuss opportunities and challenges that you see to complete the project in as efficient of manner as possible. Describe how the opportunities will benefit the City and describe how the foreseeable challenges will be addressed by your firm. Prepare and manage a risk log via cloud-based access.

Our project approach relies on the whole project team collaborating and working toward the common goal of a successful on time project. This process begins with preconstruction and completes at the close out of the project. A few of the key challenges and opportunities on the Public Safety Building are noted below.

CHALLENGE	SOLUTION	BENEFIT
Maximizing Budget	Target Value Design	Maximize Programming
	Budget Revision Tracker	Augment Priority Add Backs To The Project
	Value Engineering	Maximize Programming
	Contingencies	GMP Savings Returned
Schedule	Early Procurement of Electrical Equipment	Timely Project Completion
	Specialty Material Procurement	Timely Project Completion
Site Conditions	Clearly Define Site Fill Requirements	Reduce Cost & Schedule
	DEQ 1200C Permits	Protect Neighboring Wetlands
	Jobsite Maintenance	Good Neighbor Relations
	Pothole/Locate Existing Utilities	Zero Unplanned Utility Services.
Smooth Transition to Occupancy	Coordination with City Vendors	Timely Project Completion
	Incorporate Owner Low Voltage Vendors into Project Schedule	Timely Project Completion
	Participation In Move Coordination Meetings	Seamless Move-In

3.2.2.4 Schedule, Quality Control, and Safety

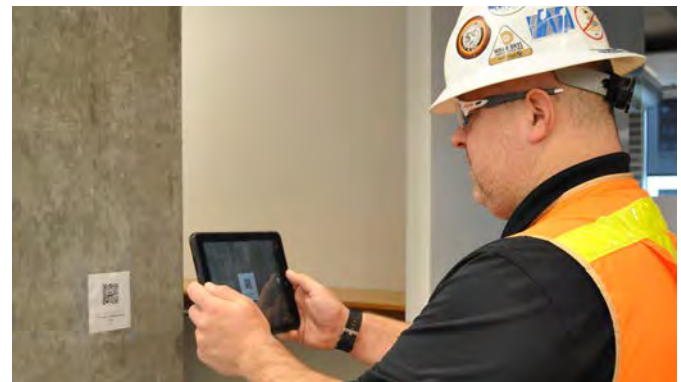
4. QUALITY CONTROL PLAN

Describe your firms proposed quality control plan and how it will be implemented.

Quality Control During Construction

During construction, Howard S. Wright executes a variety of programs to ensure the work is installed per the approved design documents, per code, and in a high quality manner. These programs include:

- **Live As-Built Document Updates** – Howard S. Wright’s project engineers utilize BlueBeam Revu software to maintain a “live” set of documents inclusive of all RFI responses, approved Supplemental Instructions (design revisions), and submittals which are hyperlinked within the design documents to ensure all owner, designer, contractor, and subcontractor parties are working from the latest working documents.
- **Submittal Reviews & Material Verification** – All materials proposed to be installed on the project are reviewed by Howard S. Wright’s project team, and then the City, OTAK, and Mackenzie’s team for compliance with the specifications and design intent. Howard S. Wright checks major deliveries to the site to ensure sub-standard materials are not allowed to be installed.
- **Mock-ups** – In developing the project’s QC Program, we work with the team to identify any key project elements that would benefit from an expedited mock-up being constructed. These mock-ups are then scheduled and constructed to ensure final design decisions can be made, details worked out, and levels of quality agreed upon as a guide for future installations.
- **First Install Reviews** – Similar to mock-ups, first install reviews are identified for key areas of the project, wherein the owner, designers, and contractors review the initial installation of an assembly to baseline on the level of quality expected.
- **Testing & Inspection Tracking** – Howard S. Wright actively coordinates the scheduling of all Building Official and Third Party inspections and documents and rectify any deficiencies on an ongoing and timely basis.
- **Progress Punchlist** – Howard S. Wright, along with the project team, walks the project on a periodic basis with a sole focus on ensuring a quality installation. All deficiencies are documented in Howard S. Wright’s BIM 360 Field Software which can be accessed through both mobile devices and PCs. Deficiencies are communicated to responsible parties and tracked through resolution.
- **Pre-Punchlist & Final Punchlist** – Once work is complete, Howard S. Wright performs a pre-punchlist walk to address any work deficiencies, with the goal that City, OTAK, and Mackenzie has few, if any, quality concerns at completion. Should there be any designer or owner concerns, these are also documented and tracked in our BIM 360 Field Software until resolution.
- **Commissioning** – It is best practice to plan for the commissioning of MEP systems during design. The development of a commissioning plan and the integration of the Commissioning Agent in the development of the design documents, review of submittals, and development of controls sequences is instrumental to the MEP systems successful startup.



Superintendent Matt Kania uses BIM 360 Field to simplify the collection, distribution, and tracking of safety, quality control, commissioning, and punchlist observations.

By establishing all stakeholder quality and performance expectations early in the design process, our team is aligned to ensure we deliver the project to City of St. Helen’s expectations.

Howard S. Wright actively engages the Commissioning Agent in the Document Review and submittal process, and integrate the Agent’s efforts with the subcontractors to ensure an efficient startup of the facility.

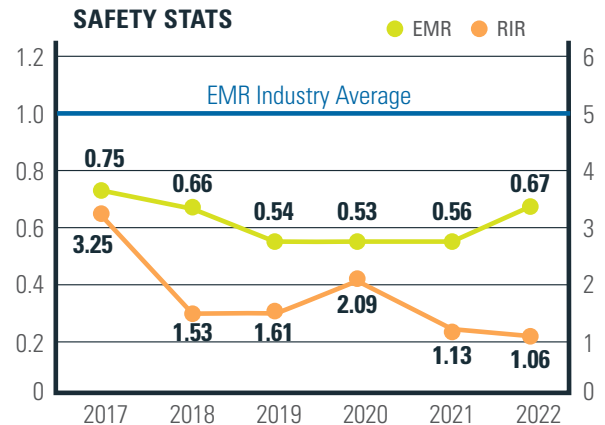
3.2.2.4 Schedule, Quality Control, and Safety

SAFETY THROUGH ZERO HARM

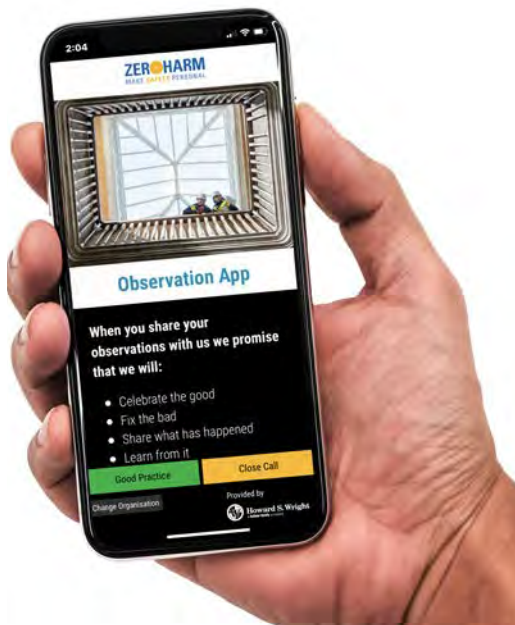
Describe your firm's proposed general safety program, including training, hazard identification, and audit/inspection. Include specific information on subcontractor and employee accountability for safety, formal disciplinary program, and Company EMR (Experience Modification rating) safety record for the last three years.

Howard S. Wright's Zero Harm culture strives to eliminate, not just mitigate, any safety risk on our projects. In the field and in the office, we start every meeting with a safety moment in search of one goal...**to make safety personal.** From maintaining a clean jobsite to well-planned site logistics to an expertly executed crane pick, the jobsite workers, the project team, and the public all benefit from our approach to safety and the efficiencies and positive morale it provides on the project. Some of the programs and processes we use to embed our Zero Harm culture are as follows:

- **Safety in Design** – As part of the design process, the Howard S. Wright team reviews the design documents with a goal to mitigate safety risks both during construction and operation of the building by the facilities staff. Items such as fall protection provisions and considerations for material handling are addressed during design to improve safety through the life of the building.
- **Safety Inspections** – Utilizing a proprietary software developed by Balfour Beatty, the HSES Observation App, our team performs daily safety inspections where we identify areas for improvement on our projects. This system also tracks leading and lagging indicators to allow us to initiate safety improvements prior to events occurring. It is cloud based and rolls up all observations nationwide for trending data both locally by project as well as nationally. It is used to record both good practices as well as close calls and is available to all project team members including trade partners via a QR code.
- **New Worker Orientations** – Project site and safety orientations are performed for all individuals working on the site to communicate expectations and responsibilities for working safely.
- **Stretch & Flex** – At the start of each shift, all workers on the jobsite participate in a 15-20 minute warm-up and stretching program while concurrently participating in a review of all upcoming activities for that shift. This results in reduced frequency of injuries and better coordination and respect between trades.
- **Job Hazard Analysis (JHAs)** – Subcontractors are required to submit a Job Hazard Analysis wherein risks are identified and mitigations programs are established for all major activities/phases of work on a project to ensure a safe working environment.
- **Pre-Task Planning (PTPs)** – Prior to the start of each shift, each crew participates in the preparation of a pre-task plan, including a review of their work area to identify any and all safety concerns. The JHA is used as a baseline for this review, and each worker signs that day's plan to acknowledge their thoughtful investment in working safely that day.
- **Temporary Works** – We perform a careful evaluation of each work activity which may require specialized design, planning, or engineering to be provided to ensure the work is installed in a safe manner.
- **Disciplinary Action** – In most cases, we adhere to a "three strikes" program for safety infractions. In the case of Immediate Danger to Life and Health (IDLH) incidents, the individual will be permanently removed from the jobsite.



3.2.2.4 Schedule, Quality Control, and Safety



SAFETY OBSERVATIONS: There's an App for That

HSW uses a proprietary phone app that makes it **easy to report a safety concern or best practice to our safety team in real-time**. Workers, supervisors, or visitors to the jobsite can download the app by scanning a QR code prominently placed on signage throughout the jobsite. The app utilizes GPS locates which allows for immediate control or remediation of the hazard. All incidents are logged as either good practice or close call and are compiled by hazard into a central database. This information can be used as a predictive component for jobsite safety and for communication with the trades.

Because HSW's people-first safety culture prioritizes the holistic well-being of every individual on our jobsites, we know that any successful safety observation must be accompanied by an effective conversation. Whether the observation is regarding an unsafe behavior or action or even a positive reinforcement of safe choices, **conversations are vital to empowering the workforce** to take charge of safety and conveying that when it comes to Zero Harm, it truly is people who matter most.

SAFETY THROUGH CULTURE OF CARE

Howard S. Wright believes in a safe and comfortable work environment for all. We have zero tolerance for hate speech and intimidation on our job sites. We will not accept racism, sexism, discrimination, harassment, and bullying.

We have made a pledge with other general contractors, the subcontractor community, unions, AGC, and other industry partners to positively enhance the work environment on our jobsites. All Howard S. Wright office and field teams have gone through Culture of Care training and completed the Culture of Care Jobsite Pledge. This construction community pledge is appropriately titled Culture of Care and is intended to advance policies and accountability for Diversity, Equity, and Inclusion.



A photograph of the Lebanon Justice Center building, a brick structure with large windows. In front of the building are two tall flagpoles with the American flag and a state flag. A large evergreen tree stands behind the flagpoles, and a smaller deciduous tree is in the foreground. The sky is clear blue.

3.2.2.5 Contract Formats

Real world perspective.

No project happens in a vacuum.
Full awareness of our day-in day-
out surroundings allows us to **plan**
for success from the star

3.2.2.5 Contract Forms

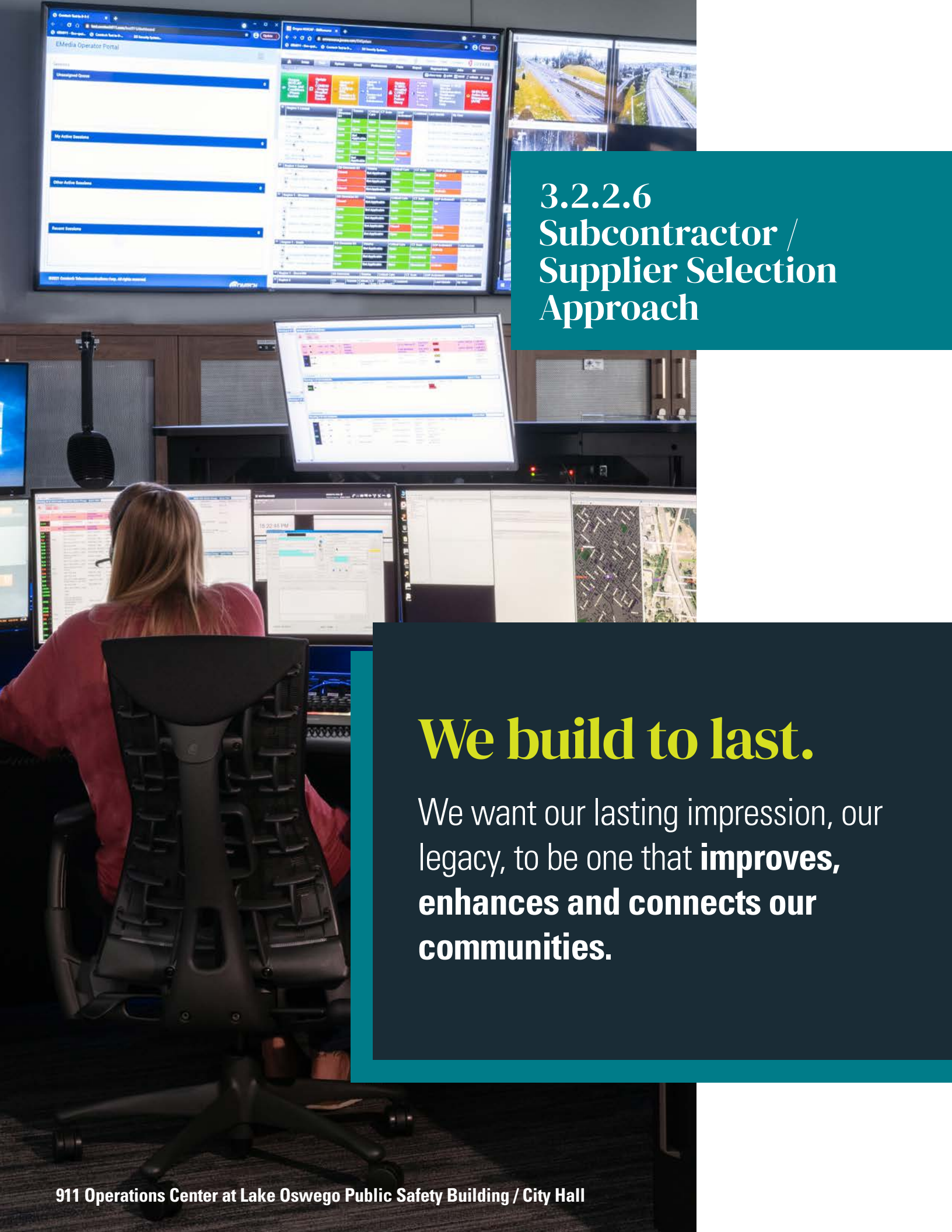
CONTRACT COMMENTS

The sample draft contract and general conditions to the contract presented in Appendix B will be the basis of the agreements for services provided by the selected proposer on the project. The proposer shall identify in its proposal all exceptions and proposed revisions to the contracts. The City will consider all exceptions and proposed revisions, but the City will not be obligated to accept them.

The sample negotiated construction agreement included in Appendix B will be used as the contract between the City and selected proposer.

The sample general conditions to the contract included in Appendix B will be used as the general conditions between the City and selected proposer.

We would like to propose having an open dialogue with the intent of minor Contract revisions as it relates to Article 13.8.1 & 13.8.2 that has us arriving at mutually agreeable terms.

A woman with long blonde hair, wearing a red shirt and a headset, is seated in a black ergonomic office chair. She is facing a large array of computer monitors. The top row of monitors displays the 'EMedia Operator Portal' with various data tables and charts. To the right, two monitors show aerial views of a highway interchange. Below the main row, there are more monitors showing different software interfaces, including one with a map. The background shows a control room environment with wooden paneling and other equipment.

3.2.2.6 Subcontractor / Supplier Selection Approach

We build to last.

We want our lasting impression, our legacy, to be one that **improves, enhances and connects our communities.**

3.2.2.6 Subcontractor / Supplier Selection Process

We understand the importance of keeping local tax revenues in the community and will leave no stone unturned seeking out local subcontractor partners.

IDENTIFYING OPPORTUNITIES

Describe in detail your firm's subcontractor and supplier procurement/selection process. Also, describe how you would provide local subcontractor and supplier opportunities to submit bids to your firm. A local business is defined as a business that has an existing significant place of business located within the electoral and taxing boundaries of the City.

One of the first tasks we would like to accomplish would be to meet with the City and determine what flexibility, if any, is possible relative to contractual guidelines relative to procurement. This will assist us in determining how to best procure each bid package. On past CM/GC public projects we have been able to utilize custom procurement plans based upon the value of the package utilizing the following methods:

- Direct Negotiations
- Informal Solicitations
- Formal Priced Based Solicitations
- Formal Qualification Based Method
- Local Subcontractor Availability

Concurrent with the development of the Target Value Design estimate, we will prepare a draft procurement matrix linked to the estimate that identifies all potential bid packages and associated values. **We will couple this matrix with the custom procurement plan to create our Subcontractor Utilization Plan (SUP).** As we develop the SUP, we will take the following into consideration:

- Have we done our homework to match project opportunity to local businesses that are ready, willing, and able to work on the project?
- When developing bid packages, have we broken up work scopes into economical feasible units that can be bid and performed effectively by local businesses and do not create unacceptable burden for the project?
- Are there any preconstruction opportunities available for local business?
- Which HSW mobilization items can be purchased from local businesses?

It is critical to have a **project-specific outreach plan** that adheres to the City's requirements and enables our team to connect with and inform the subcontractor and supplier community of a new opportunity. An important part of this plan is to develop a **communication schedule** that maps out all touch-points with the local community including monthly association meetings, informational meetings, pre-proposal conferences and/or job walks, and bid dates. This calendar should be shared as early as possible with the City and the project website.

By developing this calendar early on, we will have ample time to **condition the market**. By this we mean generating buzz and excitement about the project as well as providing plenty of advance notice of the bid package release dates and bid due dates. Our primary method for accomplishing this is through monthly meetings with industry associations.

Work with the City and Police Department to identify and target firms that they successfully worked with in the past. HSW will set-up meet and greets specifically with these firms.

We use a web-based application called Building Connected to manage our Subcontractor and Vendor lists. Within this application, we have created a **separate Columbia County database** to assist our project teams when creating bidder lists. This database will serve as a start point, and we will augment as required thru a detailed search of the local database as required by the contract.

Another import step of our outreach plan is a **follow-up telephone call** with firms that have not responded back through the website indicating they are planning on bidding the project. With the enormous amount of communication done via email, it is easy to overlook a bid invitation, so we will place a follow-up call approximately five working days after the invite was issued to ensure it was not missed.

3.2.2.6 Subcontractor / Supplier Selection Process

LOCAL OPPORTUNITIES

Discuss your local presence in terms of company location to St. Helens as well as your outreach strategy for local subcontractor procurement and involvement.

Howard S. Wright's office is located in NW Portland, approximately 28 miles from the jobsite, which is about 40 minutes travel time via Highway 30.

Using our vendor database and the City's own website, we have identified approximately 40 firms within the city limits of St. Helens that are engaged in construction work. We will work with the South Columbia County Chamber of Commerce to help us locate additional firms. Additionally, we will conduct research and host open houses to determine if there are St. Helens' residents (taxpayers!) whose business address is outside the city limits or in the surrounding communities of Scappoose or Rainier. It is not unreasonable to assume there may also be residents whose firms are located in Portland. We recognize the importance of supporting local businesses and will work diligently to identify and support those firms.

To date, we have identified the following firms as potential bidders:

- All About Drywall Inc.
- Allen Gutters
- American Gutter Service, Inc
- Artisan Concrete Design & Const Inc.
- Beckerich Construction Inc.
- Columbia River Woodworks
- Comfort Construction
- Construction Specialists Inc.
- David Loggins LLC
- DB Fire Protection
- Double D Contracting Co
- Eagle Star Rock Products LLC
- Faith HVAC Inc.
- Gordon Family Plumbing LLC
- Happy Hollow Construction
- Holmes Heating & Cooling
- Hudson Portable Toilet Service
- Laws Contracting
- Jeff Smith Construction
- Jim Rensch Construction
- K. Schwarz Construction Inc.
- Karl Harry Keener Construction
- Kenneth Kondrasky Const.
- Kneeland Brothers LLC
- Koelzer Construction Inc.
- Lambs Roofing LLC
- Lavoie Family Construction LLC
- Pacific Stainless Products
- Rock Solid Drywall LLC
- Rofinot Heating Inc.
- Semling Construction Inc.
- Seven Oaks Development
- Sharp's Plumbing Co. Inc.
- SRDH Plumbing Inc.
- St. Helens Plumbing & Construction LLC
- Stan's Refrigeration & A/C Inc
- Structural Nexus LLC
- Swersy Construction
- TCS Northwest LLC
- Team H LLC
- Tony Mandella's Fin Carpentry
- USA Roofing & Waterproofing



3.2.2.7 Deviations from the RFP

**Lean, Expert,
Trusted, Safe and
Sustainable.**

Our Build to Last mission serve as
the foundation that we live and
work by.

3.2.2.7 Deviations From the RFP

RFP DEVIATIONS

Identify specifically where and how the proposal deviates from the requirements of this RFP.

None.

A photograph of the exterior of the Bend Police Station. The building features a grey shingled roof, light-colored horizontal siding, and large windows. The entrance is marked by a sign that reads "BEND POLICE DEPARTMENT" and a glass door with "POLICE DEPARTMENT" written on it. A concrete walkway leads to the entrance, and a parking lot is visible in the foreground.

3.2.3 Fee Proposal

**Howard S. Wright
builds high-quality
projects for our
clients.**

Our successful end results are why
our clients want us on their teams.

3.2.3 Fee Proposal

PRECONSTRUCTION SERVICES FEE

Preconstruction Services: Identify an estimated total cost and proposed hourly billing rates for services to be provided during the design phase of the project, prior to establishment of the negotiated Guaranteed Maximum Price (GMP). Identify activities, labor hours associated with each activity, proposed billing rates per hour for each person/position, and an estimate of expenses. This estimated cost will be the basis of negotiation of a not-to-exceed price for the preconstruction services contract with the City. This price will be the maximum amount due the CM/GC if the CM/GC's services are terminated or the project does not proceed to construction for any reason, and if all of the services had been provided prior to cancellation.

* These hours are used in the calculation of the Preconstruction Fee proposed on the following page.

TASK	DELIVERABLE	ESTIMATED HOURS							
		Company Executive	Project Supt.	Project Manager	Project Engineer	Precon Director	Senior Estimator	BIM Manager	Safety Manager
MEETINGS (9 MONTHS)									
Project Kickoff Meeting	Action Item Follow-Up	2	2	2	2	2	2	2	2
Weekly OAC Meetings	Minutes & Action Item Updates	39	39	39	39				
Design Work Sessions	Action Item Follow-Up			36	36				
MWESB / Small Business Outreach	Bid Opportunity List			8	8				
PLANNING									
Site Logistics	3D & 2D Plans		16	8	8			8	2
Safety Plan	Site Specific Safety Plan		8		4				8
Quality Plan	Site Specific Quality Plan			4	8				
Neighborhood Outreach	Contact List			4	4				
Site Investigation	Action Items & Feedback to Design Team		8	8	8				
Temporary Traffic Control Plans	Draft Traffic Control Plans		4		2				4
Develop Special Procurement Process (Long Lead Items)	Schedule Updates				8				
Project Schedule	Primavera P6 Schedule (Updated w/Estimates)		16						
Construction Market Analysis & Minority/Women/ESB Firm Opportunity Plan	Procurement Plan			4	4				
CONSTRUCTABILITY REVIEWS									
Design Development (DD) Documents	Redline of Documents & Comment Log		8	8	8	2		10	
50% Construction Documents (CD)	Redline of Documents & Comment Log		8	8	8	2		10	
90% Construction Documents (CD)	Redline of Documents & Comment Log		8	8	8	2		10	
Issued For Permit (100% CD) Documents	Redline of Documents & Comment Log	2	8	8	8	2		10	
ESTIMATING & COST CONTROL									
Preliminary Cost Estimate & VE	Systems Estimate			8		4	40		
Schematic Design Estimate & VE	Systems Estimate			4		8	40		
DD Design Estimate & VE	Systems Estimate			4		8	40		
50% CD Estimate & VE	CSI Estimate & Variance Report			4		8	40		
90% CD Estimate & VE	CSI Estimate & Variance Report			4		8	40		
GMP Estimate & Clarifications	CSI Estimate, Narrative & Schedule	4	8	40	20	16	40		4
TOTAL HOURS*		47	133	209	183	62	242	50	20

3.2.3 Fee Proposal

PRECONSTRUCTION SERVICES FEE (CONTINUED)

Staff Member Classification	Hourly Rate	Estimated Hours	Total per Staff Member Classification
Company Executive	\$ -	47	\$ -
Project Superintendent	\$136.00	133	\$18,084
Project Manager	\$136.00	209	\$28,420
Project Engineer	\$64.00	183	\$11,710
Precon Director	\$158.00	62	\$9,796
Senior Estimator	\$144.00	242	\$34,848
BIM Manager	\$127.00	50	\$6,350
Safety manager	\$ -	20	\$ -
TOTAL PRECONSTRUCTION SERVICES COST:			\$116,852
50% DISCOUNT IF AWARDED CONSTRUCTION CONTRACT:			\$(58,426)
TOTAL PRECONSTRUCTION COST:			\$58,426

CONSTRUCTION SERVICES FEE

Construction Services: Fixed Fee: Identify the fixed fee, as a percentage of the Guaranteed Maximum Price (GMP) for which the proposer's firm would contract to perform the required services. Identify what costs the proposer will include in the fixed fee. Identify all proposed project staff that would be included as part of the fixed fee. At a minimum, the fixed fee shall include Corporate Overhead and Profit, project executives, corporate office administrative expenses and support staff on.

Howard S. Wrights Fixed Fee = 2.95% (Fixed Fee is inclusive of corporate overhead, corporate office administration and support staff and corporate/principal office costs)

INSURANCE

Insurance costs: Identify costs for Performance and Payment bonds, Commercial General Liability/Auto Insurance and Builders Risk insurance separately as a percentage of the GMP.

Payment & Performance Bond = 0.80%

Insurance Costs = 1.10%

Builders Risk = 0.35% - 0.75% Range (Due to the current builders risk market, the cost for builders risk shall be determined once the design and final costs are completed to achieve the best value for the City of St. Helens and the surrounding community.)

GENERAL CONDITIONS

General Conditions: Identify and estimate the cost of expenses, other than direct construction labor and material costs, which will be included in the reimbursable cost of work as part of the General Conditions. Refer to Appendix E "General Conditions Matrix" as a guideline for developing detailed cost breakdown of costs. Provide detailed breakdown estimate of General Conditions.

See following page for details general conditions breakdown.

3.2.3 Fee Proposal



Howard S. Wright
a Balfour Beatty company

Project:	City of St. Helens Public Safety Building			Estimate No.:	RFP
Owner:	City of St. Helens			Date:	May 16, 2023
Location:	St. Helens Oregon				
Architect:	Mackenzie Inc.				
Item	Quantity	UMH	Labor Rate	Total	Notes
Project Startup					
Project Manager	6 wks	40.00	\$137.00	\$32,880	
Project Engineer	6 wks	40.00	\$63.00	\$15,120	
Superintendent	6 wks	40.00	\$120.00	\$28,800	
Clerical/Secretarial	6 wks	20.00	\$56.00	\$6,720	
Computers	2 mos	0.00		\$2,500	
Cell Phones	2 mos	0.00		\$1,000	
Construction					
Project Manager	51 wks	40.00	\$137.00	\$279,343	
Project Engineer	51 wks	40.00	\$63.00	\$128,457	
Superintendent	51 wks	40.00	\$120.00	\$244,680	
Field Supervision	0 wks	40.00	\$0.00	\$0	General Requirement COW
Field Coordination	0 wks	40.00	\$0.00	\$0	Incl. in Staffing Costs
General Foreman	0 wks	40.00	\$0.00	\$0	General Requirement COW
Quality Control	0 wks	40.00	\$0.00	\$0	Incl. in Staffing Costs
Safety Coordinator/Supervisor	51 wks	8.00	\$96.00	\$39,168	
Trade Coordination	12 mos	0.00		\$0	Incl. in Staffing Costs
Office Equipment	12 mos	0.00		\$5,885	
Computers	12 mos	0.00		\$21,186	
Printing/Reproduction	12 mos	0.00		\$1,177	
Phones/Phone lines	12 mos	0.00		\$0	Not Required
Cell Phones	12 mos	0.00		\$7,062	
Fuel/Maintenance	12 mos	0.00		\$2,942	
Substance Abuse Testing	12 mos	0.00		\$1,177	
Construction Signage	1 ls	0.00		\$1,500	Project Sign
Progress Photo (Monthly)	12 mos	0.00		\$1,177	
Temporary Office	12 mos	0.00		\$8,827	
Postage/Delivery	12 mos	0.00		\$588	
Internet service	12 mos	0.00		\$4,708	
Vehicles (HSW Company Vehicle)	12 mos	0.00		\$15,889	
Submittal Review & Approval	12 mos	0.00		\$0	Incl. In Staffing Costs
Courier Delivery Service	12 mos	0.00		\$2,354	
Drop Boxes & Disposal Fees	12 mos	0.00		\$0	General Requirement COW
Office Furniture	1 ls	0.00		\$1,000	
Drafting & Detailing	12 mos	0.00		\$0	Incl. in Staffing Costs
Site Security	12 mos	0.00		\$0	General Requirement COW
Office Security	12 mos	0.00		\$1,177	
Sustainability Coordinator / Supervisor	1 ls	0.00		\$0	Incl. in Staffing Costs
Clerical/Secretarial	51 wks	40.00	\$56.00	\$114,184	
Project Coordination	12 mos	0.00		\$0	Incl. in Clerical/Secretarial
Estimating and Cost Engineering	12 mos	0.00		\$0	Incl. in Preconstruction Cost
Overtime for CM / GC Onsite Supervisory Staff	12 mos	0.00		\$0	Incl. in Staffing Costs
Field Engineer	12 mos	0.00		\$0	Incl. in Staffing Costs
Delivery Services	12 mos	0.00		\$0	Incl. Above
Project Foreman	12 mos	0.00		\$0	General Requirement COW
Fork Lift for Loading/Unloading of misc. matls	12 mos	0.00		\$0	General Requirement COW
Loading & Unloading of Misc. Materials	12 mos	0.00		\$0	General Requirement COW
Jobsite Clean-up (Excludes Final Clean)	12 mos	0.00		\$0	General Requirement COW
Office Supplies	12 mos	0.00		\$1,177	
Office Clean-up	12 mos	0.00		\$2,354	
Temporary Toilets/Sinks (Office Trailer Only)	12 mos	0.00		\$5,885	
First Aid Supplies	12 mos	0.00		\$7,062	
IT Equipment	12 mos	0.00		\$14,124	
Material Handling	12 mos	0.00		\$0	General Requirement COW
Staging Area Maintenance	12 mos	0.00		\$0	General Requirement COW
Safety Barrier / Safety Warnings / Safety Handrails	12 mos	0.00		\$0	General Requirement COW
All cost for Sustainable Construction Practices	12 mos	0.00		\$0	Incl. Above
Temp. water include distribution & utility charges	12 mos	0.00		\$1,831	
Drinking Water	12 mos	0.00		\$2,354	
Small Tools	12 mos	0.00		\$0	General Requirement COW
Maintenance & Monitoring of Erosion Control	12 mos	0.00		\$0	Incl. in Staffing Costs
Travel / Mileage / Subsistence	12 mos	0.00		\$1,177	
Project Closeout					
Project Manager	4 wks	40.00	\$137.00	\$21,920	
Project Engineer	4 wks	40.00	\$63.00	\$10,080	
Superintendent	4 wks	0.00	\$120.00	\$0	
Clerical/Secretarial	4 wks	20.00	\$56.00	\$4,480	
Computers	1 mos	0.00		\$1,250	
Cell Phones	1 mos	0.00		\$500	
				\$1,043,695	
				\$88,676 \$/Month	

3.2.3 Fee Proposal

SELF-PERFORM WORK

Self-performed Work: Identify what portions of the work that the proposer anticipates to self-perform and what mark-ups are proposed to apply to the direct costs of this work. CM/GC shall be required to publicly announce any work for those items which it intends to bid at least 15 days prior to the bid opening. Sealed bids will be delivered to and publicly opened by the City for any work which the CM/GC intends to provide a bid to self-perform 24 hours before the bids are due.

Quality is a result of knowing the right way from experience. This maximizes schedule control and ensures the best standard of workmanship. Our skilled self-perform crews mean quality installation resulting in cost savings and schedule efficiency. Our self-perform crews are led by extremely skilled craftsmen, many of whom have been with our company for over 20 years.

We have great interest in self-performing several packages of work including;

- Concrete placement, finishing, and forming.
- Rough Carpentry.
- Installation of toilet accessories, fire extinguisher cabinets and other specialty items.
- Installation and maintenance of temporary protection for finished surfaces.
- Continuous building cleanup to maintain a safe workplace.



For the packages we elect to bid on, we will assure the following;

- City of St. Helens procurement requirements are fulfilled.
- CM/GC procurement requirements are fulfilled.
- Public announce our intent to bid on the CIP concrete scope.
- A minimum of three bids will be received for this scope.
- Sealed bids will be provided to the City and Owner's representative 24-hrs in advance of public opening.

HSW would propose a 10% mark-up on all self performed scopes of work which we will competitively bid.



Appendix



Aaron Braun LEED AP, DBIA

Sr. Project Manager

Why Aaron?

- With 28 years of experience, he is an expert in determining what resources are needed for your project, which means better efficiency and less waste.
- He builds effective relationships with clients, design teams, subcontractors, and user groups, which leads to better communications and knowledge sharing among team members.
- Proven experience in cost estimating, scheduling, LEED, value engineering, constructability reviews, subcontractor procurement, safety, quality, and managing field operations.

Education/Credentials

B.S., Business Administration
California State University -
Sacramento

OSHA 30-Hour
CPR & First Aid
DBIA
LEED AP

Work History

Howard S. Wright
Mortenson

Years With HSW

10

Primary Office Location

Portland, Oregon

Relevant Experience

Location: Lake Oswego, OR
Construction Cost: \$36 million
Construction Dates: 6/19 - 9/21
Duration: 27 months
Client: City of Lake Oswego
Contact: Sidaro Sin
Title: Construction Manager
Phone: 503-697-7421

Lake Oswego Public Safety Building / City Hall CM/GC

This 70,814 sf project was constructed in two phases. Phase 1 included demolition of two buildings and construction of a new city hall and police station. Phase 2 demoed the existing city hall and parking garage which allowed for an addition of a public plaza, water garden, and surface parking.

Location: Portland, OR
Construction Cost: \$10 million
Construction Dates: 1/17 - 8/17
Duration: 6 months
Client: City of Portland
Contact: Lauren McGuire
Title: Capital Projects Manager
Phone: 503-802-6627

Pioneer Courthouse Square Renovation CM/GC

This high-profile plaza is in the heart of downtown Portland and considered one of the best public squares in the world. The renovation included replacing the waterproof membrane, brick repair, HVAC replacement, water intrusion repairs, safety and ADA upgrades, Stoa column, and plaza repairs. The project requires extensive coordination to accommodate over 300 plus events that take place at the plaza throughout the year.

Location: Eugene, OR
Construction Cost: \$14 million
Construction Dates: 3/15 - 5/16
Duration: 14 months
Client: University of Oregon
Contact: Charlene Lindsay
Title: Project Manager
Phone: 541-346-5503

University of Oregon Jane Sanders Stadium CM/GC

The stadium is slated to have covered seating for 1,000 people and a total capacity of 2,500. The project also includes a separate team building for locker rooms, coaches' offices, equipment, operations, and a separate indoor practice facility complete with turf, netted batting lanes, and a sound system.

Location: Seattle, WA
Construction Cost: \$75 million
Construction Dates: 3/07 - 3/09
Duration: 24 months
Client: GSA
Contact: Duane Allen
Title: Project Manager
Phone: 253-931-7612

William Kenzo Nakamura Federal Courthouse Renovation

This \$75 million CM/C project included complete seismic upgrade, all new building systems, historic rehabilitation of five courtrooms, law library and judge's chambers and tenant improvement for the lower three floors. Additionally, the project included a 15,000-sf underground parking garage and foundation system upgrade.

Location: Tigard, OR
Construction Cost: \$54 million
Construction Dates: 9/22 - 12/23
Duration: 15.5 months
Client: Holman Auto Group
Contact: Mike Houghten
Title: Project Manager/Operations
Phone: 606-405-6107

Holman Auto Group BMW Tigard

This \$54 million project replaces the Owner's outdated facility. The project consists of both sales and service functions for high-end automobiles. The service portion has 40 maintenance bays all with in-ground lifts, EV capacity, and infrastructure for specialty tools/equipment. The sales portion of the project includes a four-story precast parking structure. To meet the fast-track schedule, the precast was fabricated at two separate facilities. The project also includes locker rooms, training facilities, office space and breakrooms.



Matt Kania LEED AP BD+C

Superintendent

Why Matt?

- *Matt's focus on the client's interest and timeline, while maximizing teamwork has led his projects to success and to be requested to run future work by repeat clients.*
- *His demeanor brings a sense of comradery to his projects and causes those involved to bring their best to work each day.*
- *He has been working with other team members on career development and progression to help them move to the next level in the company and become leaders themselves.*

Relevant Experience

Education/Credentials

B.S., Construction Management,
Purdue University

OSHA 30-Hour
CPR & First Aid

Work History

Howard S. Wright

Years With HSW

18

Primary Office Location

Portland, Oregon

Location: Lake Oswego, OR
Construction Cost: \$36 million
Construction Dates: 6/19 - 9/21
Duration: 27 months
Client: City of Lake Oswego
Contact: Sidaro Sin
Title: Construction Manager
Phone: 503-697-7421

Lake Oswego Public Safety Building / City Hall CM/GC

This 70,814 sf project was constructed in two phases. Phase 1 included demolition of two buildings and construction of a new city hall and police station. Phase 2 demoed the existing city hall and parking garage which allowed for an addition of a public plaza, water garden, and surface parking.

Location: Portland, OR
Construction Cost: \$1.6 million
Construction Dates: 4/17 - 12/17
Duration 9 months
Client: TriMet
Contact: Kaliska Day
Title: Owner Representative
Phone: 971-283-4829

TriMet Washington Park Station CM/GC

After nearly 20 years of service, this station was slated for upgrades and rehabilitation. The scope of work included replacement and retrofit of entry walls, platform walls, ceilings, lighting, artwork, and information displays.

Location: Corvallis, OR
Construction Cost: \$5.5 million
Construction Dates: 3/16 - 9/16
Duration: 6 months
Client: AECOM
Contact: Paul Weber
Title: Construction Manager
Phone: 503-539-9442

OSU Bexell Hall Renovation

Project is a \$5.5 million interior renovation of a 58,491 sf building built in 1922. The project included renovation of the interior of the building including most surfaces and lighting with some reconfiguration of the space. Completed on a fast-track schedule.

Location: Tigard, OR
Construction Cost: \$54 million
Construction Dates: 9/22- 12/23
Duration: 15.5 months
Client: Holman Auto Group
Contact: Mike Houghten
Title: Project Manager/Operations
Phone: 606-405-6107

Holman Auto Group BMW Tigard

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Location: Portland, OR
Construction Cost: \$3.7 million
Construction Dates: 6/16 - 10/16
Duration: 5 months
Client: American Assets Trust
Contact: Kim Steers
Title: Project Manager
Phone: 503-233-5696

DEQ Phase 3

This 58,000 sf, multi-floor fit-out in the Lloyd 700 Building was built for repeat client, DEQ of Oregon and is the home of their new corporate headquarters. The project includes four floors of open office space, with conference room spaces and private offices placed for maximization. HSW worked closely with the designers to help assure the kitchen facilities could meet the needs of the nearly 200 occupants.



Eric Hayward

Project Engineer

Why Eric?

- During project startup and construction Eric assists the team to review and coordinate the QA/QC plan, develop the submittal log, actively participate in subcontractor project orientation meetings, and provide the team with the most accurate, up-to-date information so that the most informed and effective decisions can be made.
- Eric facilitates several helpful tools in the field utilizing Procore technology thereby greatly reducing inefficiency and promoting high levels of collaboration in the field.

Relevant Experience

Education/Credentials

B.S., Construction Management,
University of Nebraska

OSHA 30-Hour
CPR & First Aid

Work History

Howard S. Wright

Years With HSW

3

Primary Office Location

Portland, Oregon

Location: Tigard, OR
Construction Cost: \$54 million
Construction Dates: 9/22- 12/23
Duration: 15.5 months
Client: Holman Auto Group
Contact: Mike Houghten
Title: Project Manager/Operations
Phone: 606-405-6107

Holman Auto Group BMW Tigard

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Location: Portland, OR
Construction Cost: \$4.5 million
Construction Dates: 1/19 - 06/19
Duration: 6 months
Client: Markowitz Herbold
Contact: Marie Porter
Title: Operations & HR Director
Phone: 503-295-3085

Markowitz Herbold TI at Broadway Tower

HSW provided full preconstruction and construction services for this high-end law firm located on the top three floors of Broadway Tower. This 27,096 sf state-of-the-art office space includes glass front offices, expansive meeting and collaboration spaces, high-end finishes, design-build MEP systems, and an expansive, interconnecting stair.

Location: Portland, OR
Construction Cost: \$1 million
Construction Dates: 4/19 - 7/19
Duration 4 months
Client: BPM/WCB Commercial Properties
Contact: Rhonda Schlosser
Title: Vice President
Phone: 503-459-5827

BPM TI at Broadway Tower

In addition to the core and shell construction of Broadway Tower, Howard S. Wright led the preconstruction and construction efforts for this 7,000 sf TI for the building Owner, BPM Real Estate Group. All TI work was completed with no disruption to the fully operational Radisson RED hotel which occupies the first nine floors.

Location: Portland, OR
Construction Cost: \$400 million
Construction Dates: 7/19 - 9/23
Duration: 46 months
Client: BMO
Contact: Brian Owendoff
Title: Construction Manager
Phone: 503-201-9590

Block 216

This \$400 million, 35-story high-rise is being constructed on a complete downtown Portland block. Project includes five levels of underground parking, five floors of shelled office space for future tenant improvement build-out, and 251-room Ritz-Carlton hotel and 238 residential Ritz-Carlton units.



Bill Jensen LEED AP

Estimating

Why Bill?

- *Expert in cost estimating, scheduling, procurement, forecasting, and field coordination have been key factors in shaping his abilities as a top notch, detail-oriented manager.*
- *He practices an open communication style based on trust.*
- *He will place your needs first and guarantees a final product that will exceed expectations.*

Relevant Experience

Education/Credentials

B.S., Civil Engineering,
Oregon State University

OSHA-30 Hour

Work History

Howard S. Wright
DPR
Baugh Construction

Years With HSW

13

Primary Office Location

Portland, Oregon

Location: Lake Oswego, OR
Construction Cost: \$36 million
Construction Dates: 6/19 - 9/21
Duration: 27 months
Client: City of Lake Oswego
Contact: Sidaro Sin
Title: Construction Manager
Phone: 503-697-7421

Lake Oswego Public Safety Building / City Hall CM/GC

This 70,814 sf project was constructed in two phases. Phase 1 included demolition of two buildings and construction of a new city hall and police station. Phase 2 demoed the existing city hall and parking garage which allowed for an addition of a public plaza, water garden, and surface parking.

Location: McMinnville, OR
Construction Cost: \$9.1 million
Construction Dates: 6/07 - 6/08
Duration: 12 months
Client: City of McMinnville
Contact: Mike Bisset
Title: Dir. Community Development
Phone: 503-434-7312

McMinnville Public Safety Building CM/GC

The McMinnville Public Safety Building is located on one of the busiest intersections in this growing town. The ground-up, 35,462 sf structural steel building features exposed steel columns, exposed high ceilings, and abundant natural light through the top two floors. The building was framed with structural steel and utilized buckling restrained braces (BRBs) within the braced frames.

Location: Lebanon, OR
Construction Cost: \$8 million
Construction Dates: 6/08 - 6/09
Duration: 12 months
Client: City of Lebanon
Contact: Mike Healy
Title: Chief of Police
Phone: 541-258-4356

Lebanon Library and Justice Center CM/GC

The Lebanon Justice Center and Public Library project involves construction of a ground-up, single-story, 30,000 sf justice center that houses the Lebanon Police Department. The second building includes a ground-up 19,300 sf, single-story, brick veneer civic public library, featuring high-end finishes, wood ceilings, significant daylight harvesting and store-front design elements. Local subcontractors were used.

Location: Bend, OR
Construction Cost: \$5.1 million
Construction Dates: 10/07 - 1/08
Duration: 4 months
Client: City of Bend Police Dept.
Contact: Ken Mannix
Title: Deputy
Phone: 541-312-7934

Bend Police Station Expansion CM/GC

This phased project consisted of a 19,000 sf new municipal court, offices and administrative space. The team worked closely with the City of Bend Police Station throughout the process. The project was as rewarding as it was challenging and maintaining a collaborative relationship with the team was essential.

Location: Sherwood, OR
Construction Cost: \$6.7 million
Construction Dates: 1/05 - 1/06
Duration: 12 months
Client: City of Sherwood
Contact: Jenni Lipscomb
Title: Project Manager
Phone: 503-625-4243

Sherwood Civic Center CM/GC

The 31,000 sf civic building houses a library, city council, and city engineering services. The building brings new life to the historic downtown Sherwood area. Two-floor open structure with metal "tree" columns on an occupied campus. The open interior featured exposed steel decks, fir ceilings architectural and six raised skylights and local artist mural designs.



Scott Maxwell LEED AP

Estimating

Why Scott?

- *Scott has built effective relationships with the design team and subcontractors; leads to clear communication with team members and a more successful project journey.*
- *Resourceful and diligent in seeking solutions to problems and adapting to new solutions - keeping the project on track.*
- *Able to create and manage related assignments and schedules based on key priorities of assigned projects while adjusting for roadblocks and evaluating results.*

Relevant Experience

Education/Credentials

B.S., Civil Engineering
University of Washington

OSHA-30 Hour

Work History

Howard S. Wright
Bremik
Kiewit

Years With HSW

14

Primary Office Location

Portland, Oregon

Location: Lake Oswego, OR
Construction Cost: \$36 million
Construction Dates: 6/19 - 9/21
Duration: 27 months
Client: City of Lake Oswego
Contact: Sidaro Sin
Title: Construction Manager
Phone: 503-697-7421

Lake Oswego Public Safety Building / City Hall CM/GC

This 70,814 sf project was constructed in two phases. Phase 1 included demolition of two buildings and construction of a new city hall and police station. Phase 2 demoed the existing city hall and parking garage which allowed for an addition of a public plaza, water garden, and surface parking.

Location: Salem, OR
Construction Cost: \$32 million
Construction Dates: 1/22 - 8/23
Duration: 21 months
Client: City of Salem
Contact: Allen Dannen
Title: City Engineer
Phone: 503-588-6211

Salem Public Works Operations Center

This project consists of a 50,000 sf facility that will be the home of numerous end-user groups for the City of Salem. HSW leaned on collaboration, clear communication, and continuous TVD/Value Engineering (VE) to achieve all end user groups project goals. The Operations Building is the first of a master plan program where the future phases had to be kept in consideration while designing and planning the construction.

Location: Klamath Falls, OR
Construction Cost: \$5.2 million
Construction Dates: 5/09 - 7/10
Duration: 13 months
Client: City of Klamath Falls
Contact: Klamath Falls Police Station
Title: Klamath Falls
Phone: 541-883-5336

Klamath Falls Police Station CM/GC

This project consisted of a new 31,000 sf Critical Facility Police Station for the Klamath Falls Police Department. Structural steel, wood and steel stud framing were included, along with new MEP systems, a crime and evidence control lab, elevator retrofit, extensive access/visual control, and an ORPAT training facility.

Location: Bend, OR
Construction Cost: \$637,900
Construction Dates: 4/11 - 8/11
Duration: 4 months
Client: Deschutes County
Contact: Deschutes County
Title: Deschutes County
Phone: 541-388-6661

Deschutes County Jail Expansion and Renovation CM/GC

The Deschutes County Jail Expansion and Renovation project consisted of the addition of a 1,900 sf staff lounge, 500 sf evidence storage area, locker room and control room remodel, and cell door replacement.

Location: Bend, OR
Construction Cost: \$100,000
Construction Dates: 3/10 - 8/10
Duration: 5 months
Client: Deschutes County
Contact: Deschutes County
Title: Deschutes County
Phone: 541-318-1377

Deschutes Recovery Center CM/GC

Project consisted of a 7,500 sf ground-up, single-story mental health residential treatment center. Included extensive security system installation for 24-hour surveillance.



Ryan McGrew

Company Executive / Senior Vice President

Why Ryan?

- *He ensures the new Public Safety Center project achieves optimum value for the project dollars.*
- *Ryan is an industry leader in complex projects and an expert in the collaborative project delivery method.*
- *He ensures the entire project team is integrated for a successful project delivery.*

Relevant Experience

Education/Credentials

B.S., Construction

Management

Washington State University

OSHA 30-Hour

CPR & First Aid

Work History

Howard S. Wright

Years With HSW

17

Primary Office Location

Portland, Oregon

Location: Lake Oswego, OR
Construction Cost: \$36 million
Construction Dates: 6/19 - 9/21
Duration: 27 months
Client: City of Lake Oswego
Contact: Sidaro Sin
Title: Construction Manager
Phone: 503-697-7421

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Location: Clackamas, OR
Construction Cost: \$538,891
Construction Dates: 12/08 - 3/09
Duration: 4 months
Client: TriMet
Contact: Amy Fandrich
Title: Design Manager
Phone: 503-962-8861

TriMet Police Precinct

This 2,000 sf precinct and administration space includes two secured custody holding cells and intake area. The precinct houses a multi-jurisdictional computer network communications system and also includes a secured police vehicle parking area with 16 spaces, men/women locker rooms, shower, and an open administration space.

Location: Portland, OR
Construction Cost: \$137 million
Construction Dates: 10/10 - 5/13
Duration: 33 months
Client: GSA
Contact: Pat Brunner
Title: Contracts Officer
Phone: 503-445-7302

Edith Green-Wendell Wyatt

This \$137 million modernization project involved renovating a 36-year old, 20-story building. The building includes 17 levels of office space, a 2-story lobby at the ground floor entrance and 2 levels of below-grade parking. The implemented efficiencies reduce the building's energy consumption by over 50% from baseline metrics. The project achieved LEED Platinum.

Location: Portland, OR
Construction Cost: \$140 million
Construction Dates: 7/16 - 5/20
Duration: 46 months
Client: City of Portland
Contact: Jo Wells
Title: Project Manager
Phone: 541-323-5997

The Portland Building Reconstruction

Historic building houses 14 City bureaus and underwent a seismic upgrade, MEP systems upgrade, envelope replacement, and interiors programming update. Considering the exposed structure being a design feature, the design-build team utilized Building Information Modeling (BIM) to both coordinate its' installation and achieve a high-quality aesthetic.

Location: Portland, OR
Construction Cost: \$10 million
Construction Dates: 1/17 - 8/17
Duration: 6 months
Client: City of Portland
Contact: Lauren McGuire
Title: Capital Projects Manager
Phone: 503-802-6627

Pioneer Courthouse Square Renovation CM/GC

This high-profile plaza is in the heart of downtown Portland and considered one of the best public squares in the world. The renovation included replacing the waterproof membrane, brick repair, HVAC replacement, water intrusion repairs, safety and ADA upgrades, Stoa column, and plaza repairs. The project requires extensive coordination to accommodate over 300 plus events that take place at the plaza throughout the year.



Bobby Blanks

Safety Manager

Why Bobby?

- Bobby maintains an in-depth knowledge of city, federal, and state safety requirements and implements them into his safety procedures. He partners with our field teams to implement our Zero Harm program regardless of size or scale.
- He will ensure the jobsite employees and subcontractors are trained in all safety programs and protocols, including federal and state regulations, in order to prevent accidents or injuries.

Relevant Experience

Education/Credentials

Construction (STSC)
Certified Health & Safety
Technician (CHST)

OSHA-30 Hour
CPR & First Aid

Work History

Howard S. Wright

Years With HSW

9

Primary Office Location

Portland, Oregon

Location: Lake Oswego, OR
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Construction Dates: 6/19 - 9/21
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Construction Cost: \$54 million
Construction Dates: 1/22 - 12/23
Duration: 15.5 months
Client: Holman Auto Group
Contact: Mike Houghten
Title: Project Manager/Operations
Phone: 606-405-6107

Holman Auto Group BMW Tigard

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Location: Portland, OR
Construction Cost: \$1.6 million
Construction Dates: 4/17 - 12/17
Duration: 9 months
Client: TriMet
Contact: Kaliska Day
Title: Owner Representative
Phone: 971-283-4829

TriMet Washington Park Station CM/GC

After nearly 20 years of service, this station was slated for upgrades and rehabilitation. The scope of work included replacement and retrofit of entry walls, platform walls, ceilings, lighting, artwork, and information displays.



Don Josephson

BIM / VD&C Manager

Why Don?

- With over 17 years experience in the construction industry, Don brings unique technological expertise to the project. He works with our team to incorporate the necessary tools and technology for effective communication and execution.
- Don leads a team of in-house BIM Engineers as well as subcontractor BIM services. He takes an active role in preconstruction and site logistics. Most of all, Don brings a positive attitude and is relentless in his pursuit to get it right.

Relevant Experience

Education/Credentials

B.S., Construction
Management,
Brigham Young University

OSHA-30 Hour

Work History

Howard S. Wright
Hoffman

Years With HSW

9

Primary Office Location

Portland, Oregon

Location: Lake Oswego, OR
Construction Cost: \$36 million
Construction Dates: 6/19 - 9/21
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Troy Dickson

Northwest President

Why Troy?

Troy is a hands-on executive who drives innovation throughout project planning and design. He brings best practices and lessons learned from his leadership on public projects. Troy pulls local and national resources to drive success and add value to the project.



Elizabeth Angel

BIM / VD&C

Why Elizabeth?

Elizabeth assists the design and construction teams with the technical leadership to optimize the transition of the vision from an idea to virtual to reality. She is the glue that finds the best solutions to move the data investment from design into construction and into facility operations.



Laird Blanchard

Safety Manager

Why Laird?

Laird provides our Oregon office operations with direction and general oversight of all safety planning and implementation, including the development of job-specific safety plans. With more than 28 years of experience as a safety professional, Laird ensures the Zero Harm safety culture is created and maintained, and is committed to empowering our team with effective safety execution.



Todd Miller

Operations Manager

Why Todd?

Todd will provide executive leadership and oversight to ensure the operational success of the Public Safety Center throughout the project. Proven as a team leader during preconstruction on a recent project where early involvement saved in excess of \$20 million. Great communication provides transparency and collaboration with you and your team.



Howard S. Wright
a **Balfour Beatty** company

1455 NW Irving Street, Suite 400 | Portland, OR 97209
503-220-0895
www.balfourbeattyus.com/portland

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following **PROJECT**:

(Name and location or address)

CITY OF ST HELENS NEW PUBLIC SAFETY BUILDING
Corner of Old Portland Road and Kaster Road in St. Helens ,Oregon

THE OWNER:

(Name, legal status and address)

The City of St. Helens an Oregon municipality
265 Strand Street
St. Helens, OR, 97051

THE ARCHITECT:

(Name, legal status and address)

Mackenzie Inc. Architecture Planning & Interior Design an Oregon corporation
1515 SE Water Ave, Suite 100
Portland, OR 97214

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, the Owner's Request for Proposal, the Proposal, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

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

§ 1.1.8 Amendment

Amendment shall mean a written modification of the Agreement (including without limitation any agreed change to the GMP), identified as an Amendment, and executed by Construction Manager, the Owner's Authorized Representative, and, where required, approved in writing by the Owner.

§ 1.1.9 Construction Phase

The Construction Phase shall mean the period commencing on the earliest of the following: Owner's written notice to the Construction Manager to proceed with the subcontractor solicitation process for Early Work or GMP Work prior to execution of an Early Work Amendment or GMP Amendment; Owner's execution of a GMP Amendment or Early

Work Amendment, together with the earlier of (i) issuance by Owner of a Notice to Proceed with any on-site construction or (ii) execution of a subcontract or issuance of a purchase order for materials or equipment required for the Work.

§ 1.1.10 Early Work

Early Work shall mean Construction Phase Services authorized by Amendment that the parties agree should be performed in advance of establishment of the GMP. Permissible Early Work shall be limited to: early procurement of materials and supplies; early release of bid or proposal packages for site development and related activities; and any other advance work related to critical components of the Project for which performance prior to establishment of the GMP will materially affect the critical path schedule of the Project.

§ 1.1.11 Early Work Amendment

Early Work Amendment shall mean an Amendment to this CM/GC Contract executed by and between the parties to authorize Early Work.

§ 1.1.12 Guaranteed Maximum Price (GMP)

GMP shall mean the Guaranteed Maximum Price of the Contract, as stated in dollars within the GMP Amendment, as determined in accordance with Article 6, and as it may be adjusted from time to time pursuant to the provisions of this Agreement.

§ 1.1.13 General Conditions Work

General Conditions Work ("GC Work") shall mean (i) that portion of the Work required to support construction operations that is not included within overhead or general expense but is called out as GC Work in Exhibit C, and (ii) any other specific categories of Work approved in writing by the Owner's Authorized Representative as forming a part of the GC Work.

§ 1.1.14 GMP Amendment

GMP Amendment shall mean an Amendment to the Contract, issued in the form of Exhibit B and executed by and between the parties, to establish the GMP and identify the GMP Supporting Documents for Construction Phase Services.

§ 1.1.15 GMP Supporting Documents

GMP Supporting Documents shall mean the documents referenced in the GMP Amendment as the basis for establishing the GMP. The GMP Supporting Documents shall expressly identify the Plans and Specifications, assumptions, qualifications, exclusions, conditions, allowances, unit prices, and alternates that form the basis for the GMP.

§ 1.1.16 Preconstruction Phase

The Preconstruction Phase shall mean the period commencing on the date of this CM/GC Contract and ending upon commencement of the Construction Phase; provided that if the Owner and CM/GC agree, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases shall proceed concurrently, subject to the terms and conditions of the Contract Documents.

§ 1.2 Correlation and Intent of the Contract Documents

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

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

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

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

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

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 [Omitted]

§ 2.2 [Omitted]

(Paragraphs deleted)

§ 2.3 Information and Services Required of the Owner

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

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

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to reasonably rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such

amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose

alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

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

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

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

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

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

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

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

Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, and except to the extent otherwise void under ORS 30.140, the Contractor shall indemnify, defend (with counsel approved by the Owner) and hold harmless Owner, Owner's Authorized Representative, Architect, Architect's consultants, and their respective officers, directors, agents, employees, partners, members, stockholders and affiliated companies (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever that arise out of, result from or are related to the following:

- Any damage, injury, loss, expense, inconvenience or delay described in this Subsection provided that such damage, injury, loss, expense, inconvenience or delay is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property.
- Any accident or occurrence that happens or is alleged to have happened in or about the Project Site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects provided that the damage, injury, loss, expense, inconvenience or delay is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property.
- Any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents that is to be observed or performed by the Contractor, or any breach of any agreement, duty, obligation, responsibility, covenant, provision, requirement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract provided that the damage, injury, loss, expense, inconvenience or delay is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property.
- The negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder provided that the damage, injury, loss, expense, inconvenience or delay is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property.
- Any failure to comply with all applicable Laws by the Contractor or any Subcontractor, or anyone employed by any one of them, or anyone for whose acts they may be liable.
- Any lien filed upon the Project or bond claim in connection with the Work.

Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subsection. In claims against any person or entity

indemnified under this Subsection by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Subsection shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.18.2 Notwithstanding the Contractor's foregoing defense obligations, neither the Contractor nor any attorney engaged by the Contractor shall defend any claim in the name of the Owner, nor purport to act as legal representative of the Owner, without the prior written consent of the Owner's legal counsel. The Owner may, at any time at its election, assume its own defense and settlement in the event that it determines that the Contractor is prohibited from defending the Owner, or that the Contractor is not adequately defending the Owner's interests, or that an important governmental principle is at issue or that it is in the best interests of the Owner to do so. The Owner reserves all rights to pursue any claims it may have against the Contractor.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the

Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

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

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

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

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

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

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

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

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

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

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

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

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

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

§ 7.2 Change Orders

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

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

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

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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

§ 8.2 Progress and Completion

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

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, or (6) labor shortage or supply chain disruption that could not be reasonably avoided at base contract pricing, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

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

§ 9.4 Certificates for Payment

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

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

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

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

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

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

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

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

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

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

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

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4

(Paragraphs deleted)
[Omitted].

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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

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

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

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

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

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

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection.

When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 [Omitted].

§ 10.3.4 The Owner shall not be responsible for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 [Omitted].

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

§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

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

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

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

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

§ 11.2 Property Insurance

§ 11.2.1 Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis. Losses shall be valued on a replacement cost basis including Contractor's overhead and profit at the same rates included in the Contract Documents, with no co-insurance clause. The insurance required under this section shall include interests of the Owner, Contractor, and Subcontractors of all tiers in the Project as additional insureds. The property insurance shall be maintained, until Substantial Completion.

(Paragraphs deleted)

§ 11.2.1.1 The insurance required under Section 11.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, interior water damage, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, resulting damage caused by faulty design, specifications, and workmanship, and shall cover reasonable compensation for the Contractor's services and expenses required as a result of such insured loss.

§ 11.2.1.2 The insurance required under Section 11.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.2.1.3 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section 11.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3 Waivers of Subrogation

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

§ 11.3.2 [Omitted].

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance [Omitted]

§11.5 Adjustment and Settlement of Insured Loss [Omitted]

(Paragraphs deleted)

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

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

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The two-year period for correction of Work shall be extended by corrective Work performed by the Contractor pursuant to this Section 12.2, as it relates to the portion of the Work corrected.

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

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

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

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Oregon Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

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

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

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

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

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

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor [Omitted]

(Paragraphs deleted)

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of

Subcontracts; and the termination fee, if any, set forth in the Agreement. In no instance shall Contractor be entitled to profit or overhead on unperformed Work.

§ 14.4.4 If a termination by Owner for cause is found to be improper for any reason, the termination shall be converted into a termination by Owner for convenience and Contractor's remedies limited as if it had been a termination for convenience from inception.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

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

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the Owner and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by Contractor under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. . Failure to give timely notice shall constitute a waiver by Contractor of the claim.

§ 15.1.3.2 Claims by Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the Owner. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

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

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation

within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the Arbitration Service of Portland . A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the Arbitration Service of Portland in accordance with its Procedural Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

§ 15.4.4 Consolidation or Joinder

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

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

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

**AMENDMENT #1 TO
STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION
MANAGER**

This Amendment #1 supplements the terms of the underlying Agreement to set forth terms required for Oregon Public Contracts. To the extent of any conflict between the requirements of this Amendment #1 and the requirements imposed by the underlying Agreement, this Amendment #1 shall control. The remaining terms of the Agreement remain in full force and effect. The Owner and the Construction Manager hereby agree:

1. Mandatory Terms For Oregon Public Improvement Contract.

- (a) Contractor shall:
 - (1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the Agreement;
 - (2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract;
 - (3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished;
 - (4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167;
 - (5) Demonstrate that an employee drug testing program is in place;
 - (6) To the extent the Work includes demolition, salvage or recycle construction and demolition debris, if feasible and cost-effective;
 - (7) To the extent the Work includes lawn and landscape maintenance, compost or mulch yard waste material at an approved site, if feasible and cost-effective;
- (b) If the Contractor fails, neglects or refuses to pay promptly a person's claim for labor or services that the person provides to the contractor or a subcontractor in connection with the Agreement as the claim becomes due, Owner may pay the amount of the claim to the person that provides the labor or services and charge the amount of the payment against funds

due or to become due the Contractor by reason of the Agreement;

- (c) If the Contractor or its subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the Agreement within 30 days after receiving payment from Owner, Contractor or its subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived;
- (d) If Contractor or its subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580;
- (e) Paying a claim in the manner authorized (b) through (d) above does not relieve the Contractor or the Contractor's surety from obligation with respect to an unpaid claim;
- (f) No person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases the employee shall be paid at least time and a half pay:
 - (1)
 - (i) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
 - (ii) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 - (2) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540;
- (g) Contractor shall give notice in writing to employees who work on Work covered by the Agreement, either at the time of hire or before commencement of work on the Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and

days per week that the employees may be required to work;

- (h) Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums that the Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services;
- (i) Contractor shall comply with ORS 656.017 unless exempt under ORS 656.126;
- (j) The withholding of retainage by Contractor and its subcontractors shall be in accordance with ORS 701.420;
- (k) In accordance with ORS 279C.560, unless Owner finds in writing that accepting a bond, security or other instrument poses an extraordinary risk that is not typically associated with the bond, security or other instrument, Owner will approve the Contractor's written request to deposit bonds, securities or other instruments with the Owner or in a custodial account or other account satisfactory to Owner with an approved bank or trust company, to be held instead of cash retainage for the benefit of Owner. In such event, Owner will reduce the cash retainage by an amount equal to the value of the bonds, securities and other instruments. Interest or earnings on the bonds, securities and other instruments shall accrue to the Contractor. Bonds, securities and other instruments deposited instead of cash retainage shall be assigned to or made payable to Owner and shall be of a kind approved by the Director of the Oregon Department of Administrative Services, including but not limited to: Bills, certificates, notes or bonds of the United States; Other obligations of the United States or agencies of the United States; Obligations of a corporation wholly owned by the federal government; Indebtedness of the Federal National Mortgage Association; General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon; or Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008. The Contractor shall execute and provide such documentation and instructions respecting the bonds, securities and other instruments as Owner may require to protect its interests. When Owner determines that all requirements for the protection of Owner's interest have been fulfilled, the bonds and securities deposited instead of cash retainage will be released to

the Contractor. If Owner accepts a surety bond from Contractor in lieu of retainage, Contractor shall accept like bonds from its subcontractors or suppliers from which Contractor has retainage. Contractor shall then reduce the moneys Contractor holds as retainage in an amount equal to the value of the bond and pay the amount of the reduction to the subcontractor or supplier.

- (l) Owner shall make progress payments on the Agreement monthly as work progresses. Payments shall be based upon estimates of work completed that are approved by Owner. A progress payment is not considered acceptance or approval of any work or waiver of any defects therein. Owner shall pay to Contractor interest on the progress payment, not including retainage, due the contractor. The interest shall commence 30 days after receipt of the invoice from the Contractor or 15 days after the payment is approved by Owner, whichever is the earlier date. The rate of interest charged to Owner on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after receipt of the invoice from Contractor or 15 days after the payment is approved by Owner, whichever is the earlier date, but the rate of interest may not exceed 30 percent. Interest shall be paid automatically when payments become overdue. Owner shall document, calculate and pay any interest due when payment is made on the principal. Interest payments shall accompany payment of net due on the Agreement. Owner will not require Contractor to petition, invoice, bill or wait additional days to receive interest due. When an invoice is filled out incorrectly, when there is any defect or impropriety in any submitted invoice or when there is a good faith dispute, Owner shall so notify Contractor within 15 days stating the reason or reasons the invoice is defective or improper or the reasons for the dispute. A defective or improper invoice, if corrected by Contractor within seven days of being notified by Owner, may not cause a payment to be made later than specified in this section unless interest is also paid. If requested in writing by a subcontractor, Contractor, within 10 days after receiving the request, shall send to the subcontractor a copy of that portion of any invoice, request for payment submitted to Owner or pay document provided by Owner to Contractor specifically related to any labor or materials supplied by the subcontractor. Payment of interest may be postponed when payment on the principal is delayed because of disagreement between Owner and Contractor.
- (m) Owner will reserve as retainage from all progress payment five percent

(5%) of the payment. As work progresses, Owner may (but is not required) reduce the amount of the retainage and Owner may (but is not required) eliminate retainage on any remaining monthly contract payments after 50 percent of the Work under the Agreement is completed if, in Owner's opinion, such work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by Contractor, and the application shall include written approval of Contractor's surety. However, when the contract work is 97.5 percent completed, Owner may, at the Owner's sole discretion and without application by Contractor, reduce the retained amount to 100 percent of the value of the Work remaining to be done. Upon receipt of a written application by Contractor, the Owner shall respond in writing within a reasonable time. The retainage held by Owner shall be included in and paid to Contractor as part of the final payment of the contract price. Owner shall pay to Contractor interest at the rate of 1.5 percent per month on the final payment due Contractor, interest to commence 30 days after the work under the Agreement has been completed and accepted and to run until the date when the final payment is tendered to Contractor. Contractor shall notify Owner in writing when the contractor considers the work complete and Owner shall, within 15 days after receiving the written notice, either accept the work or notify Contractor of work yet to be performed on the Agreement. If Owner does not, within the time allowed, notify Contractor of work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run 30 days after the end of the 15-day period.

- (n) Contractor shall include in each subcontract for property or services the contractor enters into with a subcontractor, including a material supplier, for the purpose of performing a construction contract:
 - (1) A payment clause that obligates Contractor to pay subcontractor for satisfactory performance under the subcontract within 10 days out of amounts the Owner pays to Contractor under the Agreement;
 - (2) A clause that requires Contractor to provide subcontractor with a standard form that the subcontractor may use as an application for payment or as another method by which the subcontractor may claim a payment due from Contractor;
 - (3) A clause that requires Contractor, except as otherwise provided in

this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. Contractor may change the form or the regular administrative procedures Contractor uses for processing payments if Contractor: (i) Notifies the subcontractor in writing at least 45 days before the date on which the contractor makes the change; and (ii) Includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.

- (4) An interest penalty clause that obligates Contractor, if the Contractor does not pay the subcontractor within 30 days after receiving payment from Owner, to pay subcontractor an interest penalty on amounts due in each payment Contractor does not make in accordance with the payment clause included in the subcontract under paragraph (a) of this subsection. Contractor or subcontractor is not obligated to pay an interest penalty if the only reason that Contractor or subcontractor did not make payment when payment was due is that Contractor or subcontractor did not receive payment from Owner or Contractor when payment was due. The interest penalty: (i) Applies to the period that begins on the day after the required payment date and that ends on the date on which the amount due is paid; and (ii) Is computed at the rate specified in ORS 279C.515 (2).
- (o) Contractor shall, in each of the Contractor's subcontracts, require the first-tier subcontractor to include a payment clause and an interest penalty clause that conforms to the standards of subsection (n) of this section in each of the first-tier subcontractor's subcontracts and to require each of the first-tier subcontractor's subcontractors to include such clauses in the first-tier subcontractors' subcontracts with each lower-tier subcontractor or supplier.
- (p) Contractor expressly agrees to be bound by and comply with prevailing rate of wage laws applicable to Contractor's Work in accordance with ORS 279C.800 et seq. The prevailing wage rates in effect when this Project was first advertised are hereby expressly incorporated into this Agreement by reference. Information on BOLI Prevailing Wage Rates may be obtained at the following site:
www.oregon.gov/BOLI/WHD/PWR/pwr_state.shtml. A copy of these rates may be requested by calling the Bureau of Labor and Industries directly (Bureau of Labor and Industries – (971) 673-0838). Information

on the Federal Davis-Bacon Act rates may be obtained at the following site: www.oregon.gov/ODOT/HWY/SPECS/wages.shtml. Contractor's workers must be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

- (q) Contractor shall have a public works bond filed with the Construction Contractors Board and shall provide Owner with a copy of such bond before starting work unless Contractor is exempt under ORS 279C.836(4), (7), (8) or (9). Contractor shall include a similar provision in any subcontract.
- (r) Contractor shall keep the prevailing rates of wage for Project posted in a conspicuous and accessible place in or about the Project and, if it provides a health and welfare plan or pension plan or both, shall post a notice describing the plan, including information on how and where to make claims and where to obtain further information, in a conspicuous and accessible place in or about the Project.
- (s) Contractor shall furnish to Owner a weekly affidavit with supporting detailed exhibits in a form that complies with the certified statement requirements of ORS 279C.845, certifying wages paid and to whom during each proceeding weekly payroll period, for itself and all subcontractor who are required to submit such certified statements under ORS 279C.845. If Contractor has failed to timely submit a required certified statement, Owner, pursuant to ORS 279C.845(8), shall withhold twenty-five percent (25%) from any amount owed to Contractor until Contractor provides the required certified statement.

OWNER:

By: _____
Name: _____
Title: _____

CONSTRUCTION MANAGER:

By: _____
Name: Tray Dickson
Title: President