



## **AGENDA**

CITY COMMISSION OF THE CITY OF WARRENTON  
REGULAR MEETING  
September 12, 2023 – 6:00 P.M.  
Warrenton City Commission Chambers – 225 South Main Avenue  
Warrenton, OR 97146

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Public Meetings will also be audio and video live streamed. Go to <https://www.ci.warrenton.or.us/administration/page/live-stream-public-meetings> for connection instructions.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **CONSENT CALENDAR**

- A. City Commission Meeting Minutes – 8.22.23
- B. Monthly Finance Report – June 2023

Items on the Consent Calendar have previously been discussed and/or are considered routine. Approval of the Consent Calendar requires a motion, a second, and no discussion, unless requested by a member of the City Commission.

4. **COMMISSIONER REPORTS**

5. **PUBLIC COMMENT**

At this time, anyone wishing to address the City Commission concerning items of interest may do so. The person addressing the Commission must complete a Public Comment Card and submit it to the City Recorder prior to the meeting. All remarks will be addressed to the whole City Commission and limited to 3 minutes per person. Public Comments may also be submitted by email to the City Recorder, at [cityrecorder@ci.warrenton.or.us](mailto:cityrecorder@ci.warrenton.or.us), no later than 4:00 p.m. the day of the meeting. The Commission reserves the right to delay any action, if required, until such time as they are fully informed on a matter.

6. **PUBLIC HEARINGS** – None

**7. BUSINESS ITEMS**

- A. Consideration of Request for Amplified Music – Fall Festival
- B. Parks Advisory Committee Recommendation – Gold Star Memorial in Veterans Memorial Park
- C. Consideration of Parks Advisory Committee Recommendation – Formation of Non-Profit for Parks and Trails
- D. Consideration of Downtown Inflow & Infiltration (I&I) Project – Request for Bids
- E. Consideration of E Harbor and Heron Force Main Replacement – Request for Bids
- F. Consideration of Warrenton Public Safety Association Collective Bargaining Agreement
- G. Consideration of ARPA Funds – IGA with Clatsop County

**8. DISCUSSION ITEMS**

- A. Jetty Avenue Sewer

**9. GOOD OF THE ORDER**

**10. EXECUTIVE SESSION**

*Under the authority of ORS 192.660(2)(h); to consult with counsel concerning the legal rights and duties of public body with regard to current litigation or litigation likely to be filed.*

**11. ADJOURNMENT**

**Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.**

MINUTES  
 Warrenton City Commission  
 August 22, 2023  
 6:00 p.m.  
 Warrenton City Hall - Commission Chambers  
 225 S. Main  
 Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:00 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Henry Balensifer, Paul Mitchell, Tom Dyer, Gerald Poe, and Mark Baldwin

Staff Present: City Manager Esther Moberg, Police Chief Mathew Workman, Public Works Director Greg Shafer, Finance Director April Clark, and City Recorder Dawne Shaw

CONSENT CALENDAR

- A. City Commission Meeting Minutes – 8.08.23
- B. Police Department Monthly Report – July 2023
- C. Parks Advisory Committee Meeting Minutes – 6.12.23

**Commissioner Baldwin made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

COMMISSIONER REPORTS

Commissioner Mitchell gave a shout out to the public works department for their work on cleaning up a particular street.

City Manager Moberg requested to add a business item for the paving contract; item 7G, there were no objections.

PUBLIC COMMENT

Written comment was received from Alisa Dunlap with Pacific Power in regard to item 7F – camping zones.

PUBLIC HEARINGS - None

BUSINESS ITEMS

City Manager Esther Moberg discussed the lease agreement for Battery 245. She stated it is a six year lease at 69 NE Heron Ave. Mayor Balensifer clarified for the record when they issued the approval to transfer the lease that Encore Academy requested a portion of the property; Ms. Moberg clarified that it would be an agreement between Battery 245 and Encore and would not be a sublease.

**Commissioner Baldwin made the motion to approve the 6 year lease agreement with Battery 245. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Ms. Moberg discussed the updated agreement with Warrenton Seniors, Inc., regarding the Community Center. She met with the Warrenton Seniors Board to discuss the agreement and they are in agreement on the terms. Mayor Balensifer stated they have been trying to get the agreement redone for several years.

**Commissioner Poe made the motion to approve the Seniors Community Center Agreement. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Parks Advisory Board Chair Bert Little discussed the Parks Advisory Board recommendation for a BMX bike track. Mayor Balensifer clarified the recommendation is to allow the BMX track organization to build a BMX track on the old dumpsite while meeting all city and building codes; Mr. Little confirmed. Commissioner Mitchell asked if they would be charging for use; Mr. Little clarified they are not charging but if there is a tournament, they would be charging. Ms. Moberg stated it was mentioned there would be a membership fee and they would not charge in the off-season. Discussion continued on usage and liability. Ms. Moberg stated she does not see a motion without further information; she has not seen a comprehensive business plan and has questions that have not been answered. Mayor Balensifer stated that based on lack of information consensus was to remand back to the board.

Mr. Little discussed the Parks Advisory Board recommendation for the relocation of the Hammond Community Garden and explained the process that took place with the School Board. He discussed what will need to be done for the relocation of the garden. Mayor Balensifer stated he feels this is a much better location, and thanked the relocation task force for their work on finding a location and negotiating with the school board.

**Commissioner Mitchell made the motion to approve the IGA between the school district and City of Warrenton entering into a 20 year lease agreement for a community garden near Pacific Drive & 7th Ave. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Ms. Moberg discussed the camping zones to go with the city's camping ordinance. She stated they are requesting the City Commission select two to three zones. She shared that they are recommending the zones at Neptune, Bugle, and Dolphin, noting that the city needs locations in place so they can relocate people as needed. Discussion continued; Commissioner Mitchell noted

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his concerns; Commissioner Baldwin noted he does not like the Dolphin location. Mayor Balensifer noted the North Coast Business Park location is the least invasive, they are already located there, and the location isn't intrusive to residents. He believes the business park should be the primary zone; he's not a fan of Bugle and is adamantly opposed to doing anything in the marinas. Ms. Moberg stated that two utility companies had reached out with concerns about two of the suggested zones; their primary concerns are with access for scheduled and emergency maintenance. Ms. Moberg suggested that something be put into the policy to clearly state the rights to access for emergency and maintenance utility work. Discussion continued. Commissioner Baldwin discussed his concerns. Consensus was the North Coast Business Park as the primary zone; the discussion continued. Chief Workman clarified the difference between "sites" and "zones." Discussion followed. Mayor Balensifer clarified that between the hours of 9 pm and 6 am in designated zones there is non-enforcement of the camping provision of the city code subject to policies. Commissioner Poe asked how many active zones the city will have at once; Ms. Moberg stated they are hoping to have two to allow for the different types of camping. Commissioner Baldwin discussed his concerns with Bugle; discussion followed. Mayor Balensifer noted for the record that at 6 a.m. officers will clear the Bugle zone. Commissioner Baldwin continued noting his concerns about Bugle and children riding the bus on the way to school seeing what is going on in the zone. Commissioner Mitchell noted his thoughts on Dolphin. The Commission continued to deliberate. Mayor Balensifer suggested North Coast Business Park for tents, Dolphin for cars and RVs, and Bugle as a last resort. Commissioner Baldwin suggested Neptune and wants to stay away from the school bus routes (Bugle); Commissioner Dyer suggested Ensign, Dolphin, and Bugle or Neptune as #3; Commissioner Poe agreed. Commissioner Mitchell suggested Bugle, Dolphin, and then Neptune and North Coast Business Park; noting he wants locations that are easy to clear and not have them disappear into the woods. Commissioner Mitchell reconsidered his choices. Discussion continued on zone management. Mayor Balensifer reiterated the commissioners' choices.

**Commissioner Dyer made the motion to approve the North Coast Business Park and Dolphin locations for first and second choice zones. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Consensus was to evaluate a third zone at a later date.

Public Works Director Greg Shafer discussed the award of two contracts for 2023 asphalt overlays and the roadway crack-fill treatments; Bayview Asphalt, Inc. in the amount of \$325,114 for the asphalt overlays, and CR Contracting in the amount of \$78,326 for the crack-fills. He requested the Commission approve the contracts contingent upon there being no bid protests. Mayor Balensifer asked if there is additional asphalt, is there a budget to ask them to do additional projects; Mr. Shafer agreed. Discussion continued. There was unanimous consent to authorize staff to execute any further pavement projects if the pavement project management budget allows.

**Commissioner Baldwin made the motion to approve award of the 2023 Pavement Management overlay project to Bayview Asphalt Inc in the amount of \$325,114; and the crack-fill project to CR Contracting in the amount of \$78,326 including 10% contingency; provided bids are not protested. Motion was seconded and passed unanimously.**

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**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

DISCUSSION ITEMS – None

GOOD OF THE ORDER

Commissioner Baldwin asked if there were any updates on the nuisance property on Anchor; Ms. Moberg provided an update. She has been working with the City Planner and the property owner to create a timeline for completion. She stated that there will be no more lenience for the property owner.

Commissioner Mitchell noted he attended the Spruce Up Warrenton meeting and was impressed with the amount of people in attendance and their interest.

Ms. Moberg noted the successful Parks Board Cornhole Tournament. Mayor Balensifer followed up with comments on the tournament. He liked that in the cornhole tournament, he saw people he has not seen at other community events. He also thanked the Public Works employees who participated and contributed their winnings back to the parks department.

Mayor Balensifer also noted the Air Fair that took place last weekend. He noted that there were several thousand people who attended the event. He also attended the Oregon Mayors Association conference and noted highlights about the houseless/camping issues.

At 7:05 p.m. Mayor Balensifer announced the Commission will now meet in executive session under authority of ORS 192.660(2)(e); *to conduct deliberations with persons designated by the governing body to negotiate real property transactions.*

There being no further business, Mayor Balensifer adjourned the meeting at 7:19 p.m.

Respectfully prepared and submitted by Hanna Bentley, Deputy City Recorder.

ATTEST:

\_\_\_\_\_  
Dawne Shaw, CMC, City Recorder

APPROVED:

\_\_\_\_\_  
Henry A. Balensifer III, Mayor

Volume 16, Issue 12

**Monthly Finance Report**  
**June 2023**

September 12, 2023

**Economic Indicators**

	Current	1 year ago
◆ Interest Rates:		
LGIP :	4.05%	.93%
Prime Rate:	8.25%	4.75%
◆ CPI-U change:	3.0%	9.1%
◆ Unemployment Rates:		
Clatsop County:	3.7%	4.1%
Oregon:	3.5%	3.9%
U.S.:	3.6%	3.6%

**Department Statistics**

◆ Utility Bills mailed	3,236
◆ New Service Connections	0
◆ Reminder Letters	307
◆ Door Hangers	66
◆ Water Service Discontinued	14
◆ Counter payments	442
◆ Mail payments	972
◆ Auto Pay Customers/pmts	670
◆ Online (Web) payments	1,393
◆ Checks issued	388

**Current and Pending Projects**

- ◆ Business License Renewals
- ◆ Audit Preparation and Reporting — Field work scheduled for week of September 18th
- ◆ Implementation of Human Resource and Employee Self Serve Software

**Financial Narrative as of June 30, 2023**

**Note:** Revenues and expenses should track at 12/12 or 100% of the budget.

**General Fund:** Year to date revenues amount to \$5,450,528, which is 95.8% of the budget, compared to the prior year amount of \$4,939,538, which was 108.1% of the budget and are up by \$510,990.

Expenses year to date amount to \$5,144,004, which is 81.8% of the budget, compared to the prior year amount of \$4,521,068, which was 88.7% of the budget and are up by \$622,936. Fund balance is \$2,192,384 compared to \$1,885,860 last year; an increase of \$306,524.

**WBL:** Business license revenue amounts to \$84,578, compared to \$63,665 at this time last year, a difference of \$20,913. A rate increase on July 1, 2022 contributed to this difference. Year to date licenses issued is 785 compared to 754 at this time last year. Year to date revenues exceeded expenses by \$45,637 and increased fund balance by the same.

**Building Department:** Year to date permit revenues amount to \$244,909, which is 80.1% of the budgeted amount. Last year to date permit revenue was \$367,585, 112.3% of the budget. Year to date expenses exceeded revenues by \$156,609 and reduced fund balance by the same.

**State Tax Street:** Year to date state gas taxes received amount to \$502,264, 103.5% of the budgeted amount. City fuels are \$368,880 year to date, 103.6% of the

budget. Total gas taxes received year to date are \$871,144 compared to \$834,809 last year. Revenues exceeded expenses and increased fund balance by \$443,903.

**Warrenton Marina:** Total revenues to date are \$746,127, 104.1% of the budgeted amount, compared to the prior year amount of \$730,540, which was 115.1% of the budgeted amount. Revenues exceeded expenses by \$29,720 and increased fund balance by the same.

**Hammond Marina:** Total revenues to date are \$435,315, 113.2% of the budgeted amount, compared to the prior year amount of \$426,193, which was 121.2% of the budgeted amount. Revenues exceeded expenses by \$63,495 and increased fund balance by the same.

**Water Fund:** Utility fees are \$2,612,314 and \$1,609,953 year to date for in-city and out-city respectively and totals \$4,222,267 and is 103.4% of the budget. Last year to date fees were \$2,402,958 and \$1,424,659, for in-city and out-city, respectively and totaled \$3,827,617 and are up by \$394,650. Expenses exceeded revenues by \$269,891 and reduced fund balance by the same.

**Sewer Fund:** Utility fees \$2,732,238 year to date, which is 101.4% of the budget. Last year at this time, year to date fees were \$2,345,215. Shoreline Sanitary fees year to date are \$140,894. Total revenues year to date are

\$3,134,265 compared to \$2,787,104 at this time last year. Revenues exceeded expenses by \$451,683 and increased fund balance by the same.

**Storm Sewer:** Utility fees (20% of sewer fees) are \$546,340 year to date and is 101.4% of the budget. Total revenues exceeded expenses by \$350,535 and increased fund balance by the same.

**Sanitation Fund:** Service fees charged for garbage and recycling were \$1,085,601 and \$230,114, year to date, and are 89% and 101.5% of the budget respectively. Total revenues exceeded expenses by \$63,707 and increased fund balance by the same amount.

**Community Center Fund:** Year to date rental revenue is \$29,774 and is 212.7% of the budget. Last year to date rental revenue was \$14,015, which was 107.8% of the budget. Total revenues exceeded expenses by \$13,514 and increased fund balance by the same.

**Library Fund:** Total current year property taxes collected amount to \$246,496. Total revenues exceeded expenses by \$47,894 and increased fund balance by the same.

**Financial data as of June 30, 2023**

	General Fund				
	Current Month	Year to Date	Budget	% of Budget	
Beginning Fund Balance	1,972,178	1,885,860	1,100,000	171.44	
Plus: Revenues	740,454	5,450,528	5,691,876	95.76	(see details of revenue, page 4)
Less: Expenditures					
Municipal Court	11,807	153,682	188,871	81.37	
Admin/Comm/Fin(ACF)	73,943	1,160,090	1,385,311	83.74	
Planning	24,913	285,669	439,126	65.05	
Police	190,696	1,909,638	2,189,639	87.21	
Fire	62,188	889,355	1,034,854	85.94	
Parks	9,884	102,290	160,746	63.63	
Transfers	146,817	643,280	891,451	72.16	
Total Expenditures	520,248	5,144,004	6,289,998	81.78	
Ending Fund Balance	2,192,384	2,192,384	501,878	436.84	

	WBL				
	Current Month	Year to Date	Budget	% of Budget	
Beginning Fund Balance	115,063	68,931	59,000	116.83	
Plus: Revenues	646	87,753	61,350	143.04	
Less: Expenditures	1,141	42,116	66,307	63.52	
Ending Fund Balance	114,568	114,568	54,043	211.99	

	Building Department				
	Current Month	Year to Date	Budget	% of Budget	
Beginning Fund Balance	589,740	736,201	640,000	115.03	
Plus: Revenues	19,554	267,816	309,088	86.65	
Less: Expenditures	29,702	424,425	455,954	93.09	
Ending Fund Balance	579,592	579,592	493,134	117.53	

	State Tax Street				
	Current Month	Year to Date	Budget	% of Budget	
Beginning Fund Balance	3,099,743	2,778,651	2,100,000	132.32	
Plus: Revenues	190,206	1,475,056	2,738,420	53.87	
Less: Expenditures	67,395	1,031,153	4,739,670	21.76	
Ending Fund Balance	3,222,554	3,222,554	98,750	3,263.35	

	Warrenton Marina				
	Current Month	Year to Date	Budget	% of Budget	
Beginning Fund Balance	390,269	323,922	300,000	107.97	
Plus: Revenues	17,289	746,127	716,879	104.08	
Less: Expenditures	53,916	716,407	818,225	87.56	
Ending Fund Balance	353,642	353,642	198,654	178.02	

**Financial data as of June 30 2023, continued**

	Hammond Marina				Water Fund			
	Current Month	Year to Date	Budget	% of Budget	Current Month	Year to Date	Budget	% of Budget
Beginning Fund Balance	324,030	206,211	290,000	71.11	1,379,781	1,878,545	2,000,000	93.93
Plus: Revenues	7,419	435,315	384,552	113.20	442,088	4,539,024	6,708,062	67.67
Less: Expenditures	61,743	371,820	534,261	69.60	213,215	4,808,915	7,747,678	62.07
Ending Fund Balance	<u>269,706</u>	<u>269,706</u>	<u>140,291</u>	<u>192.25</u>	<u>1,608,654</u>	<u>1,608,654</u>	<u>960,384</u>	<u>167.50</u>

	Sewer Fund				Storm Sewer			
	Current Month	Year to Date	Budget	% of Budget	Current Month	Year to Date	Budget	% of Budget
Beginning Fund Balance	3,362,614	2,978,750	2,700,000	110.32	2,011,975	1,661,698	1,500,000	110.78
Plus: Revenues	281,988	3,134,265	2,904,261	107.92	54,930	599,067	844,912	70.90
Less: Expenditures	214,169	2,682,582	4,748,317	56.50	54,672	248,532	1,947,361	12.76
Ending Fund Balance	<u>3,430,433</u>	<u>3,430,433</u>	<u>855,944</u>	<u>400.78</u>	<u>2,012,233</u>	<u>2,012,233</u>	<u>397,551</u>	<u>506.16</u>

	Sanitation Fund				Community Center			
	Current Month	Year to Date	Budget	% of Budget	Current Month	Year to Date	Budget	% of Budget
Beginning Fund Balance	550,482	504,966	445,000	113.48	39,224	21,718	18,500	117.39
Plus: Revenues	116,507	1,343,348	1,449,344	92.69	(1,054)	40,833	18,800	217.20
Less: Expenditures	98,316	1,279,641	1,633,871	78.32	2,938	27,319	29,096	93.89
Ending Fund Balance	<u>568,673</u>	<u>568,673</u>	<u>260,473</u>	<u>218.32</u>	<u>35,232</u>	<u>35,232</u>	<u>8,204</u>	<u>429.45</u>

	Library				Warrenton Urban Renewal Agency Capital Projects Fund			
	Current Month	Year to Date	Budget	% of Budget	Current Month	Year to Date	Budget	% of Budget
Beginning Fund Balance	216,882	162,397	160,000	101.50	8,298	9,011	12,184	73.96
Plus: Revenues	9,761	283,138	254,179	111.39	14,017	991,229	6,141,636	16.14
Less: Expenditures	16,352	235,244	303,013	77.63	14,345	992,270	6,153,820	16.12
Ending Fund Balance	<u>210,291</u>	<u>210,291</u>	<u>111,166</u>	<u>189.17</u>	<u>7,970</u>	<u>7,970</u>	<u>-</u>	<u>-</u>

**Financial data as of June 30, 2023, continued**

**(\$)** Cash Balances as of June 30, 2023

General Fund	2,222,379	Warrenton Marina	363,060	Storm Sewer	2,022,241
WBL	114,751	Hammond Marina	289,166	Sanitation Fund	516,807
Building Department	587,697	Water Fund	1,352,230	Community Center	39,887
State Tax Street	3,386,950	Sewer Fund	3,251,460	Library	208,827

**Warrenton Urban Renewal Agency**

Capital Projects	67,116
Debt Service	2,308,757

General Fund Revenues	Collection Frequency	2022-2023 Budget	Actual as	Collections/Accruals		(over) under budget
			% of Current Budget	Year to date		
				June 2023	June 2022	
Property taxes-current	AP	1,229,211	106.09	1,304,029	1,230,644	(74,818)
Property taxes-prior	AP	30,000	149.36	44,809	16,572	(14,809)
County land sales	A	-	0.00	-	-	-
Franchise fees	MAQ	612,000	110.24	674,655	624,224	(62,655)
COW - franchise fees	M	330,319	96.76	319,607	299,851	10,712
Transient room tax	Q	622,492	103.98	647,261	644,391	(24,769)
Liquor licenses	A	575	117.39	675	575	(100)
State revenue sharing	MQ	195,819	109.03	213,503	192,270	(17,684)
Municipal court	M	128,700	67.56	86,952	102,086	41,748
Planning Fees	I	110,500	41.35	45,695	98,565	64,805
Police charges	I	18,000	148.68	26,763	25,272	(8,763)
Fire charges	SM, I	112,329	127.32	143,021	145,742	(30,692)
Park charges	I	-	0.00	1,470	820	-
Housing rehab loan payments	I	-	0.00	9,032	-	-
Miscellaneous	I	3,000	573.10	17,193	14,955	(14,193)
Interest	M	8,000	1076.03	86,082	10,660	(78,082)
Lease receipts	M	220,002	109.90	241,779	227,021	(21,777)
Proceeds from sale of assets	I	-	0.00	4,036	140,366	(4,036)
Grants	I	-	0.00	-	-	-
<b>Sub-total</b>		<b>3,620,947</b>	<b>106.78</b>	<b>3,866,562</b>	<b>3,774,014</b>	<b>(245,615)</b>
Transfers from other funds	I	685,618	0.00	423,876	-	261,742
Overhead	M	1,385,311	83.74	1,160,090	1,165,524	225,221
<b>Total revenues</b>		<b>5,691,876</b>	<b>95.76</b>	<b>5,450,528</b>	<b>4,939,538</b>	<b>241,348</b>

M - monthly  
 Q - quarterly  
 SM - Semi-annual in January then monthly  
 AP - As paid by taxpayer beginning in November  
 MAQ - Century Link, NW Nat & Charter-quarterly, all others monthly

S - semi-annual  
 I - intermittently  
 MQ - Monthly, cigarette and liquor and Quarterly, revenue sharing  
 A - annual

Note: Budget columns do not include contingencies as a separate line item but are included in the ending fund balance. Unless the Commission authorizes the use of contingency, these amounts should roll over to the following year beginning fund balance. For budget details, please refer to the City of Warrenton Adopted Budget for fiscal year ending June 30, 2023. Budget amounts reflect budget adjustments approved by the Commission during the fiscal year. Information and data presented in this report is unaudited.



# Committee Recommendation:

## Parks

August 29, 2023

### Recommendation Title:

Gold Star Memorial added to Flag Pole Park

Vote Outcome 6-0-0

Opposition Statements? No

### Recommendation Narrative:

#### Summary:

Our Veterans Memorial Park has space for the Gold Star memorial. We have five local fallen who represent this memorial in Clatsop County. Gordon Treber (a Gold Star family member) has spearheaded this project and would like to put this memorial in our town. The group wants to partner with our local VFW 10580 on this project and make it happen. This will be the first Gold Star memorial in Clatsop County. This will bring more visitors to our area to see our memorial Park and what and who is represented here.

**Fiscal Impact** We would need to use the city engineer to approve the plans and inspect the project as it starts. We would need a local contractor to submit the plans and give a bid on the project. There should be not cost to the city on this project.

**RECOMMENDATION(S):** Move forward as soon as possible so the dedication could be done by September 24, 2023 if possible which is the date of the Gold Star birthday. If not as soon as we have plans and permits to place the memorial.

Respectfully Submitted,

*albert Little*

Signature Albet Little

Title Parks Board Chair

*Attach opposition statements and/  
or additional narratives/info.*



# Committee Recommendation:

Parks



29 August 2023

## Recommendation Title:

Parks board supports the formation of a non-profit organization to help the parks and trails system.

Vote Outcome 6 in favor 0 opposed

Opposition Statements? No



## Recommendation Narrative:

The Parks Advisory Board looks forward to working closely with the to-be formed non-profit organization. This future non-profit could help the parks in financing projects on the Parks Master plan's long range goals. This formation could take a burden off of the city's general funds and bookkeeping departments.

The newly formed non-profit will not be a subsidiary of the Parks Advisory Board and will not be tied to the City of Warrenton.

*Albert Little*

Signature: Albert Little

Title: Parks board chair

*Attach opposition statements and/or additional narratives/info.*

Date: August 29, 2023

To: Parks Advisory Board

Subject: Request for Support and Recommendation to City Commission

I am writing to introduce an upcoming nonprofit organization dedicated to enhancing the parks and trails within the Warrenton district. Our mission is to raise money to support the parks and trails that enrich the lives of residents and visitors alike, while promoting connectivity to neighboring cities and embracing the natural beauty of our community. Central to our mission is the enhancement of our existing parks, ensuring they become vibrant hubs of recreational activity and relaxation, accessible to all members of our diverse community.

#### **Our Objectives:**

- 1. Enhance Existing Parks:** We aim to assist in funding improvements for the amenities and accessibility of existing parks to ensure they cater to the evolving needs of our community.
- 2. Create New Trails:** We plan to support the development of new trails that connect various parts of the city, rural areas, and even neighboring towns, fostering connectivity and encouraging outdoor exploration.
- 3. Community Engagement:** We will actively involve community members in the planning and decision-making processes, ensuring that the projects we help fund align with their preferences and desires.
- 4. Public Gathering Places:** We are committed to revitalizing public gathering places by raising money to create vibrant and welcoming spaces that encourage social interaction, cultural exchange, and community events.

#### **How You Can Help:**

- 1. Endorsement:** We kindly ask for your formal endorsement of the Warrenton Parks Foundation's mission and objectives.
- 2. Collaboration:** We hope to collaborate closely with the Parks Advisory Board to benefit from your expertise and insights in shaping our projects.
- 3. Recommendation:** We request that you recommend to the City Commission that they formally endorse our organization's formation and future collaboration aimed at improving parks and trails within and connecting to the Warrenton district.

Our group is excited about the potential to transform our community's green spaces into vibrant, inclusive, and connected areas that enhance the quality of life for all residents. We are dedicated to transparent communication, community engagement, and effective resource utilization.

Thank you for your time and consideration. We look forward to the opportunity to present our plans in detail and discuss how we can work together to create a brighter, greener future for the Warrenton district.

- Warrenton Parks Nonprofit (Official name to be determined)



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Greg Shafer, Public Works Director  
DATE: September 12, 2023  
SUBJ: Downtown Inflow & Infiltration (I&I) Project – Advertise for Bids

### SUMMARY

As sewer system pipes, manholes and other infrastructure age its critical to site assess the integrity of the system for breaks, cracks, and failures contributing to unnecessary inflow and infiltration into the system. This especially assists with properly managing flow to the Wastewater Treatment Plant. The City requests to hire a Contractor to provide cleaning and internal CCTV inspection of approximately 4.4 miles of 6-inch to 12-inch diameter sanitary sewer mains in accordance with NASSCO PACP standards. The City will develop a detailed scope of work to produce an I&I report with recommended repairs and associated costs. This report will closely match the "East End I&I Report" prepared for the City in April 2023.

### RECOMMENDATION/SUGGESTED MOTION

*"I move to approve advertising the request for bids of the Downtown Inflow & Infiltration (I&I) Project".*

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission.
- 2) None recommended.

### FISCAL IMPACT

The project will be funded from the approved 2023-2024 Budget, sewer maintenance funds.

Approved by City Manager: *Ethan Melberg*

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

REQUEST FOR BIDS

FOR

CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION  
OF SEWER COLLECTION SYSTEM  
PUMP SHED "DA"



CITY OF WARRENTON

DEPARTMENT OF PUBLIC WORKS

August 2023

# REQUEST FOR BIDS

For

CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF SEWER COLLECTION SYSTEM

PUMP SHED DA

AUGUST 2023

## I. INTRODUCTION

Through this Request for BIDS, the City of Warrenton Department of Public Works (PW) is soliciting a bid from firms for closed circuit television (CCTV) and sanitary sewer cleaning services in select portions of the City's collection system, Pump Shed "DA". This solicitation intends to select a qualified contractor for sewer line and manhole cleaning and sewer line inspection services. The City reserves the right to reject any or all applicants, in whole or in part, as may, in the judgment of the City, serve its best interest and to waive minor irregularities and informalities in any bid.

The City anticipates that at the conclusion of the bid process, it will name a successful cleaning and inspection contractor and negotiate a final contract based on the services detailed below that the City finds to be in its best interest. The selected contractor will be responsible for working closely with City staff and its representatives to ensure the proper inspection is performed on all specified sewer mains.

## II. REQUEST FOR BIDS SUBMITTAL PROCEDURES

### A. Contact Person for Questions

Submit all questions related to this request in writing to the following contact person(s) by **September 28, 2023, at 3:00 pm**. To assure consistent information is disseminated to all proposers; questions related to this bid are to be asked to other City staff only with the knowledge and consent of the contact person(s) named below.

Greg Shafer, PE  
Interim Public Works Director  
45 SW 2nd Street  
PO Box 250  
Warrenton, OR 97146  
Office: (503) 861-0914  
[gshafer@ci.warrenton.or.us](mailto:gshafer@ci.warrenton.or.us)

Only questions answered in writing will be binding. Oral and other interpretations shall be without legal effect. All such addenda or clarifications/modifications shall become part of the Contract Documents.

B. RFP Schedule

The following timeline contains the anticipated dates of major milestones related to this RFP:

Bid Due Date **September 28, 2023, at 3:00 pm**  
Bid Evaluation **October 5, 2023**

C. Pre-Submittal Conference

A pre-submittal conference will not be provided. Those interested in meeting the city to discuss this project, please send an email to [twittetoe@ci.warrenton.or.us](mailto:twittetoe@ci.warrenton.or.us) no later than 9:00 AM, one weeks prior to the bid due date.

D. Deadline for Submittals

Bids shall be delivered to the Department of Public Works's Office such that they arrive on or before 3:00 pm on the bid due date, and are addressed as follows:

Greg Shafer, PE  
Interim Public Works Director  
45 SW 2nd Street  
PO Box 250  
Warrenton, OR 97146

Bids may also be emailed to [gshafer@ci.warrenton.or.us](mailto:gshafer@ci.warrenton.or.us) by 3:00 pm on the bid due date.

E. Discretion of the City

For the purposes of this bid, "applicant" or "contractor" shall mean any contractor presenting their bid for the project. Close coordination of activities with the City's operating staff will be required. The successful Applicant will be required to furnish all labor, materials, equipment, tools, and services required to complete the sanitary sewer gravity main and manhole cleaning and inspection in accordance with the Specifications.

The City shall not be responsible for any cost incurred by applicants because of participation in this RFP process. Each applicant shall bear its own expense in connection with the preparation and submission of materials and the provision of any supplemental information requested. The City shall have no liability for the cost incurred by applicants in connection with the review and evaluation of bids and any

findings and determinations made therefrom. All materials and information submitted during the process will become the property of the City.

The decision to select an applicant shall not constitute a determination that the applicant is responsible, and such applicant may be subsequently rejected as non-responsible on the basis of subsequently discovered information.

The City reserves the right to reject any or all bids. NOTWITHSTANDING anything to the contrary in this document or in any addendums to this document, unless the contrary provision refers specifically to this provision, the City reserves the right (i) to negotiate changes of any nature with any candidate with respect to any term, condition, or provision in this document and/or in any bids, whether or not something is stated to be mandatory and whether or not it is said that a bid will be rejected if certain information or documentation is not submitted with it.

G. Cost

The contractor shall provide a unit price cost for all work shown in the specification section as detailed in Exhibit B of Appendix 1. Exhibit B includes estimated quantities. The total of all estimated prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price.

The City makes no guarantees as to the accuracy of the quantity estimates provided. It is the intent of the bid and the quantities therein to establish a unit price for various items to be paid to the Contractor by the City during the period of this contract. No change in the unit price will be made, regardless of which specific sanitary sewer lines are cleaned during the period of the contract. For the purposes of payment, the unit bid prices will apply to the actual quantities of work performed. The unit price will include all costs associated with mobilization, traffic control, flow control, data management, reporting, and access to individual sites.

H. TEMPLATE CONTRACT

The City anticipates that at the conclusion of the Bid process will be a contract between the City and the successful candidate under which the successful candidate will provide the goods and services generally described in this bid request. It is the City's intention to use the contract that is attached in Appendix 1, modified and filled in to reflect the bid.

After the City has identified a successful applicant, the Owner's Representative will issue a written Notice of Award. Within fifteen (15) calendar days thereafter, the applicant shall sign and deliver the Contract and required supplemental documents to the City. Failure or refusal of the accepted Applicant to execute the Contract as herein provided

shall constitute a breach by such applicant of the Contract. In such event, the City at its option, may determine that such applicant has abandoned the Contract.

DRAFT

Appendix 1  
Template Contract

Contains:

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Exhibit A - Specifications

Exhibit B - Unit Prices

Exhibit C - List of Sewer Lines to be Cleaned and Inspected

Exhibit D – Project Drawings

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**CITY OF WARRENTON  
CONTRACT FOR GOODS AND  
SERVICES**

CONTRACT:

This Contract, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the City of Warrenton, a municipal corporation of the State of Oregon, hereinafter called "CITY," and \_\_\_\_\_, hereinafter called "CONTRACTOR", duly authorized to do business in Oregon.

WITNESSETH

WHEREAS, the CITY requires goods and services which CONTRACTOR is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONTRACTOR is able and prepared to provide such goods and services as CITY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONTRACTOR GOODS AND SERVICES: (Title: \_\_\_\_\_)

A. CONTRACTOR shall provide goods and services for the CITY, as outlined in its attached quote, dated \_\_\_\_\_ 2023, and is attached hereto as Exhibit A.

B. CONTRACTOR'S obligations are defined solely by this Contract, the RFP, or solicitation document, (if any) and its attachment and not by any other contract or agreement that may be associated with this project.

2. COMPENSATION

A. The CITY agrees to pay CONTRACTOR a total not-to-exceed price of \$\_\_\_\_\_ for providing goods and performance of those services provided herein;

B. The CONTRACTOR will submit a final invoice referencing \_\_\_\_\_ for all goods provided or services rendered to: City of Warrenton, Attention: Accounts Payable, PO Box 250, Warrenton, Oregon 97146, **OR**, CONSULTANT may submit invoice via email to [ap@ci.warrenton.or.us](mailto:ap@ci.warrenton.or.us). City pays net 21 upon receipt of invoice.

C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONTRACTOR IDENTIFICATION

CONTRACTOR shall furnish to the CITY the CONTRACTOR'S employer identification number, as designated by the Internal Revenue Service, or CONTRACTOR'S Social Security number, as CITY deems applicable.

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be \_\_\_\_\_, City Manager.

5. CONTRACTOR'S REPRESENTATIVE

For purposes hereof, the CONTRACTOR'S authorized representative will be \_\_\_\_\_.

6. CONTRACTOR IS INDEPENDENT CONTRACTOR

- A. CONTRACTOR'S services shall be provided under the general supervision of City's project director or his designee, but CONTRACTOR shall be an independent CONTRACTOR for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract,
- B. CONTRACTOR acknowledges that for all purposes related to this contract, CONTRACTOR is and shall be deemed to be an independent CONTRACTOR and not an employee of the CITY, shall not be entitled to benefits of any kind to which an employee of the CITY is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that CONTRACTOR is found by a court of law or an administrative agency to be an employee of the CITY for any purpose, CITY shall be entitled to offset compensation due, or, to demand repayment of any amounts paid to CONTRACTOR under the terms of the contract, to the full extent of any benefits or other remuneration CONTRACTOR receives (from CITY or third party) as result of said finding and to the full extent of any payments that CITY is required to make (to CONTRACTOR or a third party) as a result of said finding.
- C. The undersigned CONTRACTOR hereby represents that no employee of the City of Warrenton, or any partnership or corporation in which a City of Warrenton employee has an interest, has or will receive any remuneration of any description from the CONTRACTOR, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

7. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this Contract if CONTRACTOR breaches any of the terms herein or in the event of any of the following: Insolvency of CONTRACTOR; voluntary or involuntary petition in bankruptcy by or against CONTRACTOR; appointment of a receiver or trustee for CONTRACTOR, or any assignment for benefit of creditors of CONTRACTOR. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONTRACTOR may likewise cancel all or any part of this contract if CITY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

8. ACCESS TO RECORDS

CITY shall have access to such books, documents, papers and records of contract as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

9. FORCE MAJEURE

Neither CITY nor CONTRACTOR shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled provided the party so disabled shall within ten (10) days from the beginning

such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

10. NONWAIVER

The failure of the CITY to insist upon or enforce strict performance by CONTRACTOR of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

11. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

12. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

13. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal of the CONTRACTOR, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

14. INDEMNIFICATION

CONTRACTOR agrees to indemnify and hold harmless the CITY, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to CITY, contractor, or others resulting from or arising out of CONTRACTOR'S negligent acts, errors or omissions in the supply of goods or performance of services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONTRACTOR and The CITY this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONTRACTOR.

15. INSURANCE

Prior to starting work hereunder, CONTRACTOR, at CONTRACTOR'S cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance:

- A. **Commercial General Liability.** Contractor shall obtain, at Contractor's expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and the annual aggregate of not less than \$2,000,000. Coverage shall include contractors, subcontractors and anyone directly or indirectly employed by either. This insurance will include personal and Advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on

an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$2,000,000.

- B. **Automobile Liability.** Contract shall obtain, at Contractor's expense and keep in effect during the term of the resulting Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000, and annual aggregate not less than \$2,000,000.
- C. **Additional Insured.** The liability insurance coverage shall include City and its officers and employees as Additional Insured but only with respect to Contractor's activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, Contractor shall furnish a certificate to City from each insurance company providing insurance showing that the City is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.
- D. **Notice of Cancellation or Change.** There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from Contractor or its insurer(s) to City. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

16. WORKMEN'S COMPENSATION

The CONTRACTOR, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

17. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES

Contractor shall make payment promptly, as due, to all persons supplying CONTRACTOR labor or material for the prosecution of the work provided for this contract.

Contractor shall pay all contributions or amounts due the Industrial Accident Fund from CONTRACTOR or any subcontractor incurred in the performance of the contract.

Contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

18. PAYMENT OF MEDICAL CARE

Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONTRACTOR, of all sums which the CONTRACTOR



Exhibit A to Appendix 1 – Specifications

## Exhibit A – Specifications

### 1. GENERAL

- A. SCOPE: The Contractor shall furnish all labor, materials, equipment, transportation, facilities, services, permits, and licenses (including software licenses), as may be necessary to provide for the completion of the work.
- B. INTENT: It is the intent of the City of Warrenton to negotiate a final contract with the Contractor to provide cleaning and internal CCTV inspection of approximately 4.4 miles of 6-inch to 12-inch diameter sanitary sewer mains in accordance with NASSCO PACP standards. Additional sewer mains requiring cleaning and inspection may also be included as determined by the city.
- C. SPECIFIC WORK LOCATIONS: All work is located within the City of Warrenton's service area, primarily in the Pump Shed DA. For planning purposes, the Contractor shall assume the work areas will include easement areas that do not have paved access as well as urban areas with high vehicle traffic. Maps of the gravity mains to be included in the contract are provided in Exhibit D. The maps provided are indicative of the lines and manholes anticipated to be included in this contract; however, sewer assets may be changed at the discretion of the City. An ESRI geodatabase containing the City gravity mains and manholes will be provided to the successful Bidder to be used for scheduling, planning, and tracking purposes. The Contractor shall be responsible for the safe and non-destructive movement of their equipment across roadways, streams, wetlands, yards, and other obstacles, by the use of mats, temporary stream crossings, or other equipment as may be needed. The Contractor shall be responsible for the transportation of its equipment from place to place on appropriate truck/trailer equipment as may be needed.
- D. PERMITS: The Contractor is responsible for obtaining any permits and paying any associated fees or charges required for said permits or licenses that the work may require, in accordance with Federal/State/local regulations. A portion of this work will be located in ODOT right-of-way. The contractor will be required to apply for a permit from ODOT to work in their right-of-way. Exhibit C details what facilities are located in ODOT ROW.
- E. SAFETY: The Contractor shall be fully and solely responsible for the safe work and complete safety compliance of the Contractor's employees and agents, in accordance with all applicable Federal, State, and local laws and regulations as may apply, including, but not limited to OSHA Parts 1910 and 1926. The Contractor shall identify and designate a safety representative to ensure compliance with safe working procedures. These duties shall include but not be limited to: site inspections, incident investigation, employee training, preparation and updating of site-specific safety and health plans, preparation of Job Safety Analysis (JSA), enforcement of safety requirements, and reports as required by OSHA and the City. Upon request, the Contractor shall submit a copy of its safety manual and evidence that they maintain and enforce quality processes and safety standards for all field service work.
- F. CONFINED SPACE: As the Contractor encounters confined spaces, a pre-approved form must be completed and be visibly on-hand affixed to the lifting device. The Contractor must submit the form for review and approval by the City, prior to using it.

## Exhibit A – Specifications

- G. SCHEDULE: Inspection work shall be scheduled based on current weather forecasts. Do not schedule during a storm event or within 24 hours after a storm event. A storm event is defined as having daily rainfall exceeding 0.50” as recorded by the National Weather Service.

The Contractor shall provide the City overall project schedule updates monthly and detailed 2-week look-ahead schedules weekly.

- H. PROGRESS: If the Contractor fails to make acceptable progress, as defined by the City Project Manager, the Owner shall have the right to suspend the work until the Contractor can demonstrate that he or she can produce at an acceptable rate, or terminate the contract. If either of the aforementioned situations occurs, then the Contractor shall not receive any additional compensation other than what work was performed.

- I. NOISE ORDINANCE: The Contractor shall comply with the City of Warrenton noise ordinance which, generally, prohibits construction activities, without prior written approval by the City, between the hours of 6:00 p.m. and 7:00 a.m., seven days per week.

- J. SUBCONTRACTING: No work shall be subcontracted by the Contractor without the prior written authorization of the City of Warrenton.

- K. WORK PRECAUTIONS: The Contractor shall work in a skillful manner and shall exercise extreme caution not to damage any property outside the easement by any means. The Contractor shall be responsible for repair or restoration of any and all damage to property outside the area of work designated by the City, due either to normal work procedures or to the negligence of the Contractor or employees or agents thereof. The City may, in writing, require the Contractor to remove from the project any employee the City deems to be incompetent or careless.

The Contractor shall exercise caution to avoid causing backups or overflow within the collection system. In the event that the Contractor’s equipment becomes stuck in a sewer main or a backup is caused, the contractor shall notify the City immediately at 503-861-0912 and 503-791-2944 and work diligently to return the system to normal operations and repair any damages caused. The Contractor shall be responsible for any fines levied by others, reimbursement of any City incurred costs, damage cleanup, restoration of flow, and any disruption of service costs.

- L. UTILITY DAMAGE: The Contractor shall be responsible for the complete and acceptable repair or replacement of any underground or overhead utilities damaged by its operation under this contract.

- M. PROPERTY CORNERS: The Contractor shall, to the best of his/her ability, protect from harm all property corners that are located within the work areas. Any such corner that may be damaged shall be re-established by Licensed Professional Surveyor.

- N. NOTICE TO PROCEED: No work will commence until such time that a kickoff meeting is held and Contract documents are executed. Liquidated damage charges shall begin to accrue in the amount of \$100 per day if work does not begin within 10 days of the issuance of the “Notice to Proceed”.

## Exhibit A – Specifications

- O. NOTIFICATION: Prior to beginning the work, the Contractor shall provide a one-week advance written notice to all individuals, homeowners, business owners, utilities, and others who may be affected by any aspect of the work. Such notice may be delivered by in person door contact or door knob hanger and shall briefly describe the nature and estimated timetable of the work and shall provide any additional information or instructions that may be desirable or necessary. The notice shall also include language recommending citizens leave their toilet seats down in the improbable event that back pressure from the cleaning causes toilets to bubble. The notice must NOT be distributed more than one week in advance. The notice shall also include the name and telephone number of the Contractor's contact person for further information related to the project. A proposed draft of the written notice in English and Spanish shall be submitted by the Contractor to the City Project Manager for approval prior to the initiation of any work.
- P. MONTHLY PROGRESS MEETINGS: The Contractor's project manager will schedule and attend monthly progress meetings with the City's project manager. These meetings will include reviewing recent submittals, recent QA/QC issues with submittals, look-ahead schedule, project budget, invoicing, site access issues, issues preventing inspections, GIS corrections, etc.
- Q. ACCESS: The Contractor shall not work outside the City's easements or public right-of-ways for any purpose, including access, unless directed by the City. However, should the Contractor wish to enter into a private agreement with any property owner for access or other purposes, that agreement must be in writing and be approved by the City, prior to the Contractor occupying the private lands. The Contractor shall provide a copy of all such agreements to the City.
- R. LOCATING MANHOLES/COVERED MANHOLES: The Contractor shall make a reasonable attempt to locate all manholes. This may involve using probing tools, metal detection equipment, and digging less than 1 foot. The Contractor shall notify the City in the event that a manhole cannot be located or the manhole cannot be opened using a pry bar and sledge hammer. The City will locate the missing manhole or raise and/or repair the manhole and notify the Contractor when it can be used for access or observation.
- S. EQUIPMENT AND MANPOWER: The Contractor shall perform the work with equipment and manpower that will produce the desired results, both specified and those implied by the Contract Documents.
- T. RESTORATION: The Contractor shall restore any areas that may become damaged during the work on this Contract. Restoration shall, as a minimum, consist of leveling out any ruts, holes, or depressions, and applying clean topsoil, seed, fertilizer, and mulch. The restoration should result in leaving the area in as-good or better condition as it was originally found. In all cases, the Contractor shall notify the City Project Manager of any damages and shall repair, rebuild or restore property where directed by the City Project Manager. Damages incurred shall be at the Contractor's expense.
- U. CLEANUP: The Contractor shall keep the work site clean and orderly, free of debris and discarded materials. The contractor shall leave all work areas free of debris or disturbed ground, such as

## Exhibit A – Specifications

ruts, etc. that will inhibit the access of any equipment, or cause water to pond, or be directed in an abnormal way. All clean-up activities must complete before moving to a different work site and commencing further work.

- V. WATER: The Contractor may utilize City fire hydrants for project water needs. The Contractor may choose to utilize City fire hydrants by applying for a fire hydrant meter. The Contractor will not be charged for its use, but is responsible for any damages to the fire hydrant meter.
- W. TRAFFIC CONTROL: The Contractor shall at their own expense, conduct work in such a manner as to maintain traffic along the main roads within the project area. The Contractor shall provide and maintain warning signs and barricades as may be necessary to protect the work and to protect the public in their use of the roadway. In no case will the City be responsible for any failure of the Contractor to provide such warnings and precautions. Should an authorized representative of the Department of Transportation, or the City, inspect the site of work, their suggestions regarding safety precautions must be followed. Submit traffic control plans to the City of Warrenton two weeks in advance of work if traffic control devices or lane closures will be required to complete the work.
- X. DISPOSAL OF SOLID MATERIAL FROM SEWERS: Any materials removed from the sewer as a result of the work shall be disposed of by the Contractor on a daily basis, and in a manner that is satisfactory to the City Project Manager. At no time shall the Contractor discharge solid waste into the sanitary sewer. The City shall provide a disposal site for materials removed from the sewer during the performance of the contract, free of charge. The Contractor shall not be reimbursed for any charges or tipping fees if they choose to dispose of the material at a site other than that provided by the City.
- Y. CITY INSPECTION: City Inspectors shall be authorized to check work in progress and work accomplished by the Contractor. The Inspector shall report to the City Project Manager as to the progress of the work and the manner in which it is performed. The Inspector shall call to the attention of the Contractor any default or failure to fulfill the requirements of the contract and specifications. Such inspections shall not relieve the Contractor from an obligation to perform all of the work strictly in accordance with the requirements of the contract and specifications. Should a dispute arise between the Contractor and an Inspector as to the manner of performing the work or the interpretation of the specifications, the Inspector shall have the authority to suspend the work, until the questions at issue can be referred to, and decided by the City Project Manager.

The Inspector shall perform additional duties as may be directed by the City Project Manager. The Inspector shall not revoke, alter, enlarge, relax, or release any requirements of the specifications, or approved or accept any portion of the work, or issue instructions contrary to the specifications unless so authorized by the City Project Manager. The Inspector shall in no case act as a foreman, or perform other duties for the Contractor, nor interfere with the management of the work by the Contractor. Any instruction which the Inspector may give the Contractor shall in no way be construed as a release of the Contractor from the fulfillment of the terms of the contract, or as binding to the City Project Manager, or to the City in any way.

## Exhibit A – Specifications

- Z. MEASUREMENT AND PAYMENT: Invoices shall be submitted monthly for work accomplished. Each invoice must contain the City project number.

Unit prices remain in effect until the job is complete. Monthly payment to the Contractor shall be made only after all work for that month has been completed to City's satisfaction, and all reports and submittals requested by the specifications or City have been received, including the upload of pipe inspection data into the City's database program. The City uses Granite Net (Advanced and Basic).

Each invoice shall be accompanied by a daily work log for work completed during the invoice period. The daily work log will include the following information for each sewer main inspected:

1. Pipe Segment ID number (Use current city ID #'s)
2. Upstream manhole or structure ID number (Use current city ID #'s)
3. Downstream manhole or structure ID number (Use current city ID #'s)
4. Pipe diameter
5. Pipe segment length
6. Actual linear footage inspected
7. Maximum flow depth as a percent of the pipe diameter
8. Inspection method
9. Date cleaning completed
10. Date inspection completed
11. Date data uploaded to the City's database
12. Comments relevant to invoicing

The measurement for a completed sewer main inspection shall be in linear feet along the horizontal centerline of the existing pipe, from the inside face of the beginning manhole or access structure to the inside face of the ending structure. If the inspection equipment is unable to complete a continuous inspection between two manholes, the measurement will be the distance recorded from the inside face of the beginning manhole or access structure to the end of the inspection. To be considered complete, a sewer main must be cleaned and clear of debris as described in Section 2 – Sewer Main and Manhole Cleaning and internally inspected as described in Section 4 – Sewer Main Inspection. The upstream and downstream manholes must also be cleaned and free of debris. Separate payment will not be made for cleaning and inspection.

Payment for sewer main inspection shall be made at the unit price per linear foot. The unit price shall constitute full compensation for furnishing all materials, labor, and equipment for cleaning and inspection of the existing sanitary sewer pipelines including, but not limited to, location of structures, access, cleaning, inspection, flow control, data management, reporting, and all other incidental work not specifically described in any other item of the specifications.

## Exhibit A – Specifications

### CC. PRE-WORK SUBMITTALS

1. Identification of project field supervisor, emergency contact, safety representative, and equipment operators to be used on the Project and their contact information. Provide at kickoff meeting.
2. Copies of NASSCO PACP Certifications for operators and any person reviewing or coding data proposed on the project. Provide at the kick-off meeting.
3. Sample inspection video and sewer inspection report that is of comparable quality to what will be provided in the deliverable.
4. Catalog and manufacturer's data sheets for inspection equipment. Must be submitted and approved by the City Project Manager prior to the start of work.
5. Initial Overall Project Schedule: Identify in table (MS Excel) format and map format the anticipated week in which each pipe segment will be inspected. Provide prior to the kick-off meeting. The project schedule shall be updated by the Contractor monthly, prior to the Monthly Progress Meeting.
6. Contractor to provide detailed 2-week look-ahead schedules weekly.
7. Submit traffic control plans to the City of Warrenton two weeks in advance of work if traffic control devices or lane closures will be required to complete the work.
8. Bypass Pumping Plan for any sewer reaches requiring bypass pumping. The plan must be provided and approved prior to completing work requiring bypass pumping
9. Emergency Response Plan in the event of Sanitary Sewer Overflows (SSOs). Provide prior to the start of any field work.
10. Confined Space Entry Form is to be provided for approval prior to any manned entry into manholes or other confined spaces.

DD. WEEKLY REPORTS: The Contractor shall provide to the City Project Manager a weekly report concerning all work performed. The weekly report shall be complete and submitted on Friday for work performed the week ending two weeks prior to the report date (i.e. two week lag between field inspection and report). The weekly report shall include the following documentation as described in Paragraph 4G:

1. Summary tables of pipe inspection work
2. Electronic inspection data submitted for the week's work completed. Include all files necessary to view the completed inspection including video and still images. Include individual, printable, inspection reports for each asset (i.e., pipe segment) inspected named

## Exhibit A – Specifications

according to the asset Facility ID. Data may be delivered via an external portable hard drive or cloud-based server.

3. Weekly look-ahead inspection schedules, two weeks in advance of Work.
4. Inventories and maps corrected to reflect actual field conditions and included with weekly submittal. Corrections must be clearly marked on copies of detailed sewer maps.

## Exhibit A – Specifications

### 2. SEWER MAIN AND MANHOLE CLEANING

- A. **GENERAL:** The Contractor shall furnish all labor, materials, equipment, transportation, facilities, services, permits, and licenses, as may be necessary to provide for the completion of the work as described in the Contract Documents. The designated sanitary sewers shall be cleaned of root intrusion, sedimentation, and foreign materials, by the Contractor using hydraulically propelled, high velocity jet, or mechanically powered equipment. The use of chemical root treatments or grease solvents by the Contractor shall not be permitted.

Selection of the equipment used shall be at the option of the Contractor and shall be based on the condition of the pipe at the time work commences. The equipment and methods selected shall be approved by the City Project Manager. The equipment used by the Contractor shall be capable of removing roots, dirt, grease, rocks, sand other materials, and obstructions from the sewer pipe and manholes.

The Contractor shall effectively clean each sanitary sewer for the purpose intended and shall restore sewers to a minimum of 95% of the internal pipe diameter. The Contractor shall also clean the associated upstream and downstream manhole walls, benches, inverts, and inserts of all such debris.

- B. **HYDRAULICALLY PROPELLED EQUIPMENT:** Hydraulically propelled equipment shall be of a movable dam type and shall be constructed in such a way that a portion of the dam may be collapsed at any time during the cleaning operation to protect against flooding of the sewer. The movable dam shall be equal in diameter to the pipe being cleaned and shall provide a flexible scraper around the outer periphery to insure the removal of grease.

The use of sewer cleaning balls or other hydraulically propelled equipment that cannot be collapsed will not be permitted.

- C. **HIGH-VELOCITY JET CLEANING:** High velocity jet cleaning equipment shall be constructed for ease and safety of operation. The equipment shall have a selection of high velocity nozzles as may be necessary to produce a scouring action from 15 to 45 degrees in all size pipes designated to be cleaned.

The equipment shall also include a high-velocity gun for washing and scouring manhole walls and floors. The gun shall be capable of producing flows from a fine spray to a solid stream of sufficient velocity for its intended purpose. The equipment shall carry its own water tank, auxiliary engines, pumps, and hydraulically driven hose reel.

- D. **OBSTRUCTIONS:** Should the Contractor be unsuccessful in the cleaning of an entire sewer reach from one direction, the equipment shall then be reset from the opposite manhole and the cleaning again shall be attempted. If, on this second attempt from the opposite direction, successful cleaning cannot be performed or the equipment fails to traverse the entire sewer reach, it will be assumed that a major blockage exists, and the cleaning effort for that reach shall be abandoned until such time as the sewer reach can be inspected by television. Should these

## Exhibit A – Specifications

conditions be encountered, the Contractor shall notify the City Inspector immediately via telephone and via email to the City Inspector and City Project Manager within 24 hours.

Should television inspection indicate a condition such as a collapsed pipe, or other major blockage that would prevent cleaning from being accomplished without additional damage, the Contractor will not be required to clean that specific reach to the degree specified. Should the television inspection indicate an obstruction that may be removed by cleaning, the Contractor shall again attempt the cleaning of that segment of the line so that the television inspection of the entire manhole reach can be completed.

The Contractor shall exercise caution when removing obstructions so that the existing pipeline is not damaged. Any damage to the sewer system resulting from the Contractor's operations shall be repaired to the satisfaction of the City and at no cost to City. Any damage caused by the Contractor's operations shall be repaired or replaced by City at the Contractor's expense. The city will invoice the Contractor for all associated work that is required.

Prior to cleaning each sewer pipe segment, the Contractor shall inspect the upstream and downstream manholes for the presence of flow monitoring or other instrumentation that may be damaged by cleaning operations. The Contractor shall notify the City Project Manager within 24 hours of identifying conflicting instrumentation for removal by others.

- E. **PRECAUTIONS:** The Contractor shall utilize all necessary precautions in the use of cleaning equipment or tools which retard flow in the sewer lines to ensure that the water pressure created does not damage or flood public or private property being serviced by the sewer. The Contractor's public notification shall include instructions to customers to leave toilet seats down to minimize any sewer blow-out during the sewer line cleaning.

The Contractor shall protect, and save harmless the City from any and all claims, expenses, or damages that may be incurred as a result of such occurrences. The Contractor shall restore at his own expense such property to a condition equal to that which existed before such damages, as directed by the City Project Manager.

- F. **REMOVAL OF MATERIAL:** All sludge, dirt, sand, rocks, grease, and other material resulting from the cleaning operation shall be removed at the downstream manhole of each section to be cleaned. The passing of material from sewer section to sewer section shall not be permitted. All materials removed from the sewer shall be disposed of by the Contractor on a daily basis in a manner that is satisfactory to the City Project Manager. The City shall provide a disposal site for materials removed from the sewer during the performance of the contract, free of charge. Should debris from the sewer cleaning create a blockage downstream, the Contractor shall be responsible for all expenses incurred for the clean-up and any damage caused by the Contractor's operation.
- G. **MANHOLE CLEANING:** The Contractor shall thoroughly clean the walls, bench, and inverts of all manholes that are associated with the pipe reaches being cleaned (upstream and downstream

## Exhibit A – Specifications

manholes). The Contractor shall remove any buildup of material (grease, sediment, mud, etc.) encountered during the work. Manholes shall be cleaned to the bare masonry and concrete.

Exhibit A – Specifications

3. SANITARY SEWER FLOW CONTROL

- A. GENERAL: Prior to proceeding with inspections, the Contractor shall reduce the flow in the sanitary sewers, by plugging, blocking, or bypassing the flow as may be necessary. Flow control methods will be employed where flows exceed the following:

Pipe Diameter (inches)	Depth of Flow (% of Pipe Diameter)
≥6 and <12	10%
≥12	15%

- B. PLUGGING AND BLOCKING: The Contractor may control the sewer flow by plugging or blocking the flow upstream of the sewer reach being worked. The plug shall be so designed that all or any portion of the flow can be released. The plug shall at all times be secured in such a manner that will prevent the plug from entering into the outlet pipe of the manhole being used. Mechanical plugs requiring manned entry into the manhole to release the flow shall not be permitted.
- C. BY-PASS PUMPING: Should flow bypassing be required, the Contractor shall provide the pumps, conduits, and other equipment as may be necessary to divert the flow of sewage around the sewer reach in which work is to be performed. The bypass system shall be of sufficient capacity to manage the flow rates encountered throughout the bypassing operation. The Contractor shall have, on-site, sufficient back-up equipment, hoses, and power supply, equal to or better than the primary equipment, to immediately replace pumping equipment, in the event of a failure. The Contractor shall provide a bypass plan to the City Project Manager for review and approval. The Contractor may provide, to the extent requested by the City Project Manager, proof of having the ability to quickly obtain necessary back-up equipment, as opposed to having it physically located on the project site.
- D. EQUIPMENT BLOCKAGES: Should at any time cleaning or television equipment or flow control devices become lodged within the sewer the Contractor shall take immediate steps to set up a flow bypass system to divert the flow of sewage around the problem area, and the Contractor shall immediately inform the City Inspector of the problem and make immediate plans and take action to remedy the situation at the Contractor's expense. Should the City Project Manager determine that it is necessary, City forces shall remove such an obstruction and repair the sewer at the Contractor's expense.
- E. PRECAUTIONS: The Contractor shall take sufficient precautions to protect the sewer lines from damage that may result from sewer surcharging, and to ensure that sewer flow control operations do not cause flooding or damage to public or private property being served by the sewer lines involved. At such times as the flow in a sewer is plugged, blocked, bypassed or unintentionally obstructed by lodged equipment or devices, the Contractor shall protect, indemnify, and save harmless the City from any and all claims, damages, or expenses that may be incurred and

## Exhibit A – Specifications

resulting from such occurrences. The Contractor shall restore property at his own expense, to a condition similar or equal to that which existed before such damages were committed, by cleaning, repairing, rebuilding, or replacing, as may be required by the City Project Manager.

### 4. SEWER MAIN INSPECTION

- A. GENERAL: The Contractor, upon completion of the successful cleaning and necessary flow control, shall visually inspect and record the conditions of all sanitary sewers as identified herein by means of closed circuit television (CCTV).

If the Contractor feels it is necessary to inspect the pipeline PRIOR to cleaning, this shall be done with no additional compensation from the City. All inspection work shall conform to current NASSCOPACP standards.

- B. REFERENCES: National Association of Sewer Service Companies (NASSCO) Pipeline Assessment and Certification Program (PACP) version 7.

C. EQUIPMENT:

1. CCTV EQUIPMENT: The Contractor shall be capable of television inspection through a single port of access to the pipe line by means of a "tractor-camera", or "push-pull" type video cable. The television equipment utilized by the Contractor for inspection shall be specifically designed and constructed for such inspections. Lighting for the camera shall be suitable to allow a clear and properly contrasted picture of the entire periphery of the pipes to be inspected. The camera shall be operative in 100% humidity conditions. The camera, television monitor, and other components of the video system shall be capable of producing a clear, high quality unobstructed picture for the entire length of the reach, from manhole to manhole including the connections on either end, to the satisfaction of the City Project Manager.

CCTV camera equipment must provide color, digital recording with high resolution video and still images with a resolution of not less than 650 lines. The camera shall have pan and tilt capabilities and a minimum 65-degree view angle with either automatic or remote focus and iris controls. The camera shall have a focal distance adjustable from 6 inches to infinity. The camera shall be mounted on an appropriate transport system, sized for each pipe diameter. The camera must be centered in the pipeline.

- D. INSPECTION: The Contractor shall perform all CCTV inspections in accordance with NASSCO-PACP standards. CCTV inspections will be delivered entirely in electronic format. The entire survey shall be recorded in an approved electronic format. All television inspection reports shall be within +/- two (2) feet of the measured linear footage between manholes along the existing sewer centerline from the start of the pipe to the end of the pipe. All City and PACP required header information must be fully and accurately entered on all CCTV reports. Required fields are provided in the Table 4-1 below. Work not following these specifications may be rejected for payment and the Contractor may be required to re-do the work.

## Exhibit A – Specifications

The Contractor shall provide a PACP certified operator on site at all times during the survey. If video is to be coded separately from the actual recording, both the onsite Operator and the individual performing the PACP coding shall be PACP certified. The Contractor shall provide proof of certification prior to commencement of work, prior to a change in personnel involved in data collection, and as requested by the City.

Traditional CCTV cameras shall be moved through the sewer at a moderate rate, stopping when necessary to permit proper documentation of the sewer's structure and condition. Manual winches, power winches, TV cable, power rewinds or other devices that do not obstruct the camera view or interfere with the proper documentation of the sewer inspection shall be used to move the camera through the sewer. In no case, shall the camera progress at a rate greater than 30 feet per minute.

The direction of inspection shall be from the upstream manhole to the downstream manhole so as to minimize wave action interference in front of the camera. Downstream to upstream inspection will be allowed in cases where obstructions or sewer geometry prevent inspection in the opposite direction. If the inspection is conducted downstream to upstream, the Contractor shall provide justification in the daily work log. ID #'s are to be the same as the ones currently being used by the City.

Table 4-1. Required PACP Header Fields<sup>1</sup>

PACP Version 7.0.3 Field #	Header Field	Field Criteria
1	Surveyed By	PACP Standard
2	Certificate No.	PACP Standard
5	Owner	City of Warrenton
6	Customer	Contractor Name
8	Work Order Number	City Work Order Number
10	Project	City Project Number
11	Inspection Date	PACP Standard
14	Weather	PACP Standard
15	Pre-Cleaning	PACP Standard
16	Date Cleaned	PACP Standard
17	Flow Control	PACP Standard
18	Purpose	PACP Standard
19	Direction	PACP Standard
21	Inspection Status	PACP Standard
24	Drainage Area	Monitor Area from City data
25	Pipe Segment Ref.	Pipe FacilityID
26	Street	PACP Standard

Exhibit A – Specifications

PACP Version 7.0.3 Field #	Header Field	Field Criteria
27	City	Warrenton
28	Location Code	PACP Standard
30	Pipe Use	PACP Standard
31	Height (diameter)	PACP Standard
32	Width	PACP Standard
33	Shape	PACP Standard
34	Material	PACP Standard
35	Lining Method	PACP Standard
38	Total Length	PACP Standard
39	Length Surveyed	PACP Standard
42	Upstream MH	MH FacilityID
43	Upstream MH Rim to Invert	PACP Standard
49	Downstream MH	MH FacilityID
50	Downstream MH Rim to Invert	PACP Standard

1. All ID #'s are to be the same as the ones currently being used by the City.

- F. DEPTH OF FLOW AND SAGS IN SEWER MAIN: Should the depth of flow exceed the limits allowed in Paragraph 3.A at any time during the inspection of a sewer line, the Contractor shall reduce the flow to a depth within the maximum level by plugging, blocking, or bypassing the flow as herein specified. Where sags in reaches create standing water, the cleaning operation shall remove enough water such that an equivalent percentage of the pipe is visible for inspection.
- G. OBSTRUCTIONS: Should the Contractor be unsuccessful in the inspection of an entire sewer reach from one direction, the equipment shall then be reset from the opposite manhole and television inspection shall again be attempted. Should the inspection indicate an obstruction that may be removed by cleaning, the Contractor shall again attempt the cleaning of that segment of the line so that inspection of the entire sewer reach can be completed. Should the inspection indicate a condition such as collapsed pipe or other structural blockages that would prevent the inspection from being completed, and if in the opinion of the City Project Manager, it is necessary to complete an inspection of the entire reach, the City will affect the necessary repairs, and the Contractor shall be required to complete the inspection. If in the opinion of the City Project Manager, it is not necessary or desirable to complete the inspection of an entire reach, or should City forces be unable to affect the necessary repairs, the City will provide a written release of responsibility for the performance of the work by the Contractor for that reach.
- H. DOCUMENTATION: The Contractor shall provide to the City Project Manager a weekly report concerning all work performed the previous week. The weekly report shall be complete and submitted on Friday for work performed the week ending two weeks prior to the report date (i.e.

## Exhibit A – Specifications

two week lag between inspection and report). The weekly report shall include the following components:

1. Summary table of pipe inspection work completed including date of inspection, date of cleaning, sewer main “FacilityID”, work order number, upstream and downstream manhole “FacilityID”, depth of upstream and downstream invert, total and inspected pipe length, pipe material, pipe size, inspection method, direction of inspection, number of active laterals, quick maintenance rating, quick structural rating, quick overall rating, active infiltration (Y/N), and any level 4 or 5 defect observation description and the footage at which observation is located. Provide table in both pdf and MS Excel format.
2. A spreadsheet tracking the cumulative progress of the project. At a minimum the spreadsheet will include populated fields matching the inspection header information listed in Table 4-1 as well as PACP Quick Ratings, number of active laterals, Active I&I (Yes/No), and a description of level 4&5 observations.
3. An document showing the location, material, length, and condition of each existing point repair (i.e., PACP code RP) identified during the pipeline inspection.
4. Inspection report and video for each sewer reach completed. The report shall document all sewer structures such as pipe joints and service laterals, as well as all structural and maintenance defects observed. The report shall reference all structures and defects relative to the pipe's circumference (12-hour clock reference) and shall reference the beginning and ending distance of the observation relative to the centerline of the beginning manhole (distance reference). All distance measurements shall be made in feet and tenths of feet and shall be accurate to within 0.5 feet over the total length of the manhole reach inspected. The information on the conditions of the pipe shall utilize the current rating codes and abbreviations as provided by the NASSCO PACP.

Video files shall have a minimum resolution of 352 x 240 pixels, a minimum interlaced frame rate of 24 frames per second, and provide video image at a 1:1 scale of vertical to horizontal. The file names will be as directed by the City. The video track of the recording for each sewer reach inspected shall include a continuous display of the distance reference in a manner and location that does not obstruct viewing and analysis of the pipes' structure and condition. The replay of the video track of all recorded inspections shall be free of electrical interference and shall provide a clear, stable, properly focused, and contrasted picture. In all cases of structural defects, the video recording shall provide an image for an adequate duration of time to allow for proper viewing and analysis.

Data may be submitted to the City via an external hard drive or secure cloud-based portal.

Exhibit B to Appendix 1 – Unit Prices

Exhibit B - Unit Prices

PROPOSAL FOR FURNISHING  
ALL LABOR, EQUIPMENT, TOOLS, ETC.  
FOR COMPLETE PERFORMANCE OF:

CITY OF WARRENTON  
CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF SEWER COLLECTION SYSTEM  
PUMP SHED "DA"

WARRENTON, OREGON

To The City of Warrenton, Oregon  
c/o Greg Shafer, PE  
Interim Public Works Director  
PO Box 250  
Warrenton, OR 97146

The undersigned Bidder hereby declares that the names of all persons interested in this Bid as principals appear in the blank spaces hereinafter provided for such purpose, that this Bid is in all respects fair and without collusion, that the Bidder has examined the locations of the proposed work, the Request for Bids, the specifications, the Contract Template (with Exhibits A-D), and the drawings therein referred to and fully understands the same and agrees and accepts the terms and conditions thereof, that it is understood that the estimated quantities are approximate only and are given for the purpose of comparing bids upon a uniform basis, and that said estimate shall in no way affect the unit prices for the Work.

The undersigned Bidder hereby agrees to furnish at the Bidder's cost the expense of all the necessary labor, tools, apparatus, machinery, equipment, transportation, and all other things which may be required to fully and properly perform all the terms, covenants, provisions and agreements of the attached Contract.

The undersigned hereby agrees to do said work and furnish said materials as prescribed in the Contract and Specifications, and, according to the plans and requirements of the City Project Manager under said Contract and Specifications, in a first-class manner and to the best of the undersigned's ability at the unit prices listed in the bid.

Exhibit B - Unit Prices

Bid for: CITY OF WARRENTON - CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF SEWER COLLECTION SYSTEM - PUMP SHED "DA"

Bid Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

The prices for the Bid Items shown below are for complete furnishing and installation of items, in accordance with City of Warrenton Standards and Specifications, and this Contract Document and Specifications.

Item	Description	Unit	Quantity	Unit Price	Extended Cost
1	Traffic Control, ODOT ROW Permit & Traffic Control Plans	LS	1		
2	Cleaning & CCTV Inspection 6 - 12 inch diameter sewer main, Outside ODOT right-of-way (see Exhibit C)	LF	14,191		
3	Cleaning & CCTV Inspection 6 - 12 inch diameter sewer main, Entirely within ODOT right-of-way (see Exhibit C)	LF	5,274		
4	Cleaning & CCTV Inspection 6 - 12 inch diameter sewer main, with one manhole within ODOT right-of-way (see Exhibit C)	LF	3,688		
<b>Total</b>					

Written Total: \_\_\_\_\_

Exhibit B - Unit Prices

Any addenda or written clarifications/modifications have been considered and all costs are included.

We agree to diligently perform the Work in accordance with all Contract Documents (Including Exhibits A-D), to complete scheduled work within the period as outlined in the Contract, and to begin work within ten (10) days after receipt of the Notice to Proceed.

Respectfully submitted,

By: \_\_\_\_\_  
Signature of Person, Firm or Corporation

\_\_\_\_\_  
President

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Contact Person

Attest:

\_\_\_\_\_  
Secretary

State of Oregon General Contractor License No. \_\_\_\_\_ (if applicable)

Exhibit C to Appendix 1 – List of Sewer Lines to be Cleaned and Inspected

Exhibit C – List of Sewer Lines to be Cleaned and Inspected

**Table 1 – Sewer Lines to be Inspected**

Sewer ID	Junction		Length (feet) Approximate
	Upstream	Downstream	
DA-100-01_PS-DA	DA-100-01	PS-DA	23
DA-100-03_DA-100-02	DA-100-03	DA-100-02	469
DA-1001-01_DA-100-02	DA-1001-01	DA-100-02	119
DA-110-01_DA-100-03	DA-110-01	DA-100-03	311
DA-131-03_DA-131-01	DA-131-03	DA-131-01	171
DA-140-02_DA-140-01	DA-140-02	DA-140-01	330
DA-140-03_DA-140-02	DA-140-03	DA-140-02	148
DA-140-04_DA-140-03	DA-140-04	DA-140-03	212
DA-1401-01_DA-140-04	DA-1401-01	DA-140-04	53
DA-141-01_DA-140-03	DA-141-01	DA-140-03	97
DA-142-01_DA-142-02	DA-142-01	DA-142-02	281
DA-142-02_DA-1401-04	DA-142-02	DA-1401-04	284
DA-143-01_DA-140-04	DA-143-01	DA-140-04	403
DA-160-02_DA-160-01	DA-160-02	DA-160-01	149
DA-160-03_DA-160-02	DA-160-03	DA-160-02	30
DA-162-01_DA-160-02	DA-162-01	DA-160-02	25
DA-171-02_DA-171-01	DA-171-02	DA-171-01	268
DA-1711-01_DA-171-02	DA-1711-01	DA-171-02	580
DA-1712-01_DA-171-02	DA-1712-01	DA-171-02	320
DA-190-02_DA-190-01	DA-190-02	DA-190-01	134
DA-1921-01_DA-192-01	DA-1921-01	DA-192-01	170
DA-1922-02_DA-1922-01	DA-1922-02	DA-1922-01	521
DA-19221-01_DA-1922-01	DA-19221-01	DA-1922-01	118
DA-19221-01_DA-192-01	DA-19221-01	DA-192-01	289
DA-19222-01_DA-19221-01	DA-19222-01	DA-19221-01	245
DA-200-01_DA-100-01	DA-200-01	DA-100-01	280
DA-200-02_DA-200-01	DA-200-02	DA-200-01	404
DA-200-02_DA-100-01	DA-200-02	DA-100-01	68
DA-300-01_DA-100-02	DA-300-01	DA-100-02	443
DA-300-02_DA-300-01	DA-300-02	DA-300-01	127
DA-300-05_DA-300-04	DA-300-05	DA-300-04	464
DA-300-06_DA-300-05	DA-300-06	DA-300-05	144
DA-300-07_DA-300-06	DA-300-07	DA-300-06	266
DA-300-08_DA-300-07	DA-300-08	DA-300-07	122
DA-310-01_DA-300-02	DA-310-01	DA-300-02	396
DA-330-01_DA-300-06	DA-330-01	DA-300-06	469
DA-330-02_DA-330-01	DA-330-02	DA-330-01	451
DA-330-03_DA-330-02	DA-330-03	DA-330-02	201

Exhibit C – List of Sewer Lines to be Cleaned and Inspected

**Table 1 – Sewer Lines to be Inspected (continued)**

Sewer ID	Junction		Length (feet) Approximate
	Upstream	Downstream	
DA-340-01_DA-300-06	DA-340-01	DA-300-06	150
DA-400-02_DA-400-01	DA-400-02	DA-400-01	450
DA-400-03_DA-400-02	DA-400-03	DA-400-02	406
DA-400-04_DA-400-03	DA-400-04	DA-400-03	257
DA-410-01_DA-400-01	DA-410-01	DA-400-01	160
DA-420-01_DA-400-03	DA-420-01	DA-400-03	241
DA-420-02_DA-420-01	DA-420-02	DA-420-01	331
DA-420-03_DA-420-02	DA-420-03	DA-420-02	225
DA-420-04_DA-420-03	DA-420-04	DA-420-03	398
DA-420-05_DA-420-04	DA-420-05	DA-420-04	136
DA-420-06_DA-420-05	DA-420-06	DA-420-05	141
DA-420-07_DA-420-06	DA-420-07	DA-420-06	190
DA-420-08_DA-420-07	DA-420-08	DA-420-07	190
DA-420-09_DA-420-08	DA-420-09	DA-420-08	87
DA-421-01_DA-420-02	DA-421-01	DA-420-02	201
DN-110-01_DN-100-01	DN-110-01	DN-100-01	531
DN-110-02_DN-110-01	DN-110-02	DN-110-01	234
DN-111-01_DN-110-01	DN-111-01	DN-110-01	134
DN-112-01_DN-110-02	DN-112-01	DN-110-02	144
Total Length			14,191

Exhibit C – List of Sewer Lines to be Cleaned and Inspected

**Table 2 – Sewer Lines to be Inspected**  
**Both Manholes are Located on Fort Stevens Highway (ODOT ROW)**

Sewer ID	Junction		Length (feet) Approximate
	Upstream	Downstream	
DA-100-05_DA-100-04	DA-100-05	DA-100-04	465
DA-100-06_DA-100-05	DA-100-06	DA-100-05	391
DA-100-07_DA-100-06	DA-100-07	DA-100-06	294
DA-100-08_DA-100-07	DA-100-08	DA-100-07	300
DA-100-09_DA-100-08	DA-100-09	DA-100-08	266
DA-100-10_DA-100-09	DA-100-10	DA-100-09	263
DA-100-11_DA-100-10	DA-100-11	DA-100-10	250
DA-100-12_DA-100-11	DA-100-12	DA-100-11	337
DA-100-13_DA-100-12	DA-100-13	DA-100-12	254
DA-100-14_DA-100-13	DA-100-14	DA-100-13	394
DA-100-15_DA-100-14	DA-100-15	DA-100-14	264
DA-100-16_DA-100-15	DA-100-16	DA-100-15	155
DA-100-17_DA-100-16	DA-100-17	DA-100-16	350
DA-100-18_DA-100-17	DA-100-18	DA-100-17	326
DA-1003-01_DA-100-18	DA-1003-01	DA-100-18	187
DA-120-01_DA-100-04	DA-120-01	DA-100-04	400
DA-320-01_DA-300-03	DA-320-01	DA-300-03	378
Total Length			5,274

Exhibit C – List of Sewer Lines to be Cleaned and Inspected

**Table 3 – Sewer Lines to be Inspected  
One Manhole Located on Fort Stevens Highway (ODOT ROW)**

Sewer ID	Junction		Length (feet) Approximate
	Upstream	Downstream	
DA-100-04_DA-100-03	DA-100-04	DA-100-03	274
DA-130-01_DA-100-05	DA-130-01	DA-100-05	160
DA-131-01_DA-100-05	DA-131-01	DA-100-05	149
DA-140-01_DA-100-06	DA-140-01	DA-100-06	374
DA-150-01_DA-100-07	DA-150-01	DA-100-07	157
DA-151-01_DA-100-07	DA-151-01	DA-100-07	256
DA-160-01_DA-100-08	DA-160-01	DA-100-08	224
DA-170-01_DA-100-10	DA-170-01	DA-100-10	164
DA-171-01_DA-100-10	DA-171-01	DA-100-10	125
DA-180-01_DA-100-11	DA-180-01	DA-100-11	247
DA-181-01_DA-100-11	DA-181-01	DA-100-11	202
DA-190-01_DA-100-13	DA-190-01	DA-100-13	205
DA-191-01_DA-100-14	DA-191-01	DA-100-14	270
DA-192-01_DA-100-15	DA-192-01	DA-100-15	432
DA-300-03_DA-300-02	DA-300-03	DA-300-02	153
DA-300-04_DA-30-03	DA-300-04	DA-30-03	129
DA-400-01_DA-100-08	DA-400-01	DA-100-08	167
Total Length			3,688

Exhibit C – List of Sewer Lines to be Cleaned and Inspected

**Table 4 - List of Manholes**

DA-100-01	DA-100-13	DA-140-04	DA-1712-01	DA-300-06	DA-420-01
DA-100-02	DA-100-14	DA-141-01	DA-181-01	DA-300-07	DA-420-02
DA-100-03	DA-100-15	DA-142-01	DA-190-01	DA-300-08	DA-420-03
DA-100-04	DA-100-16	DA-142-02	DA-192-01	DA-310-01	DA-420-04
DA-100-05	DA-100-17	DA-143-01	DA-1922-01	DA-320-01	DA-420-05
DA-100-06	DA-100-18	DA-151-01	DA-200-01	DA-330-01	DA-420-06
DA-100-07	DA-110-01	DA-160-01	DA-200-02	DA-330-02	DA-420-07
DA-100-08	DA-120-01	DA-160-02	DA-300-01	DA-400-01	DA-420-08
DA-100-09	DA-131-01	DA-160-03	DA-300-02	DA-400-02	DN-110-01
DA-100-10	DA-140-01	DA-171-01	DA-300-03	DA-400-03	DN-110-02
DA-100-11	DA-140-02	DA-171-02	DA-300-04	DA-400-04	
DA-100-12	DA-140-03	DA-1711-01	DA-300-05	DA-410-01	

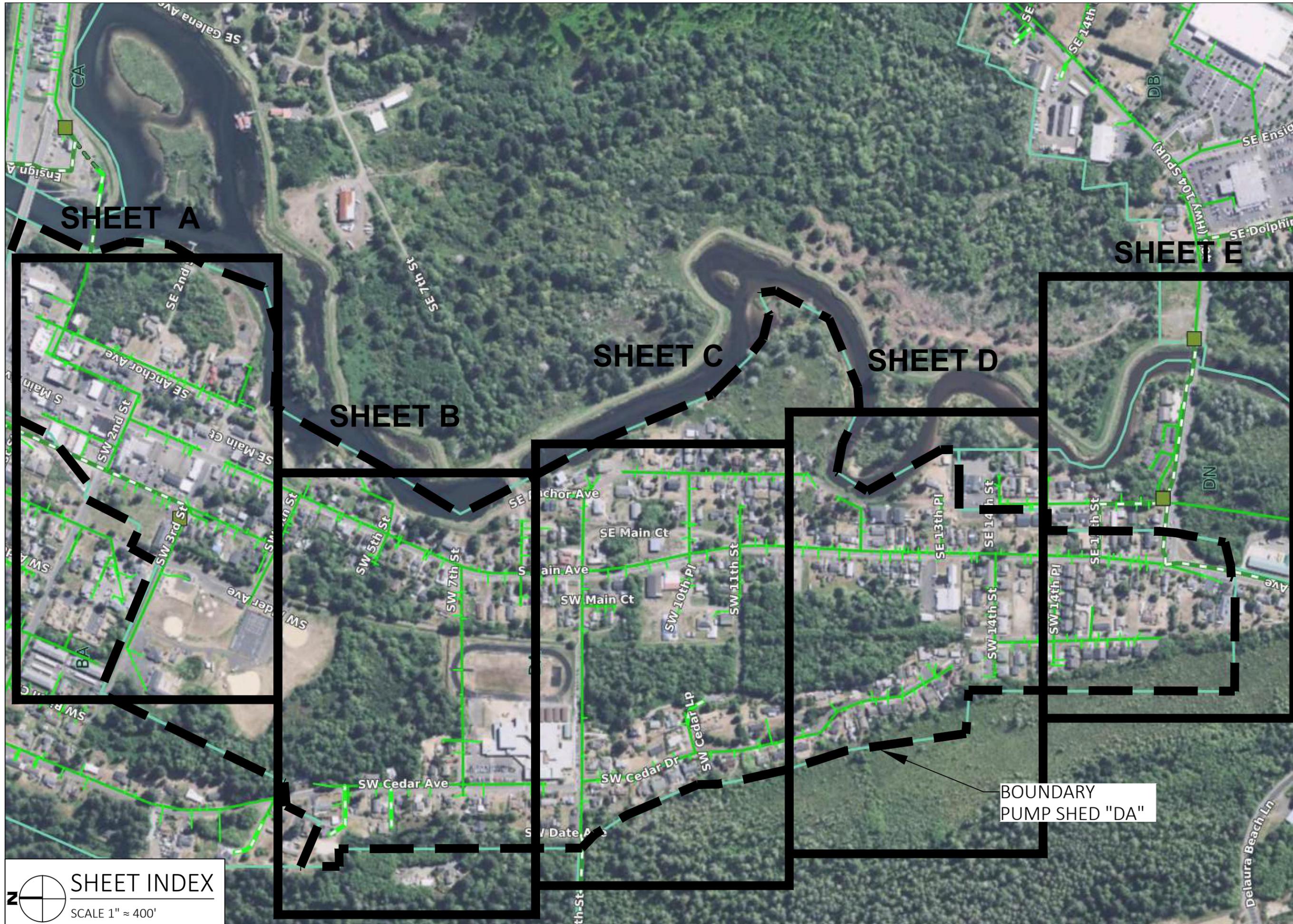
Exhibit D to Appendix 1 – Project Drawings



EXHIBIT D

CITY OF WARRENTON  
CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF  
SEWER COLLECTION SYSTEM - PUMP SHED "DA"

INDEX  
SHEET



**SHEET INDEX**

SCALE 1" ≈ 400'





CITY OF WARRENTON  
CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF  
SEWER COLLECTION SYSTEM - PUMP SHED "DA"  
EXHIBIT D





CITY OF WARRENTON  
CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF  
SEWER COLLECTION SYSTEM - PUMP SHED "DA"  
EXHIBIT D



 SHEET B  
SCALE 1" ≈ 130'

SHEET  
B



CITY OF WARRENTON  
CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF  
SEWER COLLECTION SYSTEM - PUMP SHED "DA"  
EXHIBIT D

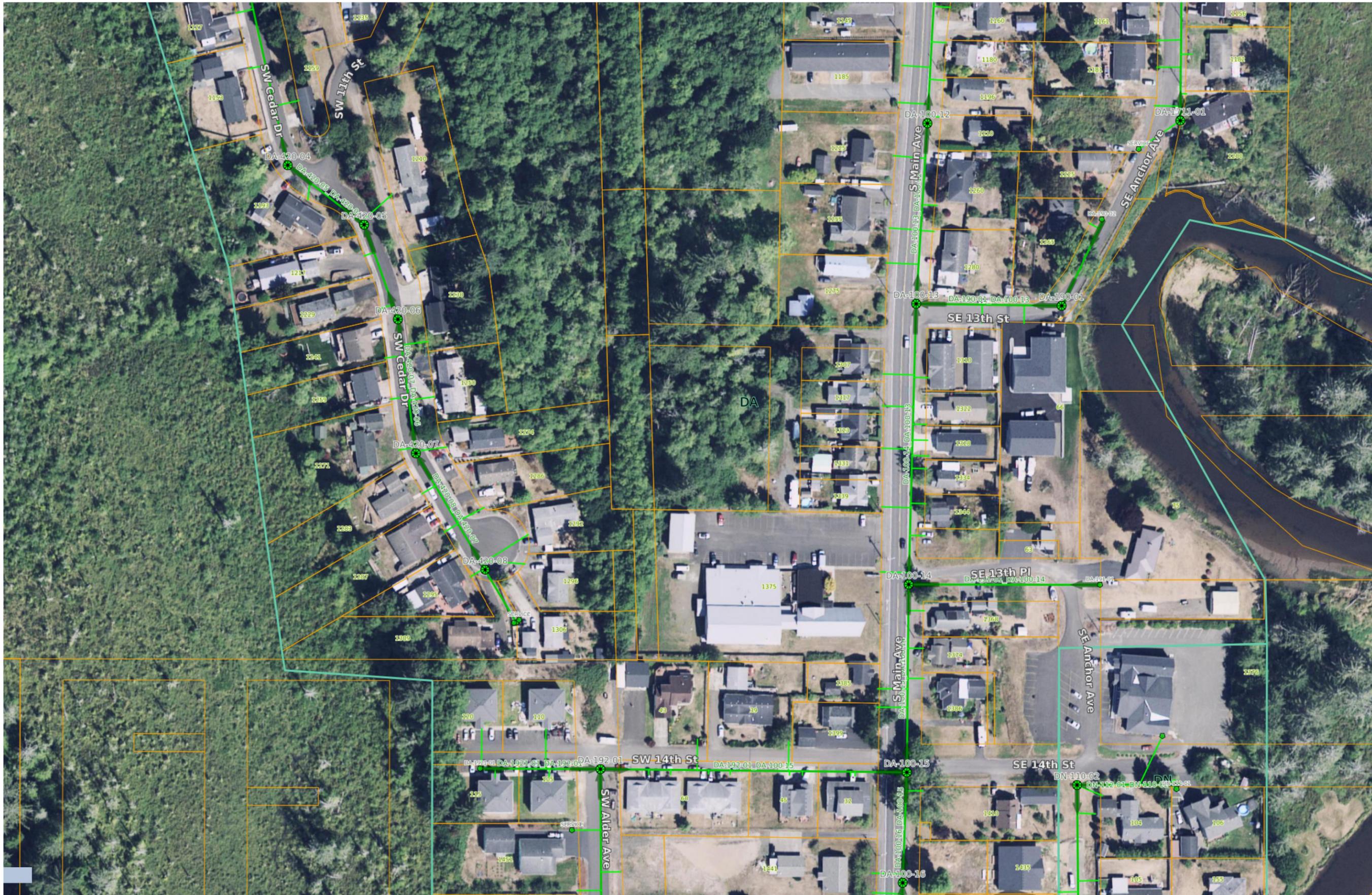


 SHEET C  
SCALE 1" ≈ 130'

SHEET  
C



CITY OF WARRENTON  
CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF  
SEWER COLLECTION SYSTEM - PUMP SHED "DA"  
EXHIBIT D



 SHEET D  
SCALE 1" ≈ 130'

SHEET  
D



**CITY OF WARRENTON**  
**CLOSED CIRCUIT TELEVISION (CCTV) VIDEO INSPECTION OF**  
**SEWER COLLECTION SYSTEM - PUMP SHED "DA"**

EXHIBIT D

**SHEET E**  
 SCALE 1" ≈ 130'

**SHEET E**



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
 FROM: Greg Shafer, Public Works Director  
 DATE: September 12, 2023  
 SUBJ: E Harbor & Heron Force Main Replacement – Advertise for Bids

### SUMMARY

The City recently replaced the pumps and motors at the E Harbor & Heron Pump Station, as the existing pumps and motors had been in service for many years and were expired. The force main project will replace some 362 LF of existing 4" PVC with 6" HDPE, and will increase the service capacity of the pump station and force main system. This is a maintenance (not CIP) project, and installation is expected to be completed within a week's time. The majority of this force main is located in ODOT right-of-way and will require permit coordination with ODOT.

### RECOMMENDATION/SUGGESTED MOTION

*"I move to approve advertising the request for bids of the E Harbor & Heron Force Main Replacement Project".*

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission.
- 2) None recommended.

### FISCAL IMPACT

The project will be funded from the approved 2023-2024 Budget, sewer maintenance funds.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



CITY OF WARRENTON

EAST HARBOR AND HERON  
FORCE MAIN PROJECT

August 2023



CITY OF WARRENTON  
EAST HARBOR AND HERON FORCE MAIN PROJECT  
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## **REQUEST FOR QUOTES**

### **EAST HARBOR AND HERON FORCE MAIN PROJECT**

The City of Warrenton is seeking quotes for the replacement of an existing sanitary sewer force main within the East Harbor right-of-way, also named Hwy 105. Below is an overview of the main project components that the Contractor is expected to provide:

#### **PROJECT DESCRIPTION**

The project includes making connections to existing manhole and force main, replacing a 4" PVC pipe with a 6" HDPE - SDR 11, and visually monitoring the crossing during construction to prevent damage to existing utilities and the new force main. Contractor shall potholing utility connection and crossing locations, promptly notifying the city if they encounter conflicts with existing utilities or if there is insufficient vertical clearance at the crossing with the new sewer force main.

The contractor must obtain an ODOT right of way permit before commencing construction. The contractor is responsible for saw cutting, removing, and patching existing asphalt according to ODOT standards, with repairs extending to the fog line or centerline, depending on impacts to asphalt. Any impact on asphalt beyond the existing fog line will require the contractor to patch to the existing centerline.

The following is a brief summary of the major elements of Work that are to be provided by the Contractor:

- Traffic Control
- Potholing
- Replace force main (Pipe Bursting/Boring)
- Demolition
- Trench Excavation
- Asphalt Paving

Attached to this email are the contract documents, including construction drawings. Quotes must be submitted to Greg Shafer, Public Works Director at [gshafer@ci.warrenton.or.us](mailto:gshafer@ci.warrenton.or.us) (confirmation of receipt is required) or hand-delivered to 225 S Main Ave. Warrenton, OR 97146, no later than 2:00 PM local time on September 26, 2023.

Substantial Completion shall be **November 1, 2023, and Project Final Completion shall be November 15, 2023.**

No pre-bid meeting will be held. You are welcome to contact Collin Stelzig to discuss the project at (503) 440-2286 or [richard.stelzig.engineering@gmail.com](mailto:richard.stelzig.engineering@gmail.com)

Statements made by a CITY OF WARRENTON representative are not binding on CITY OF WARRENTON unless confirmed by written addendum.

Any bids received after the above specified time will not be considered. The carrier, including the United States Postal Service, is considered an agent of the bidder.

For any project-related inquiries during the bid period, please direct your questions to Collin Stelzig, P.E., either by phone at 503-440-2286 or by email at [richard.stelzig.engineering@gmail.com](mailto:richard.stelzig.engineering@gmail.com)

If the total bid exceeds \$50,000.00, the contract will be subject to Prevailing Wage Statute ORS 279C.800 to 279C.870. The contract is NOT subject to federal prevailing wage rates under the Davis-Bacon Act (40 U.S.C. 3141 et seq).

Prior to submission of its bid, bidder shall be registered with the Oregon Construction Contractor's Board as required by ORS 701.055, and thereafter comply with the requirements of ORS 701.035 to 701.055.

Bidders shall be qualified in accordance with the applicable parts of ORS 279C in order to submit a bid for public works in Oregon.

## BIDDER'S CHECKLIST

### FORMS TO EXECUTE FOR SUBMISSION OF BID

The Bidder's attention is especially called to the following forms which must be executed in full before bid is submitted:

- (a) Bid Form: The Bid Form is to be filled in and signed by the bidder and returned with bid.
- ~~(b) Bond Accompanying Bid: All bids shall be accompanied by a guarantee equal to at least five percent (5%) of the bid amount. This guarantee may be in the form of a **bond, certified check or cashier's check**. Bid bonds will be accompanied by a power of attorney bearing the same date as the bond.~~
- (c) Certification of Nondiscrimination: This form must be signed and submitted with bid.
- ~~(d) If applicable, First-Tier Subcontractor disclosure form, within 2 hours of bid closing.~~
- ~~(e) Pre-qualification application received at Engineering Division Office at least 7 calendar days prior to bid opening.~~

Facsimile transmissions of bids, bid security or subcontractor disclosure forms will not be accepted.

### FORMS TO EXECUTE AFTER AWARD OF BID

- (a) Contract: The agreement provided in these Solicitation Documents is to be executed by the successful bidder within 14 calendar days of award of the contract.
- (b) Insurance must comply with the General Conditions and Special Provisions of the Contract Documents. Proof of such insurance and additional insured certificate must be delivered to the Agency at the same time the contract is signed.
- (c) The contractor shall furnish a performance bond and a payment bond each in an amount equal to one hundred percent (100%) of the contract price as security for the faithful performance of this contract and for the protection of claimants under ORS 279C.600.

**BID FORM**

The undersigned, having full knowledge of the quality and quantity of work and material required, hereby proposes to furnish all labor, material and equipment required to complete the work of:

**E HARBOR AND HERON FORCE MAIN PROJ.**

in accordance with the ODOT/APWA 2018 Oregon Standard Specifications for Construction and the Special Provisions, Plans and Specifications hereto, and at the following Bid Schedule prices by the following completion dates:

- Substantial Completion – November 1, 2023
- Final Completion – November 15, 2023

Enclosed herewith is a bid surety deposit in the amount of at least five percent (5%) of the bid.

The undersigned bidder hereby represents as follows: That this bid is made without connections with any person, firm or corporation making a bid for same, and is in all respects fair and without collusion or fraud.

Contractor agrees comply with ORS 279C.838 or ORS 279C.840 or 40 USC3141, et seq, if the contract is subject to state or federal prevailing wage laws.

The undersigned is \_\_\_\_YES \_\_\_\_NO a resident bidder, as defined in ORS 279A.120. (PLEASE CHECK ONE)

Oregon Construction Contractor Board No. \_\_\_\_\_.

The bidder acknowledges receiving and incorporating changes described in Addenda NO. \_\_\_\_\_ through \_\_\_\_\_.

**Complete in black ink or by typewriter.** If BIDDER is:

**An Individual**

Signature \_\_\_\_\_

(Individual's Name, Typed or Printed) \_\_\_\_\_

doing business as \_\_\_\_\_

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

Phone No. \_\_\_\_\_

**A Partnership**

Firm Name \_\_\_\_\_

Signature \_\_\_\_\_

(Name of Partner, Typed or Printed) \_\_\_\_\_

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

Phone No. \_\_\_\_\_

**A Limited Liability Company (LLC)**

LLC Name \_\_\_\_\_

By \_\_\_\_\_  
(Signature of general partner – attach evidence of authority to sign)

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

Business Address \_\_\_\_\_

State in which company was formed \_\_\_\_\_

Phone No. \_\_\_\_\_

**A Corporation**

Corporation Name \_\_\_\_\_

Signature \_\_\_\_\_

\_\_\_\_\_  
(Officer's Name, Typed or Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(State of Incorporation)

Attest \_\_\_\_\_  
(Secretary's Signature)

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

Phone No. \_\_\_\_\_

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

**BID SCHEDULE  
E HARBOR AND HERON FORCE MAIN PROJ.**

Bid Item No.	Description	Quantity	Unit	Unit Price	Bid Amount
1	Mobilization/Demobilization, includes Insurance and Bonding	1	LS		
2	Temporary Work Zone Traffic Control, Complete (ODOT and City ROW Permits)	1	LS		
3	Erosion and Sediment Control	1	LS		
4	Pothole all Utility crossings and connection locations	1	LS		
5	Bypass piping and/or trucking	1	LS		
6	Replace existing 4" PVC forcemain with 6" HDPE	1	LS		
7	Monitor utility crossing at vertical bend #1				
8	Connection to existing MH #5	1	LS		
9	Connection to existing forcemain at P.S. #2	1	LS		
10	Repair Asphalt to Centerline @ vertical bend #1	1	LS		
11	Repair Asphalt to Centerline @ MH #5	1	LS		
12	Repair Asphalt to Centerline @ P.S. #2	1	LS		

**Total Bid Amount**

## Section 00190 – Measurement of Pay Quantities

### 00190.00 Scope

Section 00190.00 is supplemented with the following:

Measurement and payment for all Work shown or specified herein will be made on a unit or lump sum price basis in accordance with the prices set forth in the Bid Schedule for individual items of Work. Contractor shall make a careful assessment when preparing the Bid.

The items listed below refer to and are the same pay items listed in the Bid Schedule. They constitute all of the pay items for the completion of the Work. No direct or separate payment will be made for providing miscellaneous temporary or accessory services or all other items not specifically named in specific bid item description and needed for the prosecution of the Work, and all other requirements of the Contract Documents. Compensation for all such services, things and materials shall be included in the prices stipulated for the lump sum and unit price pay items listed herein.

The prices stated in the Bid Schedule include overhead and profit and all costs and expenses for bonds, insurance, taxes, labor, equipment, materials, commissions, transportation charges and expenses, patent fees and royalties, labor for handling materials during inspection, together with any and all other costs and expenses for performing and completing the Work, complete and in place, as shown on the Plans and specified herein. The basis of payment for an item at the lump sum or unit price shown in the Bid Schedule shall be in accordance with the description of that item in this Section.

Items listed as ALLOWANCES in the Bid Schedule, if any, are to be used and will be paid for only at the written direction and authorization of the Engineer, if agreed to by the Agency. Measurements and payment will be in accordance with the Contract Documents or the terms of the written authorization for the additional Work and will include but not necessarily be limited to, the furnishing, hauling, placing and installing of materials and the furnishing of such manpower and equipment as required to accomplish the Work as directed in writing by the Engineer.

Description of Bid Items on Bid Schedule:

1. Mobilization (Lump Sum Payment): The unit price payment for this item includes: furnishing all necessary materials, equipment, labor and incidentals and performing all Work to obtain permits and licenses; move equipment and materials onto the site; furnish construction trailers and other construction facilities; prepare the site for Work under Contract; marshal workers, materials and equipment, and those of subcontractors to accomplish Work under Contract; prepare, submit and modify as appropriate to address review comments for material submittals and shop drawings, as-built drawings showing field changes to the original design and other submittals; remove equipment and extra materials from site upon completion of Work and all other Work not identified in a separate bid item. Preserve and protect NGS survey monument and provide pre and post construction monument certification.
2. Temporary Work Zone Traffic Control, Complete (Lump Sum Payment): The unit price payment for this item includes: furnishing all necessary materials, equipment, labor and incidentals and performing all Work to provide ODOT

approved temporary traffic control measures (TCM) plan, Traffic Control Supervisor (TCS), Flaggers, and furnishing, installing, moving, operating, maintaining, inspecting, and removing traffic control devices (TCD) throughout the Project area according to the Supplemental Drawings, the traffic control plan (TCP) for the Project, these Specifications, or as directed. Payment will be made on a prorated monthly basis based on the percent of the original Contract Amount that is earned from other Contract items.

3. Erosion Control (Lump Sum Payment): The unit price payment for this item includes: furnishing all necessary materials, equipment, labor and incidentals and performing all Work to implement and maintain structural and non-structural Best Management Practices (BMP) for the purpose of controlling soil erosion by wind or water and keeping eroded sediments and other construction-generated pollutants from moving off project sites. Minimum requirements for all project construction sites and conditions are described in the accompanying drawings. Additional or revised erosion and sediment control features, not shown, may be required depending on the Contractor's methods of operation and schedule and are included in this bid item. Payment shall include an erosion and control inspector with acceptable certification, training or qualified experience to implement, monitor and report on the erosion control measures in accordance with the accompanying drawings. Payment will be made on a prorated monthly basis based on the percent of the original Contract Amount that is earned from other Contract items.
4. Pothole all Utility crossings and connection locations (Lump Sum Payment): The unit price payment for this item includes the cost of performing all necessary potholing activities for identifying and verifying the location and depth of underground utilities that intersect the project area. The potholing process involves using non-destructive excavation techniques such as vacuum excavation, hand digging or other similar methods to safely expose and verify the location of underground utilities without damaging them.

The contractor shall pothole all utility crossings and connection locations within the limits of the project and within a reasonable distance from the limits of the project, as required. The contractor shall coordinate with the utility companies or their representatives to schedule the potholing activities to minimize any disruptions to utility services.

Once the utilities have been exposed, the contractor shall accurately document and record the location and depth of each utility crossing or connection location. The contractor shall submit this information to the city and utility companies for their records and use during the construction process.

Potholing activities shall comply with all applicable safety and environmental regulations, and the contractor shall take all necessary precautions to ensure the safety of workers and the public during the potholing activities.

5. Bypass piping and/or trucking (Lump Sum Payment): The unit price payment for this item includes the provision of all necessary equipment, labor, materials, and services required for the installation and operation of a temporary bypass system during the replacement of the existing sanitary sewer force main. The system may

consist of bypass piping or trucking of sewage, as determined by the contractor in consultation with the city and ODOT.

The contractor will be responsible for coordinating with the city and ODOT to ensure that the bypass system is installed and operated in a manner that meets all regulatory requirements and does not cause any disruptions to traffic or the surrounding community. The bypass system must be designed and operated to provide continuous and uninterrupted service to the gravity system, ensuring that no customers lose sewer service during the construction period.

The contractor will also be responsible for coordinating with local businesses and residents impacted by the construction activities. This includes providing advance notice of any anticipated disruptions and working with business owners to minimize the impact of the construction on their operations. All work must be completed in accordance with applicable laws, regulations, and industry best practices, and must meet or exceed all project specifications and requirements.

6. Replace existing 4" PVC forcemain with 6" HDPE (Lump Sum Payment): The unit price payment for this item includes the complete replacement of the existing 4" PVC sanitary sewer force main with a new 6" HDPE pipe. The replacement pipe must have a minimum SDR rating of 11 to ensure structural integrity and durability.

The existing PVC forcemain spans approximately 350 feet in length, mostly within the right-of-way (ROW) of the Department of Transportation (ODOT). As such, the contractor will be responsible for obtaining the necessary permits from ODOT for the project.

While pipe bursting is recommended for this replacement, it is not mandatory. The chosen method for replacing the forcemain will be at the discretion of the contractor. However, abandoned pipes within the ODOT ROW must be thoroughly cleared of any materials, plugged with Controlled Density Fill (CDF) material for a minimum length of 2'.

Additionally, all backfill activities within the ODOT ROW shall utilize Class B material, specifically 3/4"-0" in size, to ensure proper compaction and stability.

Throughout the excavation and replacement process, any landscaped areas that are disturbed must be promptly restored. This restoration includes reseeding with native grass to ensure the visual integrity of the surroundings.

It is the contractor's responsibility to remove all excess materials from the worksite, and the ownership of said materials will be transferred to the contractor.

The lump sum payment for this bid item encompasses the comprehensive scope of work described above, encompassing the replacement of the 4" PVC forcemain with the 6" HDPE pipe, in adherence to ODOT regulations and specifications.

7. Monitor utility crossing at vertical bend #1 (Lump Sum Payment): The unit price payment for this item includes the necessary activities to ensure the safe

replacement of the existing 4" PVC forcemain with a 6" HDPE pipe while considering the presence of an unknown clearance between the forcemain and an existing storm pipe. The contractor is responsible for executing the following tasks:

**Material Removal:** The contractor shall saw cut and remove all material covering the connection between the existing forcemain and the storm pipe at vertical bend #1. This will provide access for visual inspection during the replacement process. Care must be taken to prevent any damage to the storm pipe.

**Visual Inspection:** The contractor must visually inspect the crossing at vertical bend #1 while conducting the pipe bursting operation. This inspection aims to verify that the existing storm pipe remains undamaged during the replacement process. Any potential issues or damage discovered during the inspection should be promptly reported to the project city or designated representative.

**Backfilling:** After completing the inspection and ensuring the integrity of the storm pipe, the contractor shall backfill, restore pavement and pavement markings at the monitoring location as per the standards and requirements set forth by the Oregon Department of Transportation (ODOT). The backfilling process must be carried out meticulously, ensuring proper compaction and adherence to ODOT specifications.

8. **Connection to existing MH #5 (Lump Sum Payment):** The unit price payment for this item includes the removal of the existing 4" PVC force main connection and the installation of the new 6" HDPE force main at the same location. This involves carefully removing a small portion of the concrete manhole wall and base to allow for new connection with a watertight seal and Non-shrink grout.

This work includes backfilling the excavated area using class B material of 3/4"-0" size. The pavement and pavement markings will be restored to its original condition, following the standards and requirements set by the Oregon Department of Transportation (ODOT). This includes applying the appropriate materials and techniques to achieve a smooth and seamless transition between the restored pavement and the surrounding area.

9. **Connection to existing forcemain at P.S. #2 (Lump Sum Payment):** The unit price payment for this item includes the following required tasks and deliverables:
  - a. **Saw cutting existing asphalt:** The contractor is responsible for accurately saw cutting the existing asphalt surface at the designated work area to prepare for excavation.
  - b. **Asphalt removal:** The contractor will remove the asphalt within the work area to expose the ground for excavation.
  - c. **Excavation:** The contractor will excavate the area to remove the existing 4" PVC force main, ensuring careful handling to avoid damage to nearby utilities or structures.

- d. Replacement of existing 4" PVC force main: A portion of the existing 4" PVC force main will be replaced with 6" PVC-C900 pipe as specified. Installation of couplers, pipe bends, and other apparatuses: This work includes all necessary couplers, bends, and other required components to establish a secure and reliable connection.

Any sections of the 4" PVC force main left within the ODOT right-of-way (ROW) must be appropriately capped using a minimum of 2' of compacted fill (CDF) material.

- e. Backfilling: The contractor shall backfill the excavated area using class B material of 3/4"-0" size, ensuring proper compaction and stability of the surrounding ground.
  - f. Restoration of pavement: The contractor is responsible for restoring the pavement and pavement markings in accordance with the standards and requirements set forth by the Oregon Department of Transportation (ODOT). The pavement restoration should ensure compliance with ODOT guidelines for a safe and smooth passage of vehicular traffic.
- 10. Repair Asphalt to Centerline @ vertical bend #1 (Lump Sum Payment): This is an allowance item that will be used, in addition to bid item #7, if asphalt is impacted beyond the existing fog line. The unit price payment for this item includes sawcutting and removing asphalt and replacing the asphalt with 4- 2-inch lifts of class C asphalt over a suitable base rock or CDF and replacement of pavement markings. The contractor is responsible for restoring the pavement in accordance with the standards and requirements set forth by the Oregon Department of Transportation (ODOT). The pavement restoration should ensure compliance with ODOT guidelines for a safe and smooth passage of vehicular traffic.
  - 11. Repair Asphalt to Centerline @ MH #5 (Lump Sum Payment): This is an allowance item that will be used, in addition to bid item #8, if asphalt is impacted beyond the existing fog line. The unit price payment for this item includes sawcutting and removing asphalt and replacing the asphalt with 4- 2-inch lifts of class C asphalt over a suitable base rock or CDF and replacement of pavement markings. The contractor is responsible for restoring the pavement in accordance with the standards and requirements set forth by the Oregon Department of Transportation (ODOT). The pavement restoration should ensure compliance with ODOT guidelines for a safe and smooth passage of vehicular traffic.
  - 12. Repair Asphalt to Centerline @ P.S. #2 (Lump Sum Payment): This is an allowance item that will be used, in addition to bid item #9, if asphalt is impacted beyond the existing fog line. The unit price payment for this item includes sawcutting and removing asphalt and replacing the asphalt with 4- 2-inch lifts of class C asphalt over a suitable base rock or CDF. and replacement of pavement markings The contractor is responsible for restoring the pavement in accordance with the standards and requirements set forth by the Oregon Department of Transportation (ODOT). The pavement restoration should ensure compliance with ODOT guidelines for a safe and smooth passage of vehicular traffic.

**CERTIFICATION OF NONDISCRIMINATION**

Pursuant to the requirements of ORS 279A.110, I certify that I have not discriminated and will not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a minority, woman or emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
BIDDER

**NOTE: THIS STATEMENT MUST BE RETURNED WITH THE BID**

DRAFT

**FIRST TIER SUBCONTRACTOR'S DISCLOSURE FORM**

PROJECT NAME: E HARBOR AND HERON FORCE MAIN PROJ.

BID CLOSING: \_\_\_\_\_ DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

This form must be submitted at the location specified in the Call For Bids on the advertised bid closing date and within two working hours after the advertised bid closing time.

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

(ATTACH ADDITIONAL SHEETS IF NEEDED.)

Name	Dollar Value	Category of Work
1) _____	\$ _____	_____
2) _____	\$ _____	_____
3) _____	\$ _____	_____
4) _____	\$ _____	_____

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

Form Submitted by (Bidder Name): \_\_\_\_\_

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

Phone no.: \_\_\_\_\_

**BID BOND  
FOR  
E HARBOR AND HERON FORCE MAIN PROJ.  
FOR  
THE CITY OF WARRENTON**

KNOW ALL PEOPLE BY THESE PRESENTS:

That we, \_\_\_\_\_, hereinafter called  
\_\_\_\_\_  
(Name of Contractor)

the PRINCIPAL, as Principal, and \_\_\_\_\_,  
\_\_\_\_\_  
(Name of Surety)

a corporation and existing under and by virtue of the laws of the State of \_\_\_\_\_  
and authorized to transact a surety business in the State of Oregon, hereinafter called the SURETY, as  
Surety, are held and firmly bound unto the City of Warrenton, a Municipal Corporation of the State of  
Oregon, hereinafter called the OBLIGEE, in the penal sum of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the  
payment of which sum well and truly to be made, the said PRINCIPAL and the said SURETY bind  
ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by  
these presents.

THE CONDITION OF THE ABOVE OBLIGATIONS IS SUCH THAT:

WHEREAS the PRINCIPAL has submitted a Bid Proposal for the E HARBOR AND HERON FORCE MAIN  
PROJ. PROJECT

NOW, THEREFORE, if the Bid Proposal submitted by the PRINCIPAL is accepted, and the Contract  
awarded to the PRINCIPAL, and if the PRINCIPAL shall execute the proposed Agreement and shall furnish  
such Performance and Payment Bonds as required by the Contract Documents within the time fixed by the  
Documents, then this obligation shall be void; if the PRINCIPAL shall fail to execute the proposed  
Agreement and furnish the bonds, the SURETY hereby agrees to pay the OBLIGEE the penal sum as  
liquidated damages, within ten (10) days of such failure.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CONTRACTOR AS PRINCIPAL: \_\_\_\_\_ SURETY:

\_\_\_\_\_  
(Corp. Seal) \_\_\_\_\_ (Corp. Seal)

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

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

Name: \_\_\_\_\_ Name: \_\_\_\_\_

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

**(Attach Power of Attorney)**

## AGREEMENT

### **1.00 - GENERAL**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between \_\_\_\_\_, hereinafter called "**CONTRACTOR**" and the **City** of Warrenton, a municipal corporation, hereinafter called "**CITY**."

WITNESSETH:

That the said **CONTRACTOR** and the said **CITY**, for the consideration hereinafter named agree as follows:

### **2.00 - DESCRIPTION OF WORK**

The **CONTRACTOR** agrees to perform the work of:

E HARBOR AND HERON FORCE MAIN PROJECT

and do all things required of it as per his Bid, all in accordance with the described Bid, a copy of which is hereto attached and made a part of this Contract.

### **3.00 - COMPLETION OF CONTRACT**

The **CONTRACTOR** agrees that the Work under this Contract shall be completed by the following dates:

- Substantial Completion – November 1, 2023
- Final Completion – November 15, 2023

If said **CONTRACTOR** has not fully completed this Contract within the time set or any extension thereof, it shall pay liquidated damages in accordance with Section 00180.85 of the General Conditions.

### **4.00 - CONTRACT PRICE**

The Contract Price for this project is \_\_\_\_\_. Payment will be made in accordance with ORS 279C.560 including progress payments at the end of each month. Retainage will be withheld in accordance with ORS 279C.550 - .565.

### **5.00 - CONTRACT DOCUMENTS**

The **CONTRACTOR** and the **CITY** agree that the plans, specifications (including the ODOT/APWA 2015 Oregon Standard Specifications for Construction and Contract Documents defined in Section 00110.20 of the Contract Documents General Conditions and all modifications thereto) and bid are, by this reference, incorporated into this Contract and are fully a part of this contract.

### **6.00 - NONDISCRIMINATION**

It is the policy of the City of Warrenton that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Warrenton also requires its contractors and grantees to comply with this policy.

### **7.00 - CONTRACTOR IS INDEPENDENT CONTRACTOR**

**A. CONTRACTOR** acknowledges that for all purposes related to this Contract, **CONTRACTOR** is and shall be deemed to be an independent **CONTRACTOR** and not an employee of **CITY**, shall not be entitled to benefits of any kind to which an employee of the **CITY** is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that **CONTRACTOR** is found by a court of law or an administrative agency to be an employee of the **CITY** for any purpose, **CITY** shall be entitled to repayment of any amounts from **CONTRACTOR** under the terms of the Contract; to the full extent of any benefits or other remuneration **CONTRACTOR** receives (from **CITY** or third party) as result of said finding and to the full extent of any payments that **CITY** is required to make (to **CONTRACTOR** or to a third party) as a result of said finding.

B. The undersigned **CONTRACTOR** hereby represents that no employee of the **CITY** of Warrenton, or any partnership or corporation in which a **CITY** employee has an interest, has or will receive any remuneration of any description from the **CONTRACTOR**, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

#### **8.00 - SUBCONTRACTS - RELATIONS WITH SUBCONTRACTORS, ASSIGNMENTS AND DELEGATION**

A. Assignment or Transfer Restricted. The **CONTRACTOR** shall not assign, sell, dispose of, or transfer rights nor delegate duties under the contract, either in whole or in part, without the **CITY's** prior written consent. Unless otherwise agreed by the **CITY** in writing, such consent shall not relieve the **CONTRACTOR** of any obligations under the contract. Any assignee or transferee shall be considered the agent of the **CONTRACTOR** and be bound to abide by all provisions of the contract. If the **CITY** consents in writing to an assignment, sale, disposal or transfer of the **CONTRACTOR's** rights or delegation of the **CONTRACTOR's** duties, the **CONTRACTOR** and its surety, if any, shall remain liable to the **CITY** for complete performance of the contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the **CITY** otherwise agrees in writing.

B. **CONTRACTOR** may not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225. If **CONTRACTOR** violates this prohibition, the **CITY** will regard the violation as a breach of contract and may either terminate the contract or exercise any other remedy for breach of contract.

#### **9.00 - NONWAIVER**

The failure of the **CITY** to insist upon or enforce strict performance by **CONTRACTOR** of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

#### **10.00 - LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES**

**CONTRACTOR** shall make payment promptly, as due, to all persons supplying **CONTRACTOR** labor or material for the prosecution of the work provided for this contract.

**CONTRACTOR** shall pay all contributions or amounts due the Industrial Accident Fund from **CONTRACTOR** or any subcontractor incurred in the performance of the contract.

**CONTRACTOR** shall not permit any lien or claim to be filed or prosecuted against the **CITY** on account of any labor or material furnished.

**CONTRACTOR** shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

#### **11.00 - CERTIFICATION OF COMPLIANCE WITH TAX LAWS**

As required by ORS 305.385(6), **CONTRACTOR** certifies under penalty of perjury that the **CONTRACTOR**, to the best of **CONTRACTOR's** knowledge, is not in violation of any of the tax laws described in ORS 305.380(4).

#### **12.00 - CITY BUSINESS LICENSE**

Prior to starting work, **CONTRACTOR** shall pay the **CITY** business license tax and provide the Project Director with a copy of business license receipt. **CONTRACTOR** shall, likewise, require all subcontractors to pay the **CITY** business license tax and provide a copy of the receipt to the Project Director prior to commencement of work.

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Contractor Date

**CITY OF WARRENTON**, a municipal of the  
State of Oregon

BY: \_\_\_\_\_  
Mayor Date

ATTEST:

\_\_\_\_\_  
City Manager Date

**PERFORMANCE BOND  
FOR  
E HARBOR AND HERON FORCE MAIN PROJECT  
FOR  
THE CITY OF WARRENTON**

AMOUNT \$ \_\_\_\_\_

BOND NO. \_\_\_\_\_

KNOW ALL PEOPLE BY THESE PRESENTS:

That we, \_\_\_\_\_, hereinafter called  
(Name of Contractor)

the PRINCIPAL, as Principal, and \_\_\_\_\_,  
(Name of Surety)

a corporation and existing under and by virtue of the laws of the State of \_\_\_\_\_ and authorized to transact a surety business in the State of Oregon, hereinafter called the SURETY, as Surety, are held and firmly bound unto the City of Warrenton, a Municipal Corporation of the State of Oregon, hereinafter called the OBLIGEE, in the

penal sum of \_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) for the payment of which sum well and truly to be made, the said PRINCIPAL and the said SURETY bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 2023 the PRINCIPAL entered into a certain contract with the OBLIGEE, a copy of which is hereto attached and made a part hereof for the construction of:

E HARBOR AND HERON FORCE MAIN PROJECT  
City of Warrenton, Oregon

NOW, THEREFORE, if the PRINCIPAL herein shall faithfully and truly observe and comply with the terms of the contract and shall well and truly perform all matters and things undertaken to be performed under said contract upon the terms proposed therein and shall promptly make payments to all persons supplying labor or material for any prosecution of the work provided for each contract and shall not permit any lien or claim to be filed or prosecute against the OBLIGEE on account of any labor or material furnished, and shall promptly pay all contributions or amounts due the State Accident Insurance Fund and all contributions or amounts due the State Un-employment Compensation Trust Fund incurred in the performance of said contract and shall promptly, as due, make payment to the person, co-partnership, association or corporation entitled thereto of the moneys and sums mentioned in Section 279 of the Oregon Revised Statutes, then this obligation is to be void, otherwise to remain in full force and effect.

**This performance bond shall also guarantee the improvement against defects in materials or workmanship for a period of one (1) year from the date of written Substantial Completion acceptance of the subject project by the OBLIGEE.**

The total amount of the SURETY's liability under this bond both to the OBLIGEE and to the persons furnishing labor or materials, provisions and goods and to any other person or persons, shall in no event exceed the penalty hereof.

Provided, however, that the conditions of the obligation shall not apply to any money loaned or advanced to the PRINCIPAL or to any subcontractor or other person in the performance of any such work, whether specifically provided for in the contract or not.

This bond is executed for the purpose of complying with Chapter 279 of Title 26, Oregon Revised Statutes, the provisions of which are hereby incorporated herein and made a part hereof.

IN WITNESS WHEREOF, this instrument is executed in three counterparts each one of which

shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CONTRACTOR AS PRINCIPAL:

SURETY:

(Corp. Seal)

(Corp. Seal)

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

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

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

**(Attach Power of Attorney)**

NOTE: Date of BOND must not be prior to date of Contract.

If CONTRACTOR is partnership, all partners should execute BOND.

IMPORTANT: Surety company executing BOND must be authorized to transact business in the State of Oregon.

**PAYMENT BOND  
FOR  
E HARBOR AND HERON FORCE MAIN PROJECT  
FOR  
THE CITY OF WARRENTON**

AMOUNT \$ \_\_\_\_\_

BOND NO. \_\_\_\_\_

KNOW ALL PEOPLE BY THESE PRESENTS:

That we, \_\_\_\_\_, hereinafter called  
(Name of Contractor)

the PRINCIPAL, as Principal, and \_\_\_\_\_,  
(Name of Surety)

a corporation and existing under and by virtue of the laws of the State of \_\_\_\_\_ and authorized to transact a surety business in the State of Oregon, hereinafter called the SURETY, as Surety, are held and firmly bound unto the City of Warrenton, a Municipal Corporation of the State of Oregon, hereinafter called the OBLIGEE, and unto all persons, firms and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors and assigns in the total

aggregate penal sum of \_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) for the payment of which sum well and truly to be made, the said PRINCIPAL and the said SURETY bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 2023 the PRINCIPAL entered into a certain contract with the OBLIGEE, a copy of which is hereto attached and made a part hereof for the construction of:

E HARBOR AND HERON FORCE MAIN PROJECT  
City of Warrenton, Oregon

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, and corporations furnishing materials for, or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extensions or modification thereof, including all amounts due for materials consumed or used in connection with the construction of such WORK, and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or material man lien holder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the SUBCONTRACTORS, and persons, firms, and corporations having a direct contract with the PRINCIPAL or its SUBCONTRACTORS.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct contract with the PRINCIPAL shall have given written notice to any two of the following: the PRINCIPAL, the OBLIGEE, or the SURETY above named within one hundred twenty (120) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OBLIGEE, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date on which PRINCIPAL ceased work on said CONTRACT, it being understood, however, that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 25 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this BOND and whether referring to this BOND, the contract or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OBLIGEE and the PRINCIPAL shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three counterparts each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CONTRACTOR AS PRINCIPAL:

SURETY:

(Corp. Seal)

(Corp. Seal)

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

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

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

**(Attach Power of Attorney)**

NOTE:

Date of BOND must not be prior to date of Contract.

If CONTRACTOR is partnership, all partners should execute BOND.

IMPORTANT:

Surety company executing BOND must be authorized to transact business in the State of Oregon.

General Conditions for Construction for the City of Warrenton

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## PART 00100 - GENERAL CONDITIONS

### Section 00110 - Organization, Conventions, Abbreviations, and Definitions

#### Organization

**00110.00 Organization of Specifications** - The Specifications are comprised of the following:

- The "General Conditions for Construction for the City of Warrenton (Agency)," published by the Agency, which contain Part 00100 "General Conditions", which deal with the solicitation process and contractual relationships;
- The "2015 Oregon Standard Specifications for Construction," which contain Parts 00200 through 03000, published by the Oregon Department of Transportation which contain the detailed "Technical Specifications" involved in prosecution of the Work, organized by subject matter; and
- The Special Provisions.

In addition, throughout the Specifications:

- Each Part is divided into Sections and Subsections.
- Reference to a Section includes all applicable requirements of the Section.
- When referring to a Subsection, only the number of the Subsection is used; the word "Subsection" is implied.
- Where Section and Subsection numbers are not consecutive, the interval has been reserved for use in the Special Provisions or future expansion of the Standard Specifications.

#### Conventions

**00110.05 Conventions Used Throughout the Specifications Include:**

**(a) Grammar** – The "General Conditions for Construction for the City of Warrenton (Agency)", part 00100 "General Conditions", is written in the indicative mood, in which the subject is expressed. The "2015 Oregon Standard Specifications for Construction", published by the Oregon Department of Transportation, which contain parts 00200 through 03000, the detailed "Technical Specifications", are generally written in the imperative mood, in which the subject is implied. Therefore, throughout Parts 00200 through 03000, and on the Plans:

- The subject, "the Contractor", is implied.
- "Shall" refers to action required of the Contractor, and is implied.
- "Will" refers to decisions or actions of the Agency and/or the Engineer.
- The following words, or words of equivalent meaning, refer to the actions of the Agency and/or the Engineer, unless otherwise stated: "allowed", "directed", "established", "permitted", "ordered", "designated", "prescribed", "required", "determined".
- The words "approved", "acceptable", "authorized", "satisfactory", "suitable", "considered", and "rejected", "denied", "disapproved", or words of equivalent meaning, mean by or to the Agency and/or the Engineer, subject in each case to Section 00150 of the General Conditions.
- The words "as shown", "shown", "as indicated", or "indicated" mean "as indicated on the Plans".
- Certain Subsections labeled "Payment" contain statements to the effect that "payment will be made at the Contract amounts for the following items" (followed by a list of items). In such cases the Agency shall pay for only those Pay Items listed in the Schedule of Items.

**(b) Capitalization of Terms** - Capitalized terms, other than titles, abbreviations, and grammatical usage, indicate that they have been given a defined meaning in the Standard Specifications. Refer to Section 00110.20 "Definitions". Defined terms will always be capitalized in Part 00100; in Parts 00200 through 03000, defined terms will generally not be capitalized, with the notable exception of "the Contractor", "the Agency", and "the Engineer".

**(c) Punctuation** - In this publication the "outside method" of punctuation is employed for placement of the comma and the period with respect to quotation marks. Only punctuation that is part of the quoted matter is placed within quotation marks.

**(d) References to Laws, Acts, Regulations, Rules, Ordinances, Statutes, Orders, and Permits** - References are made in the text of the Specifications to "laws", "acts", "rules", "statutes", "regulations", "ordinances", etc. (collectively referred to for purposes of this Subsection as "Law"), and to "orders" and "permits" (issued by a governmental authority, whether local, State, or federal, and collectively referred to for purposes of this Subsection as "Permits"). Reference is also made to "applicable laws and regulations". The following conventions apply in interpreting these terms, as used in the Specifications.

- **Statutes and Rules** - Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) referenced in the Specifications are accessible on line, including through the Oregon Legislative Counsel Committee web site and through the Oregon Secretary of State Archives Division web site.
- **Law** - In each case, unless otherwise expressly stated therein, the Law is to be understood to be the current version in effect. This also applies where a specific Law is referenced or cited, regardless of whether the text of the Law has been included in the Specifications or not, and regardless of whether the text of the Law has been summarized or paraphrased. In each case, the current version of the Law is applicable under any Contract. The reader is therefore cautioned to check the actual text of the Law to confirm that the text included in the Specifications has not been modified or superseded.
- **Permits** - Orders and permits issued by a government agency may be modified during the course of performing the Work under a Contract. Therefore, wherever the term "order" or "permit" is used in the Specifications, it is intended to refer to the then-current version. That version may be embodied in a modified, superseding order or permit, or it may consist of all terms and conditions of prior orders or permits that have not been superseded, as well as the additional terms added by amendment or supplement. In certain cases, the orders and/or permits are identified by name in the Specifications; in other cases the terms are used in the generic sense. The reader is cautioned to check the text(s) of each order and permit identified either by name or by generic reference.
- **Applicable Laws and Regulations** - Where the phrase "applicable laws and regulations" appears, it is to be understood as including all applicable laws, acts, regulations, administrative rules, ordinances, statutes, and orders and permits issued by a governmental or regulatory authority.

### Abbreviations

**00110.10 Abbreviations** - Following are meanings of abbreviations used in the Standard Specifications, in the Special Provisions, on the Plans, and in other Contract Documents. Other abbreviations and meanings of abbreviations may be in the individual Sections of the Standard Specifications to which they apply, in the Special Provisions, and in OAR 731-005 and OAR 731-007.

AAR	- Association of American Railroads
AASHTO	- American Association of State Highway and Transportation Officials
ABC	- Associated Builders and Contractors, Inc.
AC	- Asphalt Concrete
ACI	- American Concrete Institute
ACP	- Asphalt Concrete Pavement
ACWS	- Asphalt Concrete Wearing Surface
AGC	- Associated General Contractors of America
AIA	- American Institute of Architects
AISC	- American Institute of Steel Construction
AISI	- American Iron and Steel Institute
AITC	- American Institute of Timber Construction
ANSI	- American National Standards Institute
APA	- Engineered Wood Association
APWA	- American Public Works Association
AREMA	- American Railway Engineering and Maintenance of Right-of-Way Association
ASCE	- American Society of Civil Engineers
ASME	- American Society of Mechanical Engineers

ASTM	- American Society for Testing and Materials
ATPB	- Asphalt Treated Permeable Base
AWG	- American Wire Gauge
AWPA	- American Wood Protection Association
AWS	- American Welding Society
AWWA	- American Water Works Association
CAGT	- Certified Aggregate Technician
CAT-I	- Certified Asphalt Technician I
CAT-II	- Certified Asphalt Technician II
CBM	- Certified Ballast Manufacturers
CCO	- Contract Change Order
CCT	- Concrete Control Technician
CDT	- Certified Density Technician
CEBT	- Certified Embankment and Base Technician
CMDT	- Certified Mixture Design Technician
CPF	- Composite Pay Factor
CRSI	- Concrete Reinforcing Steel Institute
CFR	- Code of Federal Regulations
CS	- Commercial Standard, Commodity Standards Division, U.S. Department of Commerce
D1.1	- Structural Welding Code - Steel, American Welding Society, current edition
D1.5	- Bridge Welding Code, American Welding Society, current edition
DBE	- Disadvantaged Business Enterprise
DEQ	- Department of Environmental Quality, State of Oregon
DOGAMI	- Department of Geology and Mineral Industries, State of Oregon
DSL	- Department of State Lands, State of Oregon
EAC	- Emulsified Asphalt Concrete
EPA	- U.S. Environmental Protection Agency
ESCP	- Erosion and Sediment Control Plan
FHWA	- Federal Highway Administration, U.S. Department of Transportation
FSS	- Federal Specifications and Standards, General Services Administration
GSA	- General Services Administration
ICEA	- Insulated Cable Engineers Association (formerly IPCEA)
IES	- Illuminating Engineering Society
IMSA	- International Municipal Signal Association
ISO	- International Standards Organization
ITE	- Institute of Transportation Engineers
JMF	- Job Mix Formula
MFTP	- Manual of Field Test Procedures (ODOT)
MIL	- Military Specifications
MSC	- Minor Structure Concrete
MUTCD	- Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, U.S. Department of Transportation
NEC	- National Electrical Code
NEMA	- National Electrical Manufacturer's Association
NESC	- National Electrical Safety Code
NIST	- National Institute of Standards and Technology
NPDES	- National Pollutant Discharge Elimination System
NPS	- Nominal Pipe Size (dimensionless)
OAR	- Oregon Administrative Rules
ODA	- Oregon Department of Agriculture
ODOT	- Oregon Department of Transportation
ORS	- Oregon Revised Statutes
OR-OSHA	- Oregon Occupational Safety and Health Division of the Department of Consumer and Business Services
OSHA	- Occupational Safety and Health Administration, U.S. Department of Labor
PCA	- Portland Cement Association
PCC	- Portland Cement Concrete

PCI	- Precast/Prestressed Concrete Institute
PCP	- Pollution Control Plan
PF	- Pay Factor of a constituent
PLS	- Professional Land Surveyor
PMBB	- Plant Mixed Bituminous Base
PTI	- Post-Tensioning Institute
PUC	- Public Utility Commission, State of Oregon
QA	- Quality Assurance
QC	- Quality Control
QCT	- Quality Control Technician
QL	- Quality Level
QPL	- Qualified Products List
RAP	- Reclaimed Asphalt Pavement
REA	- Rural Electrification Administration, U.S. Department of Agriculture
RMA	- Radio Manufacturers Association or Rubber Manufacturers Association
SAE	- Society of Automotive Engineers
SI	- International System of Units (Système Internationale)
SRCM	- Soil and Rock Classification Manual (ODOT)
SSPC	- Society for Protective Coatings
T	- Tolerances, AASHTO Test Method
TM	- Test Method (ODOT)
TV	- Target Value
UBC	- Uniform Building Code (as adopted by the State of Oregon)
UL	- Underwriters Laboratory, Inc.
UPC	- Uniform Plumbing Code (as adopted by the State of Oregon)
USC	- United States Code
WAQTC	- Western Alliance for Quality Transportation Construction
WCLIB	- West Coast Lumber Inspection Bureau
WWPA	- Western Wood Products Association

## Definitions

**00110.20 Definitions** - Following are definitions of words and phrases used in the Standard Specifications, in the Special Provisions, on the Plans, and in other Contract Documents. Other definitions may be in the individual Sections of the Standard Specifications to which they apply, in the Special Provisions, and in OAR 731-005 and OAR 731-007.

**Act of God or Nature** - A natural phenomenon of such catastrophic proportions or intensity as would reasonably prevent performance.

**Addendum** - A written or graphic modification, issued before the opening of Bids, which revises, adds to, or deletes information in the Solicitation Documents or previously issued Addenda.

**Additional Work** - Increased quantities of any Pay Item for which a unit price has been established, or the increase of Work within the scope of the Contract.

**Advertisement** - The public announcement (Call for Bids) inviting Bids for Work to be performed or Materials to be furnished.

**Agency** - The City of Warrenton, a municipal corporation of the State of Oregon, which has entered into a Contract with the Contractor.

**Agency-Controlled Lands** - Lands owned by the Agency, or controlled by the Agency under lease or agreement, or under the jurisdiction and control of the Agency for the purposes of the Contract.

**Aggregate** - Rock of specified quality and gradation.

**Attorney in Fact** - An Entity appointed by another to act in its place, either for some particular purpose or for the transaction of business in general.

**Award** - Written notification to the Bidder that the Bidder has been awarded a Contract.

**Base** - A Course of specified material of specified thickness placed below the Pavement.

**Bid** - A competitive offer, binding on the Bidder and submitted in response to an invitation to bid.

**Bid Bond** - The Surety bond for Bid guarantee.

**Bid Booklet** - The bound paper version included in the Solicitation Documents that contain the information identified in 00120.10.

**Bid Closing** - The date and time after which Bids, Bid modifications, and Bid withdrawals will no longer be accepted.

**Bid Documents** - See under Solicitation Document.

**Bid Opening** - The date and time Bids are opened.

**Bid Schedule** - The lump sum Pay Item; or the list of Pay Items, their units of measurement, and estimated quantities. (When a Contract is awarded, the Bid Schedule becomes the Schedule of Items.)

**Bid Section** - The portion of the Bid Booklet containing all pages after the Bidder's checklist and before the appendix.

**Bidder** - An Entity that submits a Bid in response to an invitation to bid.

**Bike Lane** - A lane in the Traveled Way, designated by striping and Pavement markings for the preferential or exclusive use of bicyclists.

**Borrow** - Material lying outside of planned or required Roadbed excavation used to complete Project earthwork.

**Boulders** - Particles of rock that will not pass a 12 inch square opening.

**Bridge** - A single or multiple span Structure, including supports, that carries motorized and non-motorized vehicles, pedestrians, or utilities on a Roadway, walk, or track over a watercourse, highway, railroad, or other feature.

**Buttress** - A rock fill placed at the toe of a landslide or potential landslide in order to resist slide movement.

**Calendar Day** - Any day shown on the calendar, beginning and ending at midnight.

**Call for Bids** - The public announcement inviting Bids for Work to be performed or Materials to be provided.

**Camber** - A slight arch in a surface or Structure to compensate for loading.

**Change Order** - A written order issued by the Engineer to the Contractor modifying Work required by the Contract, or adding Work within the scope of the Contract, and, if applicable, establishing the basis of payment for the modified Work.

**Class of Work** - A designation referring to the type of Work in which Bidders must be pre-qualified.

**Clay** - Soil passing a No. 200 sieve that can be made to exhibit plasticity (putty-like properties) within a range of water contents.

**Clear Zone** - Roadside border area, starting at the edge of the Traveled Way, that is available for safe use by errant vehicles. Establishing a minimum width Clear Zone implies that rigid objects and certain other hazards within the Clear Zone should be relocated outside the Clear Zone, or shielded, or remodeled to make them break away on impact or be safely traversable.

**Close Conformance** - Where working tolerances are given on the Plans or in the Specifications, Close Conformance means compliance with those tolerances. Where working tolerances are not given, Close Conformance means compliance, in the Engineer's judgment, with reasonable and customary manufacturing and construction tolerances.

**Coarse Aggregate** - Crushed Rock or crushed Gravel retained on a 1/4 inch sieve, with allowable undersize.

**Cobbles** - Particles of Rock, rounded or not, that will pass a 12 inch square opening and be retained on a 3 inch sieve.

**Commercial Grade Concrete** - Concrete furnished according to Contractor proportioning, placed in minor Structures and finished as specified.

**Construction Contracts Unit** - Agency's office that administers construction contracts.

**Contract** - The written agreement between the Agency and the Contractor, including without limitation all Contract Documents, describing the Work to be completed and defining the rights and obligations of the Agency and the Contractor.

**Contract Administration Engineer** - The Agency representative presiding over Agency-level claims review under 00199.40.

**Contract Amount** - Lump sum Pay Item or the sum of the Pay Item amounts computed by multiplying the Pay Item quantities by the unit prices in the Schedule of Items.

**Contract Documents** - Solicitation Documents, Specifications, Plans, Contract booklet, Change Orders, Force Account Work orders, pay documents issued by the Agency, Materials certifications, Project Work schedules, final estimate, written orders and authorizations issued by the Agency, Material source development and reclamation plans, and permits, orders and authorizations obtained by the Contractor or Agency applicable to the Project, as well as all documents incorporated by reference therein.

**Contract Time** - The amount of time allowed to complete the Work under the Contract.

**Contractor** - The Entity awarded the Contract according to the solicitation.

**Correction Period** - Period from Second Notification to Final Acceptance as per Subsection 00170.85(b).

**Course** - A specified Surfacing Material placed in one or more Lifts to a specified thickness.

**Coverage** - One Pass by a piece of Equipment over an entire designated area.

**Cross Section** - The exact image formed by a plane cutting through an object, usually at right angles to a central axis, to determine area.

**Day** - A Calendar Day including weekdays, weekends, and holidays, unless otherwise specified.

**Defective** - An adjective which when modifying the word "Work" refers to work that: (1) is unsatisfactory, faulty or deficient; (2) does not conform to the Contract Documents; (3) does not meet the requirements of any inspection, test for approval referred to in the Contract Documents; or (4) has been damaged prior to Engineer's recommendation for final payment.

**Durable Rock** - Rock that has a slake durability index of at least 90% based on a two-cycle slake durability test, according to ASTM D 4644. In the absence of test results, the Engineer may evaluate the durability visually.

**Emulsified Asphalt** - Emulsified asphalt cement.

**Emulsified Asphalt Concrete** - A mixture of Emulsified Asphalt and graded Aggregate.

**Engineer** - The Engineer who represents the Agency and who is designated by the Agency to administer the Contract.

**Entity** - A natural person capable of being legally bound, sole proprietorship, limited liability company, corporation, partnership, limited liability partnership, limited partnership, profit or nonprofit unincorporated association, business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.

**Equipment** - All machinery, tools, manufactured products, and fabricated items needed to complete the Contract or specified for incorporation into the Work.

**Establishment Period** - The time specified to assure satisfactory establishment and growth of planted Materials.

**Existing Surfacing** - Pavements, slabs, curbs, gutters, walks, driveways, and similar constructions of bricks, blocks, portland cement concrete, bituminous treated materials, and granular surfacing materials on existing Highways.

**Extra Work** - Work not included in the Contract, but deemed by the Engineer to be necessary to complete the Project.

**Field Order** – A written order issued by the Engineer which requires minor changes in the Work but which may not involve a change in the Contract Amount or the Contract Times.

**Final Acceptance** - Written confirmation by the Agency that the Project has been completed according to the Contract including all corrective work identified by the Agency during the Correction Period, with the exception of latent defects and Warranty obligations, if any, and has been accepted.

**Final Inspection** - The inspection conducted by the Engineer to determine that the Project has been completed according to the Contract.

**Fine Aggregate** - Crushed Rock, crushed Gravel, or Sand that passes a 1/4 inch sieve, with allowable oversize.

**First Notification** - Written Notice to Proceed provided by the Engineer.

**Force Account Work** - Items of Extra Work ordered by the Engineer that are to be paid according to Section 00197.

**Granular Material** - Graded and selected free-draining material composed of particles of Rock, Sand, and Gravel.

**Gravel** - Particles of Rock, rounded or not, that will pass a 3 inch sieve and be retained on a No. 4 sieve.

**Highway** - Every road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of the State, open, used or intended for use by vehicular traffic.

**Incidental** - A term identifying those acts, services, transactions, property, Equipment, labor, Materials, or other items for which the Agency will make no separate or additional payment.

**Inspector** - The representative of the Engineer authorized to inspect and report on Contract performance.

**Leveling** - Placing a variable-thickness Course of Materials to restore horizontal and vertical uniformity to existing Pavements, normally continuous throughout the Project.

**Lift** - The compacted thickness of material placed by Equipment in a single Pass.

**Mandatory Source** - A material source provided by the Agency from which the Contractor is required to obtain Materials. (see 00160.00(b) and 00160.40)

**Materials** - Any natural or manmade substance specified for use in the construction of the Project or for incorporation into the Work.

**Median** - The portion of a divided Highway separating traffic traveling in opposite directions.

**Milestone** – A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

**Multiple Course Construction** - Two or more Courses, exclusive of Patching or Leveling, placed over the entire Roadway width.

**Multi-Use Path** - That portion of the Highway Right-of-Way or a separate Right-of-Way, physically separated from motor vehicle traffic and designated for use by pedestrians, bicyclists and other non-motorized users.

**Neat Line** - Theoretical lines specified or indicated on the Plans for measurement of quantities.

**Nondurable Rock** - Rock that has a slake durability index of less than 90% based on a two-cycle slake durability test, as tested by ASTM D 4644, or Rock that is observed to readily degrade by air, water, and mechanical influence.

**Notice to Proceed** - Written notice authorizing the Contractor to begin performance of the Work.

**On-Site Work** - Any Work taking place on the Project Site, including designated staging areas adjacent to the Project Site, except for installation of covered temporary signs according to Section 00225.

**Organic Soil** - A Soil with sufficient organic content to influence the Soil properties.

**Panel** - The width of specified Material being placed by Equipment in a single Pass.

**Pass** - One movement of a piece of Equipment over a particular location.

**Patching** - Placing a variable-thickness Course of Materials to correct sags, dips, and/or bumps to the existing grade and Cross Section, normally intermittent throughout the Project.

**Pavement** - Asphalt concrete or portland cement concrete placed for the use of motor vehicles, bicycles, or pedestrians on Roadways, Shoulders, Multi-Use Paths and parking areas.

**Pay Item (Contract Item)** - A specific unit of Work for which a price is provided in the Contract.

**Payment Bond** - The approved security furnished by the Contractor's Surety as a guaranty of the Contractor's performance of its obligation to pay promptly in full all sums due for Materials, Equipment, and labor furnished to complete the Work.

**Peat** - A Soil composed primarily of vegetative matter in various stages of decomposition, usually with an organic odor, dark brown to black color, and a spongy consistency.

**Performance Bond** - The approved security furnished by the Contractor's Surety as a guaranty of the Contractor's performance of the Contract.

**Plans** - Standard and Supplemental Drawings, and approved unstamped and reviewed stamped Working Drawings. (see 00150.10 and 00150.35)

**Project** - The sum of all Work to be performed under the Contract.

**Project Manager** - The Engineer's representative directly responsible for administration of a Contract.

**Project Site** - The geographical dimensions of the real property on which the Work is to be performed, including designated contiguous staging areas.

**Prospective Source** - A Material source provided by the Agency, from which the Contractor has the option of obtaining Materials. (see 00160.00(a) and 00160.40)

**Publicly-Owned Equipment** - Equipment acquired by a state, county, municipality or political subdivision primarily for use in its own operations.

**Public Traffic** - Vehicular or pedestrian movement, not associated with the Contract Work, on a public way.

**Railroad** - Publicly or privately owned rail carriers, including passenger, freight, and commuter rail carriers, their tenants, and licensees. Also, Utilities that jointly own or use such facilities.

**Right-of-Way** - Land, property, or property interest, usually in a strip, acquired for or devoted to transportation or other public works purposes.

**Roadbed** - Completed excavations and embankments for the Subgrade, including ditches, side slopes, and slope rounding, if any.

**Roadside** - The area between the outside edges of the Shoulders and the Right-of-Way boundaries. Unpaved median areas between inside Shoulders of divided Highways and infield areas of interchanges are included.

**Roadway** - That portion of a Highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or Shoulder. If a Highway includes two or more separate Roadways, the term "Roadway" refers to any such Roadway separately, but not to all such Roadways collectively. (see Traveled Way)

**Rock** - Natural deposit of solid material composed of one or more minerals occurring in large masses or fragments.

**Sand** - Particles of Rock that will pass a No. 4 sieve and be retained on a No. 200 sieve.

**Schedule of Items** - The list of Pay Items, their units of measurement, estimated quantities, and prices.

**Schedule of Values** - The breakdown of the values of the component elements comprising a lump sum Pay Item.

**Second Notification** - Written acknowledgment by the Engineer of the Substantial Completion of the Work according to 00180.50(g).

**Shoulder** - The part of a Roadbed contiguous to the Traveled Way or Roadway, whether paved or unpaved, for accommodating stopped vehicles, for emergency use and for lateral support of Base and surface Courses.

**Silt** - Soil passing a No. 200 sieve that is nonplastic or exhibits very low plasticity.

**Single Course Construction** - A wearing Course only, not including patching or leveling Courses or partial width Base Course.

**Slope** - Vertical distance to horizontal distance, unless otherwise specified.

**Soil** - Accumulations of particles produced by the disintegration of Rock, which sometimes contains organic matter. Particles may vary in size from Clay to Boulders.

**Solicitation Document** - Documents which define the procurement of a public improvement Project, including, but not limited to, the Bid Booklet, Agency-provided Plans, Standard Specifications, Special Provisions, Addenda, and which includes all documents incorporated by reference. May also be called Bid Documents.

**Special Provisions** - The special directions, provisions, and requirements specific to a Project that supplement or modify the Standard Specifications. Permits and orders governing the Project that are issued directly to the Agency by a governmental or regulatory authority are considered to be part of the Special Provisions, to the extent and under the conditions stipulated in the Special Provisions.

**Specifications** - The Standard Specifications and Special Provisions, together with all provisions of other documents incorporated therein by reference.

**Standard Drawings** - The Agency-prepared detailed drawings for Work or methods of construction that normally do not change from project to project.

**Standard Specifications** - The "General Conditions for Construction for the City of Warrenton" published by the Agency, and the "2015 Oregon Standard Specifications for Construction", Parts 00200 through 03000, "Technical Specifications", published by the Oregon Department of Transportation as amended by the Agency. It provides directions, provisions, and requirements necessary for performing public improvement projects.

**State** - The State of Oregon.

**Structures** - Bridges, retaining walls, endwalls, cribbing, buildings, culverts, manholes, catch basins, drop inlets, sewers, service pipes, underdrains, foundation drains, and other similar features which may be encountered in the Work.

**Subbase** - A Course of specified material of specified thickness between the Subgrade and a Base.

**Subcontractor** - An Entity having a direct contract with the Contractor or another Subcontractor, to perform a portion of the Work.

**Subgrade** - The top surface of completed earthwork on which Subbase, Base, Surfacing, Pavement, or a Course of other Material is to be placed.

**Substantial Completion** – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended.

**Substructure** - Those parts of a Structure which support the Superstructure, including bents, piers, abutments, and integrally built wingwalls, up to the surfaces on which bearing devices rest. Substructure also includes portions above bearing surfaces when those portions are built integrally with a Substructure unit (e.g., backwalls of abutments). When Substructure and Superstructure elements are built integrally, the division between Substructure and Superstructure is considered to be at the bottom soffit of the longitudinal or transverse beam, whichever is lower. Culverts and rigid frames are considered to be entirely Substructure.

**Superstructure** - Those parts of a Structure above the Substructure, including bearing devices.

**Supplemental Drawings** - The Agency-prepared detailed drawings for Work or methods of construction that are Project specific, and are denoted by title in the Project title block.

**Supplier** - The Entity that furnishes goods to be incorporated into the Work.

**Surety** - The Entity that issues the bond.

**Surfacing** - The Course or Courses of material on the Traveled Way, auxiliary lanes, Shoulders, or parking areas for vehicle use.

**Third Notification** - Written acknowledgment by the Engineer, subject to Final Acceptance, that as of the date of the notification the Contractor has achieved Final Completion of the Project according to the Contract, including without limitation completion of all minor corrective work, Equipment and plant removal, site clean-up, and submittal of all certifications, bills, forms and documents required under the Contract.

**Ton** - One short ton of 2,000 pounds (Ton, ton, Tn, or T).

**Topsoil** - Soil ready for use in a planting bed.

**Traffic Lane** - That part of the Traveled Way marked for moving a single line of vehicles.

**Traveled Way** - That part of the Highway for moving vehicles, exclusive of berms and Shoulders.

**Typical Section** - That Cross Section established by the Plans which represents in general the lines to which the Contractor shall work in the performance of the Contract.

**Unsuitable Material** - Frozen material, or material that contains organic matter, muck, humus, peat, sticks, debris, chemicals, toxic matter, or other deleterious materials not normally suitable for use in earthwork.

**Utility** - A line, facility, or system for producing, transmitting, or distributing communications, power, electricity, heat, gas, oil, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity which directly or indirectly serves the public. The term may also mean the utility company, district, or cooperative owning and operating such facilities, including any wholly-owned or controlled subsidiary.

**Warranty Bond** - The approved security furnished by the Contractor's, Subcontractor's, Manufacturer's, Installer's or Supplier's Surety as a guaranty of performance of their respective warranty obligations.

**Wetlands** - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, vegetation typically adapted for life in saturated Soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Work** - The furnishing of all Materials, Equipment, labor, and Incidentals necessary to successfully complete any individual Pay Item or the entire Contract, and the discharge of duties and obligations imposed by the Contract.

**Work Change Directive** – A written statement to Contractor issued on or after the Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Amount or the Contract Times but is evidence that the parties

expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Amount or Contract Times.

**Work Day** - Every Calendar day excluding Saturdays, Sundays and legal holidays as listed in ORS187.010.

**Worker** - Any person performing work under the contract, including employees of the Contractor or subcontractor, and persons having full or partial ownership of the Contractor or subcontractor. (This definition is not intended to nor does it alter the definition or meaning of the term "worker" as used in any applicable laws or regulations, including but not limited to for purposes of paying prevailing wage rates.)

**Working Drawings** - Supplemental Plans, not furnished by the Agency, that the Contractor is required to submit to the Engineer. (see 00150.35)

**Workplace Violence** - Any act of physical, verbal or written aggression by an individual in or related to the work place and/or project sites. This includes, but is not limited to, verbal abuse, threats or intimidation and physical intimidation, assault or battery by a worker or former worker. Work place violence may also include destruction or abuse of property.

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## Section 00120 - Bidding Requirements and Procedures

**00120.01 Receipt of Bids; Opening** – See **Special Provisions.**

**00120.02 Prequalification of Bidders** – See **Special Provisions.**

**00120.03 Request for Solicitation Documents** – See **Special Provisions.**

**00120.04 Pre-Bid Meeting** – See **Special Provisions**

**00120.10 Bid Booklet** - The Bid Booklet may include, but is not limited to:

- Call for Bids
- Bidder's Checklist
- Bid Section
- Appendix, which includes required time-sensitive forms, sample forms, and other informational pages

The Call for Bids and Bid Section may include, but is not limited to:

- Description and location of the proposed Project
- Time, date, and location for opening Bids
- Project completion time
- Class of Work
- Bid statement
- Certificate of non-collusion
- Certificate of Nondiscrimination
- Certificate of noninvolvement in any debarment or suspension (for Federal-Aid Projects)
- Certificate regarding lobbying activities (for Federal-Aid Projects)
- Certificate of residency (for State Projects)
- Certificate of compliance with Oregon tax laws
- Bid Schedule
- Identification of Bidder(s) and Sureties
- Bid signature page
- Bid Bond form
- First-tier Subcontractor Disclosure form

Other certificates or statements may be bound within the Bid Section. Plans, Specifications, and other documents referred to in the Bid Section will be considered part of the Bid.

**00120.15 Examination of Work Site and Solicitation Documents; Consideration of Conditions to be Encountered** - Before submitting a Bid, Bidders shall make a careful visual examination of the site of the proposed Work, the Bid Booklet, Plans, and Specifications. Bidders shall also review any subsurface investigation material referenced in 00120.25 that may be available and conduct additional investigation of any unusual condition apparent during the visual site examination. As soon as reasonably practicable after noting any such unusual condition, Bidder shall notify Agency, in writing, of any such unusual condition and the additional investigation undertaken by Bidder. Submission of a Bid will constitute confirmation that the Bidder has examined the Project Site and finds the Plans and Specifications to be sufficiently detailed and accurate to enable Bidder to properly perform the Work, and understands the conditions to be encountered in performing the Work and all requirements of the Contract.

The Bidder is responsible for loss or unanticipated costs suffered by the Bidder because of the Bidder's failure to fully examine the site and become fully informed about all conditions of the Work, or failure to request clarification of Plans and Specifications Bidder believes to be erroneous or incomplete.

Any clarification of Plans and Specifications needed by the Bidder shall be requested in writing by email through the Engineer. Unless the procurement period is shorter than one week, requests for changes or clarification shall be submitted at least seven days prior to the date of Bid Closing. The Agency will respond to each request at least 72 hours prior to the date of Bid Closing. If the Procurement period is less than seven days, requests shall be submitted within one day after the Procurement is issued and the Agency will issue its response to each such request at least 24 hours prior to Bid Closing. Failure to timely request clarification or changes shall be deemed acceptance of all of the terms and conditions of the Procurement. Oral explanations or interpretations given before receiving Bids for a Project will not be binding. To be binding, interpretation of the Plans and Specifications by the Agency must be made by written Addendum furnished to all Holders of Bidding Plans according to 00120.30. Notification of erroneous or incomplete Plans or Specifications shall also be submitted to the Engineer. Such notification shall also be made in sufficient time for the Agency to make any necessary modifications and issue Addenda to Bidders prior to Bid Closing.

**00120.16 Material, Equipment, and Method Substitutions** - When the Contract specifies certain Materials, Equipment, and/or methods, the Bidder shall include those Materials, Equipment, and/or methods in the Bid. Substitution after execution of Contract is specified in 00180.31(b), 00180.31(c), and 00180.31(d).

**00120.17 Use of Agency-Owned Land for Staging or Storage Areas** - The Contractor may use Agency-owned property for staging or storage areas, subject to the following limitations:

**(a) Within Normal Right-of-Way Limits** - If approved by the Engineer, the Contractor may use available property within the normal Right-of-Way limits for the purpose of constructing improvements under the Contract. Where the Agency owns, or has rights to, other adjacent properties in the Project area, "normal Right-of-Way" is limited to a line drawn across that property connecting the normal Right-of-Way limits on either side of the property.

**(b) Outside Normal Right-of-Way Limits** - The Contractor may not use Agency-owned property outside of normal Right-of-Way limits for the Project without the approval of the Engineer.

If a Bidder obtains approval before submitting a Bid, use of the property will be at no cost to the Contractor, or at a cost stated by the Engineer upon granting approval, as confirmed by Addendum.

If approval is not obtained before submitting a Bid, and the Contractor proposes to use Agency-owned property outside the normal Right-of-Way limits, then use of the property may be approved by the Engineer, but the Contractor will be assessed fair market value, as determined by the Engineer, for use of the property.

**(c) Restrictions on Use** - Contractors shall comply with all applicable laws, ordinances, and regulations pertaining to use of Agency-owned property, and shall:

- Not cause unreasonable impacts on traffic and other facility users.
- Clean up all hazardous materials deposited by, or resulting from, Contractor operations.
- Be responsible for all costs associated with use of the property.

**00120.20 Interpretation of Quantities in Bid Schedule** - Quantities appearing in the Bid Schedule are approximate and are provided only for comparison of Bids. The Agency does not warrant that the actual individual items, amount of Work, or quantities will correspond to those shown in the Bid Schedule. Payment to the Contractor will be made only for actual quantities of Work performed and accepted or Materials furnished and accepted, as required by the Contract. Quantities of Work to be performed and Materials to be furnished may each be increased, decreased, or omitted as provided in 00120.30 and 00140.30.

**00120.25 Subsurface Investigations** - If the Agency or its consultant has conducted subsurface or geologic investigations of the proposed Project Site or contiguous to the Project Site, the results of the investigations may be included in written reports. If reports have been prepared, such reports shall be included in the Solicitation Documents and shall be considered as part of the Contract Documents to the extent that the Contractor may rely upon the accuracy of the "technical data" contained in such reports. If the Agency has retained subsurface samples, they will also be available for inspection. Bidders and the Contractor may make arrangements for viewing the samples through the Engineer's office.

The availability of subsurface information from the Agency is solely for the convenience of the Bidder and shall not relieve the Bidder or the Contractor of any risk, duty to make examinations and investigations as required by 00120.15, or other responsibility under the Contract Documents. It is mutually agreed to by all parties that:

- The subsurface investigations made by the Agency are for the purpose of obtaining data for planning and design of the Project.
- The data for individual test boring logs apply only to that particular boring and is not intended to be conclusive as to the character of any material between or around test borings.
- If Bidders use this information in preparing a Bid, it is used at their own risk, and Bidders are responsible for all conclusions, deductions, and inferences drawn from this information.
- Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, consultants, or subcontractors with respect to any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

**00120.30 Changes to Plans, Specifications, or Quantities before Opening of Bids** - The Agency reserves the right to issue Addenda making changes or corrections to the Plans, Specifications, or quantities. Only holders of Solicitation Documents obtained from the Agency's office who have been identified by the Agency as Holders of Bidding Plans will be notified of these Addenda by mail, delivery service, electronic facsimile (FAX) or email sent to the Bidder's mail, street or email address or FAX number as it appears in the Agency's files.

The Agency may extend Bid closing if Agency determines prospective bidders need additional time to review and respond to addenda. Agency will not, except to the extent required by a countervailing public interest, issue Addenda less than 72 hours before Bid closing unless the Addendum also extends Bid closing.

The Agency will not be responsible for failure of Bidders to receive Addenda sent as described in the preceding paragraph. Bids shall incorporate all Addenda. Bids may be rejected if opened and found by the Agency to not be based on all Addenda issued before Bid Closing.

#### **00120.40 Preparation of Bids:**

##### **(a) General:**

**(1) Bids** - The Bidders shall not alter, in any manner, the documents within the Bid Section. Bidders shall complete the certifications and statements included in the Bid Section of the Bid Booklet according to the instructions. Signature of the Bidder's authorized representative thereon constitutes the Bidder's confirmation of an agreement to all certifications and statements contained in the Bid Booklet. Entries on the documents in the Bid Section shall be in black or blue ink or typed. Signatures and initials shall be in ink.

The Bidder shall properly complete and bind all the documents in the Bid Section, as specified in 00120.10, between the front and back covers of the Bid Booklet, except that the Bid Bond is not required if another permissible type of Bid guaranty is provided. (see 00120.40(d))

##### **(b) Bid Schedule Entries:**

**(1) Bid Schedule Entries** - Using figures, Bidders shall fill in all blank spaces in the Bid Schedule. For each item in the Bid Schedule, Bidders shall enter the unit price and the product of the unit price multiplied by the quantity given. The unit price shall be greater than zero, shall contain no more than two decimal places to the right of the decimal point, and shall be expressed in U.S. dollars and cents (for example, \$150.25 or \$0.37). Unit prices submitted which contain more than two decimal places, will be truncated by the Agency at the second decimal place to determine the product of the unit price and quantity. No rounding will be considered or paid. Bidders Bid shall also enter the total amount of the Bid obtained by adding amounts for all items in the paper Bid Schedule. Corrections or changes of item entries shall be in ink, with incorrect entry lined out and correct entry entered and initialed.

**(c) Bidder's Address and Signature Pages** - Bidders shall include in the Bid the address to which all communications concerning the Bid and Contract should be sent. The Bid must be signed by a duly authorized representative of the Bidder.

**d) Bid Guaranty** - All Bids shall be accompanied by a Bid guaranty in the amount of 5% of the total amount of the Bid.

**(1) Bid Guaranty** The Bid guaranty shall be either a Surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or security in the form of a cashier's check or certified check made payable to the Agency. (see ORS 279C.365(4))

If a Surety bond is submitted, Bidders shall use the Agency's standard Bid Bond form included with the Bid Booklet. Bidders shall submit the bond with original signatures and the Surety's seal affixed. The Bid guaranty shall be submitted by mail, delivery service, or hand delivered to the offices and addresses, and at the times given in the Bid Booklet.

- Acceptable Surety companies are limited to those authorized to do business in the State of Oregon.
- Forfeiture of Bid guaranties is covered by 00130.60, and return of guaranties is covered by 00130.70.

**(e) Disclosure of First-Tier Subcontractors** - If a Bidder's Bid on a public improvement Project exceeds \$100,000, the Bidder shall, within 2 working hours of the time Bids are due to be submitted, submit to the Agency, on a form provided by the Agency, a disclosure identifying any first-tier Subcontractors that will furnish labor or labor and Materials, and whose contract value is equal to or greater than:

- 5% of the total Project Bid, but at least \$15,000; or
- \$350,000, regardless of the percentage of the total Project Bid.

For each Subcontractor listed, Bidders shall state:

- The name of the Subcontractor;
- The dollar amount of the subcontract; and
- The category of Work that the Subcontractor would be performing.

If no subcontracts subject to the above disclosure requirements are anticipated, a Bidder shall so indicate by entering "NONE" or by filling in the appropriate check box. For each Subcontractor listed, Bidders shall provide all requested information. An incomplete form will be cause for rejection of the Bid.

The Subcontractor Disclosure Form may be submitted for a Bid either:

- By filling out the Subcontractor Disclosure Form included in the Bid Booklet and submitting it together with the Bid at the time and place designated for receipt of Bids;
- By removing it from the Bid Booklet, filling it out and submitting it separately to the Agency at the address given in the Bid Booklet; or
- The Subcontractor Disclosure Form shall be sealed in a separate envelope, addressed to Public Works Director, City of Warrenton, 225 S Main Ave, Warrenton, OR 97146, showing on the outside of the envelope the name of the Bidder and the Contract title preceded by the words "Subcontractor Disclosure Form".  
**Facsimile submissions of Subcontractor Disclosure Form will not be accepted.**

Subcontractor Disclosure Forms submitted by any method will be considered late if not received by the Agency within two 2 working hours of the time designated for receiving Bids.

**THE AGENCY MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE (see OAR 137-049-0360).**

#### **00120.45 Submittal of Bids:**

**(a) Bids** - Bids may be submitted by mail, parcel delivery service, or hand delivery to the Agency, and at the times given in the Bid Booklet. Bids may not be submitted by FAX or electronic means. Submit Bids in a sealed envelope addressed to Public Works Director, City of Warrenton, 225 S Main Ave, Warrenton, Oregon 97146. Date of opening and Project title must be plainly marked on the outside of the sealed envelope preceded by the words "Sealed Bid". If a delivery or courier service is used, the Bidder shall place the sealed envelope containing the paper Bid inside the delivery or courier service's envelope.

Bids submitted after the time set for receiving Bids will not be opened or considered. The Agency assumes no responsibility for the receipt and return of late Bids.

Preparation and submission of Bids is at the sole risk and expense of the Bidder and is not a cost of contract performance.

#### **00120.60 Revision or Withdrawal of Bids:**

**(a) Bids** - Information entered into the Bid Booklet by the Bidder may be changed after the Bid has been delivered to the Agency, provided that:

- Changes are prepared according to the instructions identified in the Bid Booklet; and
- Changes are received at the same offices, addresses, and times identified in the Bid Booklet for submitting Bids; and
- The changes are submitted in writing, signed by an individual authorized to sign the Bid.

A Bidder may withdraw its Bid after it has been delivered to the Agency, provided that:

- The written withdrawal request is submitted in person on the Bidder's letterhead; and
- The request is signed by an individual who is authorized to sign the Bid, and proof of authorization to sign the Bid accompanies the withdrawal request; and
- The request is received at the same offices, addresses, and prior to the time identified in the Bid Booklet for submitting Bids.

No Bid can be withdrawn after having been opened.

**00120.65 Opening and Comparing Bids** - Bids will be opened and the total price for each Bid will be read publicly at the time and place indicated in the Call for Bids. Bidders and other interested parties are invited to be present.

Bids for each Project will be compared on the basis of the total amount of each Bid. The total amount of the Bid will be the total sum computed from quantities listed in the Bid Schedule and unit prices entered by the Bidder.

In case of conflict between the unit price and the corresponding extended amount, the unit price shall govern, and the Agency may make arithmetic corrections on extension amounts.

**00120.70 Rejection of Nonresponsive Bids** - A Bid will be considered irregular and will be rejected if the irregularity is deemed by the Agency to render the Bid non-responsive. Examples of irregularities include without limitation:

- The Bid Section documents provided are not properly used or contain unauthorized alterations.
- The Bid is incomplete or incorrectly completed.
- The Bid contains improper additions, deletions, alternate Bids, or conditions.
- The Bid is submitted on documents not obtained directly from the Agency, or is submitted by a Bidder who has not been identified by the Agency as a Holder of Bidding Plans, as required by 00120.03.
- The Bid or Bid modifications are not signed by a person authorized to submit Bids or modify Bids, as required by 00120.40 and 00120.60.
- A member of a joint venture and the joint venture submit Bids for the same Project. Both Bids may be rejected.
- The Bid has entries not typed or in ink, or has signatures or initials not in ink.
- Each change or correction is not individually initialed.
- White-out tape or white-out liquid is used to correct item entries.
- The price per unit cannot be determined.
- The Bid guaranty is insufficient or improper.
- The original Bid Bond form is not used or is altered.

- The Oregon Construction Contractors Board registration number and expiration date are not shown on the Bid if required in the Solicitation Document. This requirement applies to Agency and State-funded Projects, with the exception of Aggregate production and landscape Projects. (not required on Federal-Aid Projects)
- A disclosure of qualified first-tier Subcontractors, if required under 00120.40(e), is not received within 2 working hours of the time Bids are due to be submitted, or the disclosure form is not complete.
- The Bidder has not complied with the DBE requirements of the solicitation.
- The Bid does not acknowledge all issued Addenda.
- The Bid contains entries that are not greater than zero.
- The Bid entries are not expressed in U.S. dollars and cents.
- The Agency determines that any Pay Item is significantly unbalanced to the potential detriment of the Agency.

In addition, the Agency may reject all Bids for good cause upon its finding that it is in the public interest to do so. The Agency may also waive minor informalities or irregularities.

**00120.80 Reciprocal Preference for Oregon Resident Bidders** - This Subsection applies only to Contracts for Projects financed without federal funds.

Bidders shall complete the certificate of residency provided by the Agency in the Bid Booklet. Failure to properly complete the form will be cause to reject the Bid.

As used in the certificate of residency and this Subsection, "Resident Bidder" means a Bidder who has:

- Paid unemployment taxes or income taxes in the State of Oregon during any of the 12 calendar months immediately preceding submission of the Bid;
- A business address in the State of Oregon; and
- Certified in the Bid that the Bidder qualifies as a Resident Bidder.

"Nonresident Bidder" means a Bidder who is not a Resident Bidder as defined above.

In determining the lowest Bid, the Agency will, for the purpose of awarding the Contract, add a percentage increase to the Bid of a Nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides (ORS 279A.120). The percentage preference applied in each state will be published on or before January 1 of each year by the Oregon Department of Administrative Services. The Agency may rely on these percentages without incurring liability to any Bidder (ORS 279A.120).

This increase will only be applied to determine the lowest Bid, and will not cause an increase in payment to the Contractor after Award of the Contract.

**00120.90 Disqualification of Bidders** - The Bid(s) of a disqualified Bidder will be rejected. Any of the following reasons is sufficient to disqualify a Bidder:

- More than one Bid is submitted for the same Work by an Entity under the same or different name(s).
- Evidence of collusion among Bidders. Participants in collusion will be found not responsible, and may be subject to criminal prosecution.
- Any of the grounds for disqualification cited in ORS 279C.440.

A Bidder will be disqualified if the Bidder has:

- Not been prequalified as required by 00120.02;
- Been declared ineligible by the Commissioner of the Bureau of Labor and Industries under ORS 279C.860;
- Not been registered (licensed) by the Oregon Construction Contractors Board (CCB) or been licensed by the State Landscape Contractors Board before submitting a Bid (ORS 279C.365(1)(k), ORS 701.021, ORS 701.026, and ORS 671.530). The Bidder's registration number and expiration date shall be shown in the Bid form, if requested. Failure to furnish the registration number, if requested, will render the Bid non-responsive and subject to rejection. (not required on Federal-Aid projects); or

- Been determined by the CCB under ORS 701.227 not to be qualified to hold or participate in a public contract for a public improvement.

**00120.91 Rejection of Bid on Grounds of Nonresponsibility of Bidder** - The Bid of a Bidder who is found to be nonresponsible according to the criteria listed in 00130.10 or ORS 279C.375(3) will be rejected.

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## Section 00130 - Award and Execution of Contract

**00130.00 Consideration of Bids** - After opening and reading Bids, the Agency will check them for correct extensions of unit prices and totals. (see 00120.65) The total of extensions, corrected where necessary, will be used by the Agency for Award purposes. Discrepancies between words and figures will be resolved in favor of words. In selecting the lowest responsive Bid, the Agency reserves the right to take into consideration any or all alternatives called for in the Bid Form.

The Agency reserves the right to waive minor informalities and irregularities, and to reject any or all Bids for irregularities under 00120.70 or for good cause after finding that it is in the public interest to do so (ORS 279C.395). An example of good cause for rejection in the public interest is the Agency's determination that any of the unit Bid prices are materially unbalanced to the Agency's potential detriment. A materially unbalanced Bid is defined as, "a Bid which generates a reasonable doubt that award to the Bidder submitting a mathematically unbalanced Bid will result in the lowest ultimate cost to the Agency.

The Agency may correct obvious errors, when the correct information can be determined from the face of the document, if it finds that the best interest of the Agency and the public will be served thereby.

Bids will be considered and a Contract awarded, if at all, within 30 Calendar Days from the date of Bid Opening, unless an extension beyond that time is agreed to by both parties and acknowledged in writing by the Bidder.

**00130.10 Award of Contract** - After the Bids are opened and a determination is made that a Contract is to be awarded, the Contract will be awarded to the lowest responsible Bidder. For the purposes of this Section, "lowest responsible Bidder" means the responsible Bidder that submitted the lowest responsive Bid who is not on the list created by the Construction Contractors Board according to ORS 701, and who has:

- Substantially complied with all prescribed public bidding procedures and requirements.
- Available the appropriate financial, Materials, Equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the prospective Bidder to meet all contractual responsibilities.
- A satisfactory record of performance. In evaluating a Bidder's record of performance, the Agency may consider, among other things, whether the Bidder completed previous contracts of a similar nature with a satisfactory record of performance. For purposes of evaluating a Bidder's performance on previous contracts of a similar nature, a satisfactory record of performance means that to the extent that the costs associated with and time available to perform a previous contract remained within the Bidder's control, the Bidder stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner.
- A satisfactory record of integrity. In evaluating a Bidder's record of integrity, the Agency may consider, among other things, whether the Bidder has previous criminal convictions for offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Bidder's performance of a contract or subcontract.
- Qualified legally to contract with the Agency.
- Supplied all necessary information in connection with the Agency's inquiry concerning responsibility. If a prospective Bidder fails to promptly supply information requested by the Agency concerning responsibility, the Agency shall base the determination of responsibility upon any available information, or may find the prospective Bidder not to be responsible.
- Not been disqualified by the public contracting agency under ORS 279C.440.

If the Bidder is found not to have a satisfactory record of performance or integrity, the Agency will document the record and the reasons for the unsatisfactory finding.

The Agency will provide the Notice of Intent to Award to the Bidders, and may provide Notice of Intent to Award on the Agency's web site.

The Award will not be final until the later of the following:

- Seven calendar days after the Notice of Intent to Award has been issued; or
- The Agency has provided a written response to each timely protest, denying the protest and affirming the Award.

If the Agency accepts a Bid and awards a Contract, the Agency will send the successful Bidder written notice of acceptance and Award.

Notice of Award and Contract booklets ready for execution will be sent within 60 Calendar Days of the opening of Bids or within the number of Calendar Days specified in the **Special Provisions** or a written mutual agreement.

**00130.15 Right to Protest Award** - Adversely affected or aggrieved Bidders, limited to the three apparent lowest Bidders and any other Bidder directly in line for Contract Award, may submit to the Agency a written protest of the Agency's intent to Award within seven Calendar days following the date of the Notice of Intent to Award. The protest shall specify the grounds upon which it is based.

An aggrieved Bidder may protest an award only if the Bidder alleges, in its written protest, that it should have received the award because:

- (a) All lower Bids are non-responsive;
- (b) The Agency failed to conduct the Bid process as described in the Bid Document;
- (c) The Agency has abused its discretion in rejecting the protestor's Bid as non-responsive or non-responsible; or
- (d) The Agency's evaluation of Bids or subsequent determination of award is otherwise in violation of ORS Chapters 279A and 279C or the Agency's public contracting rules.

The written protest must describe the facts that support the protest. The Agency may not consider late protests or protests that do not describe facts that would support a finding that the Bidder is aggrieved for one of the reasons in clauses (a) through (d) above.

**00130.20 Cancellation of Award** - Without liability to the Agency, the Agency may for good cause cancel Award at any time before the Contract is executed by all parties to the Contract, as provided by ORS 279C.395 for rejection of Bids, upon finding it is in the public interest to do so.

**00130.30 Contract Booklet** - The Contract booklet may include but is not limited to:

- Special Provisions
- Addenda
- Schedule of Items
- Contract (Agreement)
- Performance Bond
- Payment Bond
- Certification of workers' compensation coverage

**00130.40 Contract Submittals** - Before the Agency will execute the Contract, the successful Bidder shall furnish the following:

**(a) Performance and Payment Bonds** - When Awarded the Contract, the successful Bidder shall furnish a Performance Bond and a Payment Bond of a Surety authorized to do business in the State of Oregon.

The successful Bidder shall submit the standard bond forms, which are bound in the Contract booklet. Faxed or photocopied bond forms will not be accepted. The amount of each bond shall be equal to the Contract Amount. The Performance Bond and the Payment Bond must be signed by the Surety's authorized Attorney-in-Fact, and the Surety's seal must be affixed to each bond. A power of attorney for the Attorney-in-Fact shall be attached to the bonds in the Contract booklet, which must include bond numbers, and the Surety's original seal must be affixed to the power of attorney. Bonds shall not be canceled without the Agency's consent, nor will the Agency normally release them, prior to Contract completion. The amount of the Performance and Payment Bonds shall be increased to equal the new Contract Amount whenever the Contract Amount is increased for any reason.

**(b) Certificates of Insurance** - The successful Bidder shall furnish the Agency certificates of insurance applicable to the Project, according to 00170.70. The insurance coverages shall remain in force throughout the performance of the Contract and shall not be allowed to lapse without prior written approval of the Agency. Bidders shall refer to 00170.70 for minimum coverage limits and other requirements.

For specified Contracts, certified copies, and in some instances the original, of insurance policies may be required by the **Special Provisions**.

**(c) Workers' Compensation** - To certify compliance with the workers' compensation insurance coverage required by 00170.61(a) and 00170.70(d), the successful Bidder shall complete and sign the "Certification of Workers' Compensation Coverage" form bound in the Contract booklet.

**(d) Registration Requirements:**

**(1)** ORS 701.021, ORS 701.026, and ORS 671.530 require that Bidders be registered with the Oregon Construction Contractors Board or licensed by the State Landscape Contractors Board prior to submission of a Bid on a Project not involving federal funds. Registration with the Construction Contractors Board or licensing by the State Landscape Contractors Board is not a prerequisite to bidding on Federal-Aid Projects; however, the Agency will not execute a Contract until the Contractor is so registered or licensed.

**(2)** Bidders must be registered with the Corporation Division, Oregon Secretary of State, if bidding as a corporation, limited liability company, joint venture, or limited liability partnership, or if operating under an assumed business name and the legal name of each person carrying on the business is not included in the business name.

**(3)** A Contractor registered under ORS 701 may bid on a landscaping Project or perform a construction project that includes landscape contracting as a portion of the project if the landscape contracting is subcontracted to a licensed landscaping business as defined in ORS 671.520.

**(4)** A landscaping business may bid on a Project or perform a Contract that includes the phase of landscape contracting for which it is not licensed if it employs a landscape contractor, or subcontracts with another licensed landscaping business, licensed for that phase.

**(e) Tax Identification Number** - The successful Bidder shall furnish the Agency the Bidder's Federal Tax Identification Number.

**00130.50 Execution of Contract and Bonds:**

**(a) By the Bidder** - The successful Bidder shall deliver the required number of Contract booklets with the properly executed Contract, Performance Bond, Payment Bond, certification of workers' compensation coverage, and the required certificates of insurance, to the Agency within 14 Calendar Days after the date on which the Contract booklets are sent or otherwise conveyed to the Bidder under 00130.10. The Bidder shall return the originals of all documents received from the Agency and named in this Subsection, with original signatures. Certificates of insurance shall also be originals. Certificates of insurance for coverages that are permitted by the Agency under 00170.70(a) to be obtained by appropriate subcontractors shall be delivered by the Contractor to the Agency together with the Contractor's request under 00180.21 for approval of the subcontract with that subcontractor. No copies of these documents will be accepted by the Agency.

Proper execution requires that:

- If the Contractor is a partnership, limited liability partnership, joint venture, or limited liability company, an authorized representative of each Entity comprising it shall sign the Contract, Performance Bond, and Payment Bond, and an authorization to sign shall be attached.
- If the Contractor is a corporation, the President and the Secretary of that corporation shall sign the Contract, Performance Bond, and Payment Bond. However, if other corporate officers are authorized to execute contracts and bonds, the successful Bidder shall furnish with those documents a certified, true and correct copy of the corporate bylaws or minutes stating that authority. If only one officer is signing, then the bylaws or minutes must include the authority to sign without the signature of others. The successful Bidder shall also include the title(s) or corporate office(s) held by the signer(s).

**(b) By the Agency** - Within 10 Working Days after the Agency has received and verified the properly executed documents specified in 00130.50(a), and received legal sufficiency approval from the Agency's attorney (if

required), the Agency will execute the Contract. The Agency will then send a fully-executed original Contract booklet to the successful Bidder, who then officially becomes the Contractor.

**00130.60 Failure to Execute Contract and Bonds** - Failure of the successful Bidder to execute the Contract and provide the required certificates, certifications, and bonds may be cause for cancellation of the Award, and may be cause for forfeiture of the Bid guaranty under ORS 279C.385.

Award may then be made to the next lowest responsible Bidder, the Project may be re-advertised, or the Work may be performed otherwise as the Agency decides.

The forfeited Bid guaranty will become the Agency's property, not as a penalty but as liquidation of damages resulting from the Bidder's failure to execute the Contract and provide the certificates, certifications, and bonds as required by these Specifications.

**00130.70 Release of Bid Guaranties** - Bid guaranties will be released and checks returned 7 Calendar Days after Bids are opened, except for those of the three apparent lowest Bidders on each Project. The guaranties of the three apparent lowest Bidders will be released and checks returned to unsuccessful Bidders within 7 days of the Agency's execution of the Contract.

**00130.75 City's Business License** - Successful Bidder shall have current business license with the City of Warrenton prior to entering into an agreement. Before permitting a subcontractor to begin work, Contractor shall verify that subcontractor has a current City of Warrenton business license.

**00130.80 Project Site Restriction** - Until the Agency sends the Contractor written Notice to Proceed with the Work, and the Contractor has filed the public works bonds required in 00170.20, the Contractor shall not go onto the Project Site on which the Work is to be done, nor move Materials, Equipment, or workers onto that Project Site.

The Contractor will not automatically be entitled to extra compensation because the commencement of Work is delayed by failure of the Agency to send the Contract for execution. However, if more than 60 Calendar Days elapse between the date the Bid is opened and the date the Agency sends the Contract to be executed, the Agency will consider granting an adjustment of time for completion of the Work to offset any actual delay to Contract completion resulting directly from delay in commencement.

**00130.90 Notice to Proceed** - Notice to Proceed will be issued within 5 Calendar Days after the Contract is executed by the Agency.

Should the Agency fail to issue the Notice to Proceed within 5 Calendar Days of Contract execution, the Contractor may apply for an adjustment of Contract Time according to 00180.80(c).

## Section 00140 - Scope of Work

**00140.00 Purpose of Contract** - The purpose of the Contract is to set forth the rights and obligations of the parties and the terms and conditions governing completion of the Work. The Contractor's obligations shall include without limitation the following:

- The Contractor shall furnish all Materials, Equipment, labor, transportation, and Incidentals required to complete the Work according to Plans, Specifications, and terms of the Contract.
- The Contractor shall perform the Work according to the lines, grades, Typical Sections, dimensions, and other details shown on the Plans, as modified by written order, or as directed by the Engineer.
- The Contractor shall perform all Work determined by the Engineer to be necessary to complete the Project.
- The Contractor shall contact the Engineer for any necessary clarification or interpretation of the Contract.

**00140.10 Typical Sections** - The Typical Sections are intended to apply in general. At other locations where the Typical Section is not appropriate, the Contractor shall perform construction to the identified alignment as directed by the Engineer.

**00140.20 Thickness** - The thickness of Courses of Materials shown on the Plans, given in the Specifications, or established by the Engineer is considered to be the compacted thickness. Minor variations are acceptable when within tolerances specified in the Specifications or Plans, or when approved by the Engineer.

**00140.30 Agency-Required Changes in the Work** - Changes to the Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of Project construction.

Without impairing the Contract, the Agency reserves the right to require changes it deems necessary or desirable within the scope, which in the Specifications means general scope, of the Project. These changes may modify, without limitation:

- Specifications and design
- Grade and alignment
- Cross Sections and thicknesses of Courses of Materials
- Method or manner of performance of Work
- Project Limits

or may result in:

- Increases and decreases in quantities
- Additional Work
- Elimination of any Contract item of Work
- Acceleration or delay in performance of Work

Upon receipt of a Change Order, the Contractor shall perform the Work as modified by the Change Order. If the Change Order increases the Contract Amount, the Contractor shall notify its Surety of the increase and direct the Surety to increase the amount of the performance and payment bonds to equal the new Contract Amount. The Contractor's performance of Work according to Change Orders shall neither invalidate the Contract nor release the Surety. Payment for changes in the Work will be made according to 00195.20. Contract Time adjustments, if any, will be made according to 00180.80. A Change Order signed by the Contractor is the agreement that the adjustment in the Contract Amount or Contract Time indicated is full compensation for all change order items including the impact of the change order on the balance of the Work to be accomplished.

**00140.40 Differing Site Conditions** - The following constitute differing Project Site conditions provided such conditions are discovered at the Project Site after commencement of the Work:

- **Type 1** - Subsurface or latent physical conditions that could not have been discovered by careful examination of the Project Site, utilities and available records as described in 00120.15 and differ materially from those indicated in the Contract Documents; or

- **Type 2** - Unknown physical conditions of unusual nature that differ materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract.

The party discovering such a condition shall promptly notify the other party, in writing, of the specific differing conditions before they are disturbed and before the affected Work is performed. The Contractor shall not continue Work in the affected area until the Engineer has inspected such condition according to 00195.30 to determine whether an adjustment to Contract Amount or Contract Time is required.

Payment adjustments due to differing Project Site conditions, if any, will be made according to 00195.30. Contract Time adjustments, if any, will be made according to 00180.80.

**00140.50 Environmental Pollution Changes** - ORS 279C.525 will apply to any increases in the scope of the Work required as a result of environmental or natural resources laws enacted or amended after the submission of Bids for the Contract. The Contractor shall comply with the applicable notice and other requirements of ORS 279C.525. The applicable rights and remedies of that statute will also apply.

In addition to ORS 279C.525, the Agency has compiled a list at 00170.01 of those federal, State, and local agencies, of which the Agency has knowledge, that have enacted ordinances, rules, or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of Agency contracts.

**00140.60 Extra Work** - If directed by the Engineer's written order, the Contractor shall perform work not included in the Contract. The Contractor shall perform this work according to:

- Standard Specifications
- Standard Drawings
- Other Plans and Specifications issued by the Engineer

Payment for Extra Work will be made according to Section 00196. Contract Time adjustments, if any, will be made according to 00180.80.

**00140.65 Disputed Work** - The Contractor may dispute any part of a Change Order, written order, or an oral order from the Engineer by the procedures specified in Section 00199.

**00140.70 Cost Reduction Proposals** - The Contractor may submit written proposals to the Engineer that modify Plans, Specifications, or other Contract Documents for the sole purpose of reducing the total cost of construction. Unless otherwise agreed to in writing by the Agency, a proposal that is solely or primarily a proposal to reduce estimated quantities or delete Work, as determined by the Engineer, is not eligible for consideration as a cost reduction proposal and will instead be addressed under 00140.30, whether proposed or suggested by the Agency or the Contractor.

**(a) Proposal Requirements** - The Agency will not adopt a cost reduction proposal that impairs essential functions or characteristics of the Project including but not limited to service life, economy of operation, ease of maintenance, designed appearance, or design and safety standards.

To conserve time and funds, the Contractor may first submit a written request for a feasibility review by the Engineer. The request should contain a description of the proposal together with a rough estimate of anticipated dollar and time savings. The Engineer will, within a reasonable time, advise the Contractor in writing whether or not the proposal would be considered by the Agency, should the Contractor elect to submit a detailed cost reduction proposal.

A detailed cost reduction proposal shall include without limitation the following information:

- A description of existing Contract requirements for performing the Work and the proposed change;
- The Contract items of Work affected by the proposed change, including any quantity variation caused by the proposed change;
- Pay Items affected by the proposed change including any quantity variations;
- A detailed cost estimate for performing the Work under the existing Contract and under the proposed change. Cost estimates shall be made according to Section 00197. Costs of re-design, which are incurred after the Agency has accepted the proposal, will be included in the cost of proposed work; and

- A date by which the Engineer must accept the proposal in order to accept the proposed change without impacting the Contract Time or cost reduction amount.

**(b) Continuing to Perform Work** - The Contractor shall continue to perform the Work according to Contract requirements until the Engineer issues a Change Order incorporating the cost reduction proposal. If the Engineer fails to issue a Change Order by the date specified in the proposal, the proposal shall be deemed rejected.

**(c) Consideration of Proposal** - The Engineer is not obligated to consider any cost reduction proposal. The Agency will not be liable to the Contractor for failure to accept or act upon any cost reduction proposal submitted.

The Engineer will determine in its sole discretion whether to accept a cost reduction proposal as well as the estimated net savings in construction costs from the adoption of all or any part of the proposal. In determining the estimated net savings, the Engineer may disregard the Schedule of Items. The Engineer will establish prices that represent a fair measure of the value of Work to be performed or to be deleted as a result of the cost reduction proposal.

**(d) Sharing Investigation Costs** - As a condition for considering a Contractor's cost reduction proposal, the Agency reserves the right to require the Contractor to share in the Agency's costs of investigating the proposal. If the Agency exercises this right, the Contractor shall provide written acceptance of the condition to the Engineer. Such acceptance will authorize the Agency to deduct its share of investigation costs from payments due or that may become due to the Contractor under the Contract.

**(e) Acceptance of Proposal Requirements** - If the Contractor's cost reduction proposal is accepted in whole or in part, acceptance will be made by a Change Order that will include without limitation the following:

- Statement that the Change Order is made according to 00140.70;
- Revised Contract Documents that reflect all modifications necessary to implement the approved cost reduction measures;
- Any conditions upon which the Agency's approval is subject;
- Estimated net savings in construction costs attributable to the approved cost reduction measures; and
- A payment provision according to which the Contractor will be paid 50% of the estimated net savings amount as full and adequate consideration for performance of the Work of the Change Order.

The Contractor's cost of preparing the cost reduction proposal and the Agency's costs of investigating the proposal, including any portion paid by the Contractor, will be excluded from determination of the estimated net savings in construction costs. Costs of re-design, which are incurred after the Agency has accepted the proposal, will be included in the cost of the Work attributable to cost reduction measures.

If the Agency accepts the cost reduction proposal, the Change Order that authorizes the cost reduction measures will also address any Contract Time adjustment.

**(f) Right to General Use** - Once submitted, the cost reduction proposal becomes the property of the Agency. The Agency reserves the right to adopt the cost reduction proposal for general use without additional compensation to the Contractor when it determines that a proposal is suitable for application to other contracts.

**00140.80 Use of Publicly Owned Equipment** - The Contractor is prohibited from using publicly-owned Equipment except in the case of emergency. In an emergency, the Contractor may rent publicly-owned Equipment provided that:

- The Engineer provides written approval that states that such rental is in the public interest; and
- Rental does not increase the Project cost.

**00140.90 Final Trimming and Cleanup** - Before Final Inspection as described in 00150.90, the Contractor shall neatly trim and finish the Project and remove all remaining unincorporated Materials and debris. Final trimming and cleanup shall include without limitation the following:

- The Contractor shall retrim and reshape earthwork, and shall repair deteriorated portions of the Project Site.
- Where the Work has impacted existing facilities or devices, the Contractor shall restore or replace those facilities to their pre-existing condition.

- The Contractor shall clean all drainage facilities and sanitary sewers of excess Materials or debris resulting from the Work.
- The Contractor shall clean up and leave in a neat, orderly condition, Rights-of-Way, Materials sites, and other property occupied in connection with performance of the Work.
- The Contractor shall remove temporary buildings, construction plants, forms, falsework and scaffolding, surplus and discarded Materials, and rubbish.
- The Contractor shall dispose of Materials and debris including without limitation forms, falsework, scaffolding, and rubbish resulting from clearing, grubbing, trimming, clean-up, removal, and other Work. These Materials and debris become the property of the Contractor. The Contractor shall dispose of these Materials and debris immediately.
- The Contractor shall restore and replant or resurface adjoining properties to match existing grades and existing surfaces.
- The Contractor shall install erosion and sediment control needed to stabilize the Project Site.

Unless the Contract specifically provides for payment for this item, the Agency will make no separate or additional payment for final trimming and cleanup.

**00140.95 “AS-BUILT” Records** – The Contractor shall maintain a current and accurate record of Work completed during the course of this Contract and submit to the Engineer updated copies of the project “As-Builts” on a weekly basis. These “As-Builts” drawings shall be kept by accurately marking a designated set of the Contract plans with the specified information as Work proceeds. Accurate, complete and current “As-Built” drawings are a specified requirement for full or partial payment of the Work completed. “As-Builts” shall be reviewed for completeness before recommendation of payment is granted. Incomplete or insufficient “As-Builts” will be returned to the Contractor and recommendation for progress payment denied. At project completion and as a condition of final payment, the Contractor shall deliver an acceptable complete and legible set of “As-Built” drawings to the Engineer.

The “As-Built” drawings shall show the information listed below. Where the term “locate” or “location” is used, it shall mean record of position with respect to both the construction vertical datum and either construction horizontal datum or a nearby permanent improvement.

- Record location of underground services and utilities as installed
- Record location of existing underground utilities and services that are to remain and that are encountered during the course of the Work
- Record changes in dimension, location, grade or detail to that shown on plans
- Record changes made by change order
- Record details not in original plans
- Provide fully completed shop drawings reflecting all revisions

Upon completion of the construction, the Contractor shall review and certify the construction set of “As-Built” drawings for completeness and accuracy of representation of any changes. Final payment will not be processed until “As-Built” drawings have been submitted and approved.

## Section 00150 - Control of Work

**00150.00 Authority of the Engineer** - The Engineer has full authority over the Work and its suspension. (see Section 00180) The Contractor shall perform all Work to the complete satisfaction of the Engineer. The Engineer's determination shall be final on all matters, including but not limited to the following:

- Quality and acceptability of Materials and workmanship
- Measurement of unit price Work
- Timely and proper prosecution of the Work
- Interpretation of Contract Documents
- Payments due under the Contract

The Engineer's decision is final and, except as provided in 00180.80 for adjustments of Contract Time and Section 00199 for claims for additional compensation, may be challenged only through litigation.

Work performed under the Contract will not be considered complete until it has passed Final Inspection by the Engineer and has been accepted by the Agency.

Interim approvals issued by the Engineer, including but not limited to Third Notification, will not discharge the Contractor from responsibility for errors in prosecution of the Work, for improper fabrication, for failure to comply with Contract requirements, or for other deficiencies, the nature of which are within the Contractor's control.

**00150.01 Project Manager's Authority and Duties** - The Engineer may designate a Project Manager as its representative on the Project with authority to enforce the provisions of the Contract.

When the Engineer has designated a Project Manager, the Contractor should direct all requests for clarification or interpretation of the Contract, in writing, to the Project Manager. The Project Manager will respond within a reasonable time. Contract clarification or interpretation obtained from persons other than the Project Manager will not be binding on the Agency.

The Project Manager shall have the authority to appoint Inspectors and other personnel as required to assist in the administration of the Contract.

**00150.02 Inspector's Authority and Duties** - To the extent delegated under 00150.01, Inspectors are authorized to represent the Engineer and Project Manager to perform the following:

- Inspect Work performed and Materials furnished, including without limitation, the preparation, fabrication, or manufacture of Materials to be used;
- Orally reject defective Materials and to confirm such rejection in writing;
- By oral order, temporarily suspend the Work for improper prosecution pending the Engineer's decision; and
- Exercise additional delegated authority.

Inspectors are not authorized to:

- Accept Work or Materials.
- Alter or waive provisions of the Contract.
- Give instructions or advice inconsistent with the Contract Documents.

**00150.10 Coordination of Contract Documents** - The Contract Documents, including but not limited to Contract Change Orders, the Special Provisions, the Plans, and the Standard Specifications are intended to collectively describe all of the items of Work necessary to complete the Project. The Contract Documents are complementary; what is required by one is as binding as if required by all.

(a) **Order of Precedence** - The Engineer will resolve any discrepancies between these documents in the following order of precedence:

1. Permits from outside agencies;
2. Contract (Agreement)
3. Addenda;
4. Bid Schedule;
5. Special Provisions;
6. General Conditions;
7. Standard Specifications;
8. Geotechnical Data Reports;
9. Agency-prepared drawings specifically applicable to the Project and bearing the Project title;
10. Standard Drawings;
11. Reviewed and accepted, stamped Working Drawings;
12. Approved Unstamped Working Drawings.

Change Orders, Work Change Directives, Field Orders, and Engineer's written interpretation and clarifications, in precedence listed, will take precedence over all other Contract Document components referenced herein.

Notes on a drawing shall take precedence over drawing details. Dimensions shown on the drawings, or that can be computed, shall take precedence over scaled dimensions. The Drawings with the higher level of detail take precedence over less detailed Drawings.

**(b) Immaterial Discrepancies** - The Contract Documents specify details for the construction and completion of the Work. If Contract Documents describe portions of the Work in sufficient detail but are silent in some minor respect, the Contractor may proceed utilizing the current best industry practices.

**(c) Material Discrepancies** - If the Contractor identifies a discrepancy, error, or omission in the Contract Documents that cannot be resolved by the approach specified in (b) above, the Contractor shall immediately request clarification from the Engineer.

#### **00150.15 Construction Stakes, Lines, and Grades:**

**(a) Agency Responsibilities** - The Engineer will provide the location of the existing benchmarks and horizontal control locations used to design the project and prepare the Plans.

**(b) Contractor Responsibilities** - The Contractor shall:

- Accurately measure detailed dimensions, elevations, and slopes from the Engineer's benchmarks and horizontal control locations;
- Provide all labor, materials and equipment to properly stake out the project so that it can be constructed in accordance with the Contract Documents. Any changes made shall be recorded and the changed vertical and horizontal locations incorporated into the "as-built" drawings.
- Inform the Engineer of any property corners monuments and/or survey markers that are not shown on the Plans and are found during construction activities prior to disturbing the monuments. Allow the Agency 2 Work days for referencing all found markers before they are removed. Monuments that are noted on the Plans to be protected and are disturbed by the Contractor's activities shall be replaced by the Contractor's surveyor at the Contractor's expense in accordance with ORS Chapter 209.

#### **00150.20 Inspection:**

**(a) Inspection by the Engineer** - The Engineer may test Materials furnished and inspect Work performed by the Contractor to ensure Contract compliance. The Contractor shall notify the Engineer 48 hours (two full Work Days) in advance for inspection of each portion of the Work.

Contractor shall not begin placing successive Courses or portions of Work until preceding Courses or portions of the Work have been inspected.

If the Contractor performs Work without the Engineer's inspection or uses Materials that the Engineer has not approved, the Engineer may order affected portions of the Work removed at the Contractor's expense.

At the Engineer's direction, any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore these portions of Work to the standard required by the Contract. If the Engineer rejects Work due to Materials or workmanship, or if the Contractor performed such Work without providing sufficient advance request for inspection to the Engineer, the Contractor shall bear all costs of uncovering and restoring the Work. If the Engineer accepts the uncovered Work, and the Contractor performed the Work only after providing the Engineer with sufficient advance notice, the costs of uncovering and restoring the Work will be paid for by the Agency according to 00195.20.

**(b) Inspection Facilities** - The Contractor shall furnish walkways, railings, ladders, shoring, tunnels, platforms, and other facilities necessary to permit the Engineer to have safe access to the Work to be inspected. The Contractor shall require producers and fabricators to provide safe inspection access as requested by the Engineer.

**(c) Sampling** - When directed by the Agency, the Contractor shall furnish the Engineer with samples of Materials that the Engineer will test. All of the Contractor's costs related to this required sampling are incidental.

**(d) Inspection by Third Parties** - Where third parties have the right to inspect the Work, the Contractor shall coordinate with the Engineer and shall provide safe inspection access.

**(e) Contractor's Duty to Make Corrections** - The Contractor shall perform all Work according to the Contract Documents. The Contractor shall correct Work that does not comply with the Contract Documents at its own expense. Inspection of the Work by the Engineer does not relieve the Contractor of responsibility for improper prosecution of the Work.

**00150.25 Acceptability of Materials and Work** - The Contractor shall furnish Materials and shall perform Work in Close Conformance to the Contract Documents. If the Engineer determines that the Materials furnished or the Work performed are not in Close Conformance with the Contract Documents, the Engineer may:

- Reject the Materials or Work and order the Contractor, at the Contractor's expense, to remove, replace, or otherwise correct any non-conformity; or
- Accept the Materials or Work as suitable for the intended purpose, adjust the amount paid for applicable Pay Items to account for diminished cost to the Contractor or diminished value to the Agency, document the adjustment, and provide written documentation to the Contractor regarding the basis of the adjustment.

The Engineer's decisions concerning acceptability of Materials or Work will be final.

**00150.30 Delivery of Notices** - Written notices to the Contractor by the Engineer or the Agency will be delivered:

- In person;
- by electronically confirmed facsimile transmission;
- By U.S. Postal Service first class mail or priority mail (which at the sender's option may include certified or registered mail return receipt requested), to the current office address as shown in the records of the Agency; or
- By overnight delivery service of a private industry courier, to the current office address as shown in the records of the Agency.

Notices shall be considered as having been received by the Contractor:

- At the time of actual receipt when delivered in person or by facsimile transmission;
- At the time of actual receipt or 7 Calendar Days after the postmarked date when deposited for delivery by first class or priority mail, whichever is earlier; or
- At the time of actual receipt or 3 Calendar Days after deposit with a private industry courier for overnight delivery service, whichever is earlier.

Written notices to the Engineer or the Agency by the Contractor shall be delivered to the Agency address shown in the Special Provisions, unless a different address is agreed to by the Engineer, and shall be delivered:

- In person;
- By U.S. Postal Service first class mail or priority mail (which at the sender's option may include certified or registered mail return receipt requested); or
- By overnight delivery service of a private industry courier.

Notices will be considered as having been received by the Agency:

- At the time of actual receipt when delivered in person or by facsimile transmission;
- At the time of actual receipt or 7 Calendar Days after the postmarked date when deposited for delivery by first class or priority mail, whichever is earlier; or
- At the time of actual receipt or 3 Calendar Days after deposit with a private industry courier for overnight delivery service, whichever is earlier.

#### **00150.35 Submittals:**

**(a) Description** - Submittals covered by these requirements include manufacturers' information, shop drawings, test procedures, test results, samples, requests for substitutions, and miscellaneous Workrelated submittals. Submittals shall also include, but not be limited to, all mechanical, electrical and electronic equipment and systems, materials, reinforcing steel, fabricated items, and piping and conduit details. The Contractor shall furnish all drawings, specifications, descriptive data, certificates, samples, tests, methods, schedules, and manufacturer's installation and other instructions as specifically required in the Contract Documents to demonstrate fully that the materials and equipment to be furnished and the methods of work comply with the provisions and intent of the Contract Documents.

#### **(b) Contractor's Responsibilities**

- (1) The Contractor shall be responsible for the accuracy and completeness of the information contained in each submittal and shall assure that the material, equipment or method of work shall be as described in the submittal. The Contractor shall verify that all features of all products conform to the specified requirements. Submittal documents shall be clearly edited to indicate only those items, models, or series of equipment, which are being submitted for review. All extraneous materials shall be crossed out or otherwise obliterated. The Contractor shall ensure that there is no conflict with other submittals and notify the Engineer in each case where his submittal may affect the work of another contractor or the Agency. The Contractor shall coordinate submittals among its subcontractors and suppliers including those submittals complying with unit responsibility requirements specified in applicable technical sections.
- (2) The Contractor shall coordinate submittals with the Work so that Work will not be delayed. It shall coordinate and schedule different categories of submittals, so that one will not be delayed for lack of coordination with another. No extension of time will be allowed because of failure to properly schedule submittals. The Contractor shall not proceed with Work related to a submittal until the submittal process is complete. This requires that submittals for review and comment shall be returned to the Contractor with the indication "No Exceptions Taken" or "Make Corrections Noted."
- (3) The Contractor shall certify on each submittal document that it has reviewed the submittal, verified field conditions, and complied with the contract documents.
- (4) The Contractor may authorize in writing a material or equipment supplier to deal directly with the Engineer or with the Agency with regard to a submittal. These dealings shall be limited to contract interpretations to clarify and expedite the Work.

### (c) Shop Drawings and Product Submittals

- (1) Wherever called for in the Contract Documents or where required by the Engineer, the Contractor shall furnish to the Engineer for review, five (5) copies plus one reproducible copy or electronic file, of each Shop Drawing or Product submittal. Shop Drawings may include detail design calculations, shop-prepared drawings, fabrication and installation drawings, erection drawings, lists, graphs, catalog sheets, data sheets, and similar items. If a list, graph, catalog sheet, data sheet, etc. includes more than one item, clearly mark which item is the subject of the submittal. Shop Drawings shall bear the signature and seal of an engineer registered in the appropriate branch and in the state of Oregon, unless otherwise indicated. Whenever the Contractor is required to submit design calculations as part of a submittal, such calculations shall bear the signature and seal of an engineer registered in the appropriate branch and in the state of Oregon, unless otherwise indicated.
- (2) Shop Drawing and Product submittals shall be accompanied by the Engineer's standard submittal transmittal form, a reproducible copy of which is available from the Engineer. A submittal without the form or where applicable items on the form are not completed will be returned for resubmittal.
- (3) Organization
  - A single submittal transmittal form shall be used for each technical specification section or item or class of material or equipment for which a submittal is required. A single submittal covering multiple sections will not be acceptable, unless the primary specification references other sections for components. Example: if a pump section references other sections for the motor, shop-applied protective coating, anchor bolts, local control panel, and variable frequency drive, a single submittal would be acceptable. A single submittal covering vertical turbine pumps and horizontal split case pumps would not be acceptable.
  - On the transmittal form, index the components of the submittal and insert tabs in the submittal to match the components. Relate the submittal components to specification paragraph and subparagraph, Drawing number, detail number, schedule title, room number, or building name, as applicable.
  - Unless indicated otherwise, terminology and equipment names and numbers used in submittals shall match those used in the Contract Documents.
- (4) Format
  - Minimum sheet size shall be 8.5 inches by 11 inches. Maximum sheet size shall be 22 inches by 34 inches. Every page in a submittal shall be numbered in sequence. Each copy of a submittal shall be collated and stapled or bound, as appropriate. The Engineer will not collate sheets or copies.
  - Where product data from a manufacturer is submitted, clearly mark which model is proposed, with complete pertinent data capacities, dimensions, clearances, diagrams, controls, connections, anchorage, and supports. Sufficient level of detail shall be presented for assessment of compliance with the Contract Documents.
  - Each submittal shall be assigned a unique number. Submittals shall be numbered sequentially, and the submittal numbers shall be clearly noted on the transmittal. Original submittals shall be assigned a numeric submittal number (e.g., 25). If submittal "25" requires a resubmittal, the first resubmittal will bear the designation "25.A" and the second resubmittal will bear the designation "25.B" and so on.
  - If there is a follow-up submittal related to a previously submitted class of material or type of equipment (e.g., follow-up submittal to submittal "25"), it shall be assigned the number "25.1". If submittal "25.1" requires a resubmittal, the first resubmittal will bear the designation "25.1.A" and the second resubmittal will bear the designation "25.1.B" and so on.
- (5) Disorganized submittals that do not meet the requirements of the Contract Documents will be returned without review.

- (6) Except as may otherwise be indicated, the Engineer will return prints of each submittal to the Contractor with comments noted thereon, within 21 Days following receipt by the Engineer. It is considered reasonable that the Contractor will make a complete and acceptable submittal to the Engineer by the first resubmittal on an item. The Owner reserves the right to withhold monies due to the Contractor to cover additional costs of the Engineer's review beyond the first resubmittal. The Engineer's maximum review period for each submittal or resubmittal will be 21 Days.
- (7) If a submittal is returned to the Contractor marked "NO EXCEPTIONS TAKEN," formal revision and resubmission will not be required.
- (8) If a submittal is returned marked "MAKE CORRECTIONS NOTED," Contractor shall make the corrections on the submittal, but formal revision and resubmission will not be required, except where specifically required by Engineer as indicated on the submittal review form.
- (9) If a submittal is returned marked "AMEND-RESUBMIT," the Contractor shall revise it and shall resubmit the required number of copies to the Engineer for review. Resubmittal of portions of multi-page or multi-drawing submittals will not be allowed. For example, if a Shop Drawing submittal consisting of 10 drawings contains one drawing noted as "AMEND - RESUBMIT," the submittal as a whole is deemed "AMEND - RESUBMIT," and 10 drawings are required to be resubmitted.
- (10) If a submittal is returned marked "REJECTED-RESUBMIT," it shall mean either that the proposed material or product does not satisfy the specification, the submittal is so incomplete that it cannot be reviewed, or is a substitution request not submitted in accordance with the General Conditions. In the first 2 cases, the Contractor shall prepare a new submittal and shall submit the required number of copies to the Engineer for review. In the latter case, the Contractor shall submit the substitution request according to the General Conditions.
- (11) Resubmittal of rejected portions of a previous submittal will not be allowed. Every change from a submittal to a resubmittal or from a resubmittal to a subsequent resubmittal shall be identified and flagged on the resubmittal.
- (12) Fabrication of an item may commence only after the Engineer has reviewed the pertinent submittals and returned copies to the Contractor marked either "NO EXCEPTIONS TAKEN" or "MAKE CORRECTIONS NOTED". Corrections indicated on submittals shall be considered as changes necessary to meet the requirements of the Contract Documents and shall not be taken as changes to the Contract requirements.
- (13) Submittals shall be carefully reviewed by an authorized representative of the Contractor prior to submission to the Engineer. Each submittal shall be dated and signed by the Contractor as being correct and in strict conformance with the Contract Documents. In the case of Shop Drawings, each sheet shall be so dated and signed. Any deviations from the Contract Documents shall be noted by the Contractor on the transmittal form and such deviation shall be subject to approval in writing by the Engineer and Agency. The Engineer will only review submittals that have been so verified by the Contractor. Non-verified submittals will be returned to the Contractor without action taken by the Engineer, and any delays caused thereby shall be the total responsibility of the Contractor.
- (14) Corrections or comments made on the Contractor's Shop Drawings during review do not relieve the Contractor from compliance with Contract Drawings and Specifications. Review is for conformance to the design concept and general compliance with the Contract Documents only. The Contractor is responsible for confirming and correlating quantities and dimensions, fabrication processes and techniques, coordinating Work with the trades, and satisfactory and safe performance of the Work.

**(d) Quality Control (QC) Submittals**

- (1) Quality control submittals are defined as those required by the Specifications to present documentary evidence to the Engineer that the Contractor has satisfied certain requirements of the Contract Documents.

(2) Unless otherwise indicated, QC submittals shall be submitted:

- Before delivery and unloading, for the following types of submittals:
  - Manufacturers' installation instructions
  - Manufacturers' and Installers' experience qualifications
  - Ready mix concrete delivery tickets
  - Design calculations
  - Affidavits and manufacturers' certification of compliance with indicated product requirements
  - Laboratory analysis results
  - Factory test reports
- For the following types of submittals, the manufacturer's field representative shall submit a draft certification prior to leaving the Project site and a final certification within 7 days of the event documented:
  - Manufacturers' field representative certification of proper installation
- Within 30 Days of the event documented for the following types of submittals:
  - Field measurement
  - Field test reports
  - Receipt of permit
  - Receipt of regulatory approval

(3) The Engineer will record the date that a QC submittal was received and review it for compliance with submittal requirements, but the review procedures above for Shop Drawings and samples will not apply.

**(e) Deferred Submittals to Agency**

- (1) For the purposes of this section, Deferred Submittals are defined as those portions of the Project that are Contractor-designed and must be submitted to the Agency's building official for approval and to meet Building Permit plan review requirements.
- (2) The Engineer will schedule a pre-submittal conference with the Contractor and Agency's building official to discuss proposed Deferred Submittal items, requirements, and review schedule.
- (3) The Contractor shall list the Deferred Submittals on the title or cover sheet of the Drawings for submission to the Agency and shall state the design criteria/assumptions of the Deferred Submittal items on the plans. Deferred Submittals shall include details for connection of materials to the structure and calculations showing that the specified structural requirements are met.
- (4) The Contractor shall submit Deferred Submittals to the Engineer for review for general conformance to the design of the structure. Neither the Agency nor the Engineer is responsible for coordination of Deferred Submittal components with Contract Documents. Review does not lessen nor shift burden or responsibility from Contractor or assigned subcontractor/supplier to the Agency or Engineer. The Engineer, upon confirming the Deferred Submittals are in general conformance with the design, shall forward the Deferred Submittals to the building official. Contractor is responsible, with no exceptions, to ensure that building official's Deferred Submittal review will not adversely affect Project's construction

schedule. The Deferred Submittal items shall not be installed by the Contractor until the design and Deferred Submittals have been approved by the building official.

**(f) Effect of Review of Contractor's Submittals**

- (1) Review of Contract drawings, methods of work, or information regarding materials or equipment the Contractor proposes to provide, shall not relieve the Contractor of its responsibility for errors therein and shall not be regarded as an assumption of risks or liability by the Engineer or the Agency, or by any officer or employee thereof, and the Contractor shall have no claim under the contract on account of the failure, or partial failure, of the method of work, material, or equipment so reviewed. An indication of "NO EXCEPTIONS TAKEN" or "MAKE CORRECTIONS NOTED" shall mean that the Agency or Engineer has no objection to the Contractor, upon its own responsibility, using the plan or method of Work proposed, or providing the materials or equipment proposed.

**00150.37 Equipment Lists and Other Submittals** - The Contractor shall submit Equipment lists, and other required submittals for approval by the Engineer. With each submittal, the Contractor shall clearly identify the applicable specification sub-section and the product make, model, size and proposed options.

**00150.40 Cooperation and Superintendence by the Contractor:**

The Contractor is responsible for full management of all aspects of the Work, including superintendence of all Work by Subcontractors, Suppliers, and other providers. The Contractor shall appoint a single Superintendent and may also appoint alternate Superintendents as necessary to control the Work. The form of appointment of the alternate shall state, in writing, the alternate's name, duration of appointment in the absence of the Superintendent, and scope of authority. The Contractor shall:

- Provide for the cooperation and superintendence on the Project by:
  - Furnishing the Engineer all data necessary to determine the actual cost of all or any part of the Work, added Work, or changed Work.
  - Allowing the Engineer reasonable access to the Contractor's books and records at all times. To the extent permitted by public records laws, the Engineer will make reasonable efforts to honor the Contractor's request for protection of confidential information.
  - Keeping one complete set of Contract Documents on the Project Site at all times, available for use by all the Contractor's own organization, and by the Engineer if necessary.
- Appoint a single Superintendent and any alternate Superintendent who shall meet the following qualifications:
  - Appointees shall be competent to manage all aspects of the Work.
  - Appointees shall be from the Contractor's own organization.
  - Appointees shall have performed similar duties on at least one previous project of the size, scope and complexity as the current Contract.
  - Appointees shall be experienced in the types of Work being performed.
  - Appointees shall be capable of reading and thoroughly understanding the Contract Documents.
- The appointed single Superintendent, or any alternate Superintendent shall:
  - Be present for all On-Site Work, regardless of the amount to be performed by the Contractor, Subcontractors, Suppliers, or other providers, unless the Engineer provides prior approval of the Superintendent's or alternate Superintendent's absence.
  - Be equipped with a two way radio or cell phone capable of communicating throughout the project during all the hours of Work on the Project Site and be available for communication with the Engineer.
  - Have full authority and responsibility to promptly execute orders or directions of the Engineer.
  - Have full authority and responsibility to promptly supply the Materials, Equipment, labor, and Incidentals required for performance of the Work.
  - Coordinate and control all Work performed under the Contract, including without limitation the Work performed by Subcontractors, Suppliers, and Owner Operators.
  - Diligently pursue progress of the Work according to the schedule requirements of Section 00180.
  - Cooperate in good faith with the Engineer, Inspectors, and other contractors in performance of the Work.

- Provide all assistance reasonably required by the Engineer to obtain information regarding the nature, quantity, and quality of any part of the Work.
- Provide access, facilities and assistance to the Engineer in establishing such lines, grades and points as the Engineer requires.
- Carefully protect and preserve the Engineer's benchmarks and horizontal control locations.

Any Superintendent or alternate Superintendent who repeatedly fails to follow the Engineer's written or oral orders, directions, instructions, or determinations, shall be subject to removal from the project.

If the Contractor fails or neglects to provide a Superintendent, or an alternate Superintendent, and no prior approval has been granted, the Engineer has the authority to suspend the Work according to 00180.70. Any continued Work by the Contractor, Subcontractors, Suppliers, or other providers may be subject to rejection and removal. The Contractor's repeated failure or neglect to provide the superintendence required by these provisions constitutes a material breach of the Contract, and the Engineer may impose any remedies available under the Contract, including but not limited to Contract termination.

#### **00150.50 Cooperation with Utilities:**

**(a) General** - Unless otherwise specified in the Special Provisions or on the Plans, existing Utilities requiring adjustment may be adjusted by the Utility before, during, or after Project construction. "Adjustment of Utilities" shall mean the alteration, improvement, connection, disconnection, relocation, or removal of existing Utility lines, facilities, or systems in temporary or permanent manner.

**(b) Contractor's Responsibilities** - The Contractor shall:

- Follow applicable rules adopted by the Oregon Utility Notification Center;
- Contact Utility owners after the Contract is awarded to verify all Utilities' involvement on the Project Site;
- Coordinate Project construction with the Utilities' planned adjustments, take all precautions necessary to prevent disruption of Utility service, and perform its Work in the manner that results in the least inconvenience to the Utility owners;
- Include all Utility adjustment work, whether to be performed by the Contractor or the Utilities, on the Contractor's Project Work schedule submitted under 00180.41;
- Protect from damage or disturbance any Utility that remains within the area in which Work is being performed;
- Not disturb an existing Utility if it requires an unanticipated adjustment, but shall protect it from damage or disturbance and promptly notify the Engineer; and
- Report to the Engineer any Utility owner who fails to cooperate or fails to follow the planned Utility adjustment.

Subject to the Engineer's approval, the Contractor may propose adjustments to the Utilities by asking the Utility owners to move, remove, or alter their facilities in ways other than as shown on the Plans or in the Special Provisions. The Contractor shall conduct all negotiations, make all arrangements, and assume all costs that arise from such changes.

**(c) Notification** - If the Project is located within the area served by the Oregon Utility Notification Center, the Contractor shall notify owners of Utilities prior to the performance of Work in the vicinity of their facilities. The Utilities notification system telephone number is 1-800-332-2344.

The Contractor shall comply with the rules of the Oregon Utility Notification Center, OAR 952-001-0010 through OAR 952-001-0090, and ORS 757.993. The Contractor may contact the Oregon Utility Notification Center at 503-232-1987 about these rules.

#### **00150.53 Utilities and Existing Improvements:**

**(a) General** – Information shown on the plans as to the location of existing water courses and utilities has been compiled from available sources and may not be accurate. The Contractor shall determine the location and nature of affected water courses, utilities and underground improvements prior to commencing Work.

The Contractor shall provide for the flow of water courses and essential utilities that may be interrupted during the progress of the Work and shall restore such water courses or utilities after completion of the Work.

The plans will not normally show the new location of utilities that have been adjusted immediately prior to the project or will be adjusted as part of the project Work.

Except where the plans indicate, utilities have been field located during design or certain utility locations shall be exposed as part of the Work. The Contractor shall be responsible for exploratory excavations as it deems necessary to determine the exact locations and depths of utilities which may interfere with Work. All such exploratory excavations shall be performed as soon as practicable after Notice to Proceed and, in any event, a sufficient time in advance of construction to avoid possible delays to the Contractor's progress. When such exploratory excavations show the utility location as shown on the plans to be in error, the Contractor shall so notify the Engineer.

The number of exploratory excavations required shall be that number which is sufficient to determine the alignment and grade of the utility. Unless otherwise provided herein, all potholing and exploratory work shall be incidental to the Work and no separate payment shall be made therefore.

The Contractor shall coordinate project construction with the adjustment of utilities, take all necessary precautions to prevent disturbing the utilities, and perform work so that utility owners and users are caused a minimum of inconvenience.

The Contractor shall protect underground utilities and other improvements which may be impaired during construction operations, regardless of whether or the not the utilities are indicated on the plans. The Contractor shall take all possible precautions for the protection of unforeseen utility lines to provide for uninterrupted service and to provide such special protection as may be necessary.

To ease or streamline the work, the Contractor may desire to adjust the utilities by asking the utility owners to move, remove, or alter their equipment in ways other than those shown on the plans or in the Contract Documents. The Contractor shall conduct the negotiations, make the arrangements, and pay all costs that arise from such changes.

- (b) **Utilities to be Moved** – In case it shall be necessary to move the property of any public utility or franchise holder, such utility company or franchise holder shall be notified by the Contractor to move such property within a specified reasonable time. When utility lines that are to be removed are encountered within the area of operations, the Contractor shall notify the utility company and the Engineer a sufficient time in advance for the necessary measures to be taken to prevent the interruption of service.
- (c) **Utilities to be Removed** – Where the proper completion of the Work requires the temporary or permanent removal and/or relocation of an existing utility or other improvement which is indicated, the Contractor shall remove and, without unnecessary delay, temporarily replace or relocate such utility or improvement in manner satisfactory to the Engineer and the owner of the facility. In all cases of such temporary removal or relocation, restoration to the former location shall be accomplished by the Contractor in a manner that will restore or replace the utility or improvement as nearly as possible to its former locations and to as good or better condition than found prior to removal.
- (d) **Underground Utilities and Improvements Indicated** – Existing utility lines and underground improvements that are indicated or the locations of which are made known to the Contractor prior to excavation and that are to be retained, and all utility lines and underground improvements that are encountered during excavation operations shall be protected from damage during excavation and backfilling and, if damaged, shall be immediately repaired or replaced by the Contractor, unless otherwise repaired by the owner of damaged utility. If the owner of the damage facility performs its own repairs, the Contractor shall reimburse said owner for the costs of repair.
- (e) **Underground Utilities and Improvements Not Indicated** – In the event that the Contractor damages existing utility lines or underground improvements that are not indicated in the plans or marked in the field, or are not indicated or marked with reasonable accuracy, or the locations of which are not made known to the Contractor prior to excavation, the Contractor shall immediately provide a verbal report of such damage to the Engineer, and provide a written report thereof promptly thereafter. The Contractor shall immediately notify the owner of the damaged utility. If directed by the Engineer, repairs shall be made by the Contractor under the provisions for changes and extra work contained in the General Conditions.

This subsection applies only to main line utilities. For service lines, see Subsection 00150.53(f).

For purposes of this section, "reasonable accuracy" is defined as within 4 feet horizontally from actual location. No representation shall be made concerning the accuracy of vertical elevations of existing utilities, even if indicated in the plans, and no additional payment will be made for damage to utilities encountered at depths differing from those indicated.

- (f) **Underground Services Indicated or Not** – If service lines are encountered, whether shown, marked or not, the Contractor shall take precautions to carefully work around them and repair them if they are damaged by the Contractor, at no additional cost to the Agency.
- (g) **Approval of Repairs** – All repairs to a damaged utility or improvement are subject to inspection and approval by an authorized representative of the utility or improvement owner before being concealed by backfill or other Work.
- (h) **Owner's Right of Access** – The right reserved to the Owner and to the owners of public utilities and franchises to enter at any time upon any public street, alley, right-of-way, or easement for the purpose of making changes in their property made necessary by the Work of this Contract.

**00150.55 Cooperation with Other Contractors** - The Agency reserves the right to perform other work on or near the Project Site, including without limitation any Materials site, with forces other than those of the Contractor.

If such work takes place on or near the Project Site, the Contractor shall have the following obligations:

- The Contractor shall coordinate Work with other contractors or forces.
- The Contractor shall cooperate in good faith with all other contractors or forces.
- The Contractor shall perform the Work specified in the Contract in a way that will minimize interference and delay for all forces involved.
- The Contractor shall place and dispose of the Materials being used so as not to interfere with the operations of other forces.
- The Contractor shall join the Work with that of other forces in a manner acceptable to the Engineer or the Agency, and shall perform it in the accepted sequence with the work of the other force.

The Engineer will resolve any disagreements under this Subsection that may arise among the Contractor and other work forces, or between the Contractor and the Agency. The Engineer's decision in these matters is final, as provided in 00150.00.

When the schedules for Work of the Contractor and the work of other forces overlap, each contractor involved shall submit a current, realistic progress schedule to the Engineer. Before the Engineer accepts the schedule, each party shall have the opportunity to review all schedules. After this review and any necessary consultations, the Engineer will determine acceptable schedules.

The Contractor waives any right it may have to make claims against the Agency for any damages or claims that may arise because of inconvenience, delay, or loss due solely to the presence of other contractors working on or near the Project Site.

If the Contract gives notice of work to be performed by other forces that may affect the Contractor's Work under the Contract, the Contractor shall include any costs associated with coordination of the Work in the appropriate Pay Item or as a portion of a Pay Item.

In an emergency, the contractor most immediately able to respond may repair a facility or Utility of another contractor in order to prevent further damage to the facility, Utility, or other Structure as a result of the emergency.

**00150.60 Construction Equipment Restrictions:**

**(a) Load and Speed Restrictions for Construction Vehicles and Equipment** - The Contractor shall comply with legal weight and speed restrictions when moving Materials or Equipment beyond the limits of the Project Site.

The Contractor shall control vehicle and Equipment loads and speeds within the Project Site according to the following restrictions, unless the Special Provisions provide otherwise:

- The Contractor shall restrict loads and speeds as necessary to avoid displacement or loss of Materials on Subgrades and Aggregate Bases.
- The Contractor shall restrict weights to legal loads, and shall travel at speeds of no more than 45 mph or the posted construction speed, whichever is less, on treated Bases, Pavement, or wearing Courses.
- The Contractor shall not cross Bridges or other Structures with Equipment or vehicles exceeding the legal load limit without prior written permission of the Engineer. The Contractor shall make any such request in writing, describing the loading details and the arrangement, movement, and position of the Equipment on the Structure. The Contractor shall comply with any restrictions or conditions included in the Engineer's written permission.

**(b) Protection of Buried Items** - The Contractor shall use temporary fill or other methods to avoid overload of pipes, box culverts, and other items that are covered, or to be covered, by fill or backfill.

**(c) Responsibility for Damages** - The Contractor shall assume responsibility for damages caused by excessive Equipment speed or loads while performing the Work, both inside and outside the Project Site. The Engineer's permission to cross Bridges and other Structures, according to 00150.60(a) will not relieve the Contractor from responsibility for load-caused damages.

**00150.70 Detrimental Operations** - The Contractor shall avoid operations whose methods, conditions, or timing may injure people or damage property or the Work. Damage may include without limitation, staining surfaces with mud or asphalt. (also see 00150.60, 00150.75, and Section 00170)

When any such damage occurs, the Engineer will determine if it is to be corrected by repair, replacement, or compensatory payment by the Contractor. If compensatory payment is required, the Engineer will determine the amount. Compensatory payment may be deducted from monies due or to become due to the Contractor under the Contract.

**00150.75 Protection and Maintenance of Work During Construction** - The Contractor shall protect and maintain the Work during construction and until Third Notification has been issued, unless otherwise provided in the Contract. For the purposes of this Subsection, "maintenance" shall include measures to prevent deterioration of Roadway and Structures at the Project Site, and to keep them in good condition at all times during the prosecution of the Work. The Contractor shall continuously allocate sufficient Equipment and workers to achieve such maintenance.

If the Contract requires the placement of a Course upon a previously constructed Course or Subgrade, the Contractor shall maintain the previous Course or Subgrade during all construction operations.

The Contractor shall include costs of protecting and maintaining the Work during construction in the unit prices bid for the various Pay Items. The Contractor will not be paid an additional amount for this Work, unless otherwise specified.

The Engineer will timely notify the Contractor of Contractor's noncompliance with this Subsection. If the Contractor fails to remedy unsatisfactory protection or maintenance within 24 hours after receipt of such notice, the Engineer may proceed to remedy the deficiency, and deduct the entire cost from monies due or to become due the Contractor under the Contract.

**00150.80 Removal of Unacceptable and Unauthorized Work** - The Contractor shall correct or remove unacceptable Work and remove unauthorized work, as directed by the Engineer in writing. The Contractor shall replace such work with Work and Materials conforming to the requirements of the Contract.

For the purposes of this Subsection, "unauthorized work" shall include without limitation the following:

- Work that extends beyond lines shown on the Plans or otherwise established by the Engineer;
- Work that is contrary to the Engineer's instructions; and
- Work that is conducted without the Engineer's written authorization.

The Agency will not pay the Contractor for unacceptable Work or unauthorized work. The Engineer may issue a written order for the correction or removal of such work at the Contractor's expense.

If, when ordered by the Engineer, the Contractor fails to correct or remove unacceptable Work or unauthorized work, the Engineer may have the correction, or removal and replacement, done by others and deduct the entire cost from monies due or to become due the Contractor under the Contract.

#### **00150.90 Final Inspection:**

**(a) On-site Construction Work** - The Engineer will inspect the Project at a time close to the completion of On-Site Work for Contractor's compliance with the Contract Documents.

When all On-Site Work on the Project is completed, including but not limited to Change Order Work and Extra Work, the Engineer will issue Second Notification as specified in 00180.50(g).

Within 15 Calendar Days after the Engineer receives the Contractor's written notification that all punch list items, final trimming and cleanup according to 00140.90 have been completed, the Engineer will review the Project and notify the Contractor that all Work is complete, or will give the Contractor written instruction regarding incomplete or unsatisfactory Work.

**(b) All Contract Work** - The Engineer will issue the Third Notification when the Contractor has satisfactorily accomplished all of the following:

- The Contractor has completed all On-Site Work required under the Contract, including the punch list items from (a) above;
- The Contractor has removed all Equipment; and
- The Contractor has submitted all required certifications, bills, forms, warranties and other documents.
- The Contractor has submitted complete and acceptable "As-Built" drawings as specified in 00140.95.

**00150.91 Post-Construction Review** - The Contractor or the Engineer may request a Post-Construction Review meeting, to be held at a time prior to issuance of Third Notification but not earlier than 15 Days following the date of Second Notification. The meeting may be held if agreed to by both parties. The party making the request will conduct the meeting, and will announce the time and place of the meeting at least 15 Days prior to the meeting date. The purpose of this meeting is to examine the Project for possible process improvements that may benefit future projects.

**00150.95 Final Acceptance** - After the Engineer completes Final Inspection of all Correction Period work and deems it satisfactorily completed, the Agency will acknowledge Final Acceptance. The Agency will notify the Contractor in writing of the date of Final Acceptance within 7 Calendar Days after Final Acceptance, or as soon thereafter as is practicable.

**00150.96 Maintenance Warranties and Guarantees** - Prior to Third Notification, the Contractor shall transfer to the Agency all unexpired manufacturer's, installer's or supplier's warranties and guarantees for Materials and Equipment installed on the Project. Such warranties and guarantees shall recite that they are enforceable by the Agency.

#### **00150.97 Responsibility for Materials and Workmanship:**

**(a)** The Contractor shall perform the Work according to the terms, conditions, and requirements of the Contract.

**(b)** Whether before or after the Agency's acceptance of the Work, the Contractor shall be responsible for:

- Correcting or repairing any defects in, or damage to, the Work which results from the use of improper or defective materials or workmanship; or
- Replacing, in its entirety, the Work affected by the use of improper or defective materials or workmanship to the extent provided by law; and
- Correcting or repairing any Work, Materials, Structures, Existing Surfacing, Pavement, Utilities, or sites, including without limitation Wetlands, damaged or disturbed in that correction, repair, or replacement. (see 00170.80 to 00170.85)

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## Section 00160 - Source of Materials

**00160.00 Definitions** - The following definitions apply to Section 00160:

**(a) Prospective Source** - Agency-furnished Materials source, use of which by the Contractor is optional. The Agency makes no guarantee or representation, by implication or otherwise, of the land use status, quantity, quality, or acceptability of Materials available from it, except as may be stated in the Special Provisions.

**(b) Mandatory Source** - Agency-furnished Materials source, use of which by the Contractor is required.

**00160.01 Notification of Source of Supply and Materials:**

**(a) All Materials** - The Contractor shall notify the Engineer in writing of all proposed Materials sources of supply, including without limitation any steel or other fabricators within the following time frames:

- At least 15 Calendar Days before using or fabricating Materials, if source is within the State; or
- At least 45 Calendar Days before using or fabricating Materials, if source is outside the State

**(b) Prospective Source Materials** - When given an option to use Prospective Sources of Materials to be incorporated into the Work, the Contractor shall notify the Engineer in writing of the option selected within 15 Calendar Days from date of Notice to Proceed. Otherwise, such Materials sources may become unavailable.

**(c) Approval Required** - Before allowing production or delivery of Materials to begin from any source, the Contractor must obtain the Engineer's approval. Approval to use any source does not imply that Materials from that source will be accepted. If approved sources do not provide Materials that meet Specifications, the Materials will be rejected. The Contractor will then be responsible for locating other sources and obtaining the Engineer's approval.

**00160.05 Qualified Products List (QPL)** - The QPL is a listing of manufactured products available on the market (shelf items) that ODOT has evaluated and found suitable for a specified use in construction. The QPL is published twice a year and is available from ODOT's Construction Section; 800 Airport Road SE; Salem, OR 97301-4798; phone 503-986-3000. It may also be viewed on ODOT's web site.

The current version of the QPL at the time of Bid Closing is the version in effect for the Project. The Engineer may approve for use a conditionally qualified product, or a product qualified for inclusion in a later edition of the QPL, if the Engineer finds the product acceptable for use on the Project.

Use of listed products shall be restricted to the category of use for which they are listed. The Contractor shall install all products as recommended by the manufacturer. The Contractor shall replace qualified products not conforming to Specifications or not properly handled or installed at the Contractor's expense.

**00160.10 Ordering, Producing, and Furnishing Materials** - The Contractor shall not place orders for or produce full quantities of Materials anticipated to be required to complete the Work until the Work has advanced to a stage that allows the quantities to be determined with reasonable accuracy.

**(a) Contractor's Duties** - In purchasing, producing, or delivering Materials, the Contractor shall take into account the following:

- Kind of work involved;
- Amount of work involved;
- Time required to obtain Materials; and
- Other relevant factors.

**(b) Quantity of Materials** - Materials quantities shown on the Plans, or indicated by quantities and Pay Items, are subject to change or elimination. The Contractor is responsible for payment for excess Materials delivered to the Project Site or storage sites. Unless otherwise specified in the Contract, the Agency will not be responsible for:

- Materials the Contractor may deliver or produce in excess of Contract requirements;
- Extra expense the Contractor may incur because Materials were not ordered or produced earlier; or
- The Contractor's expenses related to Materials ordered by the Contractor that are not subsequently approved for use.

Excess Materials, ordered or produced by the Contractor, without approval of the Engineer, may be purchased by the Agency at the sole discretion of the Agency. (see 00195.80)

**00160.20 Preferences for Materials:**

**(a) Buy America** - If federal highway funds are involved on the Project, the Contractor shall limit the quantity of foreign Materials incorporated into the Work as follows. Section 635.410 of Title 23, Code of Federal Regulations, and the Intermodal Surface Transportation Efficiency Act require that all iron or steel manufacturing processes, including without limitation the casting of ingots, for iron or steel Materials permanently incorporated into the Project shall occur in the United States, unless the cost of foreign-origin iron or steel Materials does not exceed one-tenth of one percent (0.1%) of the Contract Amount or \$2,500, whichever is greater. The Contractor shall not incorporate foreign-origin iron or steel Materials in excess of this amount into the Project. All foreign-origin iron or steel Materials incorporated in the Project in excess of the amount indicated above shall be removed and replaced with domestic iron or steel Materials at the Contractor's expense. For purposes of this Specification, the cost of foreign-origin iron or steel Materials shall be the value of the iron or steel products as of the date they are delivered to the Project Site.

Manufacturing processes include without limitation the application of coatings to finished iron or steel products or components. Coatings include epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of the steel or iron product or component.

The Contractor shall provide the Engineer with a Certificate of Materials Origin, on a form furnished by the Engineer, before incorporating any iron or steel products into the Project. Unless a Certificate of Materials Origin has been provided to the Engineer, the Materials shall be considered of foreign origin.

The Contractor shall retain manufacturers' certificates verifying the origin of all domestic iron or steel Materials for 3 years after the date of final payment for the Project, and shall furnish copies to the Engineer upon request.

**(b) Buy Oregon** - According to ORS 279A.120, the Contractor shall give preference to goods or services produced in Oregon if price, fitness, availability, and quality are equal. This provision does not apply to Contracts financed wholly or in part by federal funds.

**(c) Recycled Materials** - According to ORS 279A.010, ORS 279A.125, ORS 279A.145, ORS 279A.150, and ORS 279A.155, and subject to the approval of the Engineer, the Contractor shall use recycled products to the maximum extent economically feasible.

**00160.30 Agency-Furnished Materials** - Unless otherwise specified in the **Special Provisions**, Materials listed as Agency-furnished will be available to the Contractor free of charge.

The Contractor shall be responsible for all Materials furnished by the Agency and shall pay all demurrage and storage charges. The Contractor shall replace at its expense Agency-furnished Materials lost or damaged due to any cause.

The locations at which Agency-furnished Materials are available will be specified in the **Special Provisions**. If the locations are not listed in the **Special Provisions**, the Agency-furnished Materials will be furnished to the Contractor at the Project Site. In either case, all costs of handling, hauling, unloading, and placing Agency-furnished Material shall be considered included in the price paid for the Pay Item involving such Material.

All Agency-furnished Materials not incorporated into the Work remains the property of the Agency. The Contractor shall deliver such Materials as directed by the Engineer.

**00160.50 Agency-Controlled Land; Limitations and Requirements:**

**(a) General** - The Contractor shall have no property rights in, or right of occupancy on, Agency-Controlled Land. Nor shall the Contractor have the right to sell, use, remove, or otherwise dispose of any material from Agency-

Controlled Land, areas, or property, except as specified in the **Special Provisions** or by the written authorization of the Engineer.

Unless authorized in the Contract, the Contractor shall not disturb any material within Rights-of-Way without written authorization from the Engineer.

Unless otherwise specified in the Contract, the ownership of all materials originating on Agency-Controlled Lands will at all times vest in, and remain within the control of, the Agency.

**(b) Waste, Excess, and By-Product Materials** - All waste, excess, and by-product materials, collectively referred to in this Subsection as "By-Products", from the manufacture or production of Materials from Agency-Controlled Lands shall remain Agency property. Unless otherwise ordered by the Engineer in writing, By-Products shall be placed as required in the Special Provisions:

- In stockpiles at designated locations;
- At locations and in shapes that are readily accessible; and
- In such a manner as to avoid fouling areas containing useable materials, or interfering with future plant setups to use materials from the property.

The Agency will not compensate the Contractor for handling and stockpiling By-Products according to the Special Provisions requirements. If by written order the Engineer directs the Contractor to stockpile or place designated By-Products at alternate sites, the By-Products designated shall be loaded, hauled, and placed as directed, and this work will be paid for according to 00195.20.

#### **00160.60 Contractor-Furnished Materials and Sources:**

**(a) General** - The Contractor shall furnish, at its own expense, all products and Materials required for the Project from sources of its own choosing, unless such sources have been specified in the **Special Provisions** or Plans as Prospective or Mandatory Sources.

**(b) Acquisition of Sources** - The Contractor shall acquire, at its own expense, the rights of access to, and the use of, all sources the Contractor chooses which are not Agency-controlled and made available by the Agency to the Contractor.

**(c) Additional Requirements** - Except for continuously-operated commercial sources, Work shall not begin, nor will any Materials be accepted by the Engineer, until the Contractor has:

**(1)** Given to the Engineer a copy of permits from, or proof that permits are not required from:

- The Department of Geology and Mineral Industries, as required under ORS 517.790;
- The Department of State Lands, as required under ORS 196.815 (when removing material from the bed or banks of any waters or from any Wetland); and
- Local governmental authorities having jurisdiction over land use at the source location.

**(2)** Furnished to the Engineer written approval of the property owner, if other than the Contractor, for the Contractor's proposed plans of operation in, and reclamation of, the source. The Contractor shall include in the document containing the property owner's written approval a summary of the requirements of the permits described above, which shall be subject to the Engineer's approval.

**00160.70 Requirements for Plant Operations** - Before operating mixing plants, Rock crushers, or other Equipment, the Contractor shall provide the Engineer copies of all applicable discharge permits for noise, air contaminants, and water pollutants from DEQ or applicable local jurisdictions, or a letter from DEQ or the local jurisdiction stating that no permits are required for the use of the Equipment and sites.

**00160.80 Requirements for Sources of Borrow and Aggregate** - The Contractor shall conduct operations according to all applicable federal, State, and local laws (including without limitation ORS 517 and OAR 632-030) when developing, using, and reclaiming all sources of Borrow material and Aggregate. The Contractor shall provide

erosion control at Borrow sources that are not within the Project Site. The Contractor shall not operate in Wetlands except as allowed by permit. The Contractor shall comply with all requirements for pollution and sediment control, including without limitation the National Pollutant Discharge Elimination System where applicable.

Except for continuously-operated commercial sources, the Contractor shall also conform to the following:

- (a)** If a natural growth of trees or shrubs is present, preserve a border of such to conceal land scars.
- (b)** Excavate Borrow sources and Aggregate sources, except for those in streams and rivers, to provide:
  - Reasonably uniform depths and widths;
  - Natural drainage so no water stands or collects in excavated areas, when practicable;
  - Slopes trimmed to blend with the adjacent terrain upon completion of operations;
  - Slopes covered with native soil, or acceptable plant rejects to support plant growth, if required by Specifications, Plans, or permits; and
  - A vegetative cover that blends with the adjacent natural growth.
- (c)** Excavate in quarries so that:
  - Faces will not be steeper than vertical (no overhang);
  - Vertical faces conform to Oregon OSHA standards, Division 3, and as shown on an approved development plan;
  - Floors or benches are excavated to a uniform Slope free of depressions and will drain and not interfere with the downland owner's property; and
  - Upon completion, the quarry is left appearing neat and compatible with surrounding terrain.
- (d)** Obliterate haul roads specifically built for access to sources, and restore the areas disturbed by these roads as nearly as practicable to the conditions that existed before the roads were built, unless otherwise directed by the landowner or regulatory body.

## Section 00165 - Quality of Materials

### Description

**00165.00 General** - The Contractor shall incorporate into the Work only Materials conforming to the Specifications and approved by the Engineer. The Contractor shall incorporate into the Work only manufactured products made of new materials unless otherwise specified in the Contract. The Agency may require additional testing or retesting to determine whether the Materials or manufactured products meet Specifications.

Materials or manufactured products not meeting the Specifications at the time they are to be used are unacceptable and must be removed immediately from the Project Site, unless otherwise directed by the Engineer.

**00165.01 Rejected Materials** - The Engineer may reject any Materials that appear to be defective (00150.25) or that contain asbestos. The Contractor shall not incorporate any rejected Materials into the Work. Rejected Materials whose defects have been corrected may not be incorporated into the Work until the Engineer has approved their use. The Engineer may order the removal and replacement by the Contractor, at Contractor's expense, of any defective Materials. (refer also to 00150.20)

**00165.02 Materials Conformance and Quality Compliance Documents** - For purposes of this Section, "Materials Conformance Documents" means the Contractor's quality-control, the Agency's verification, and the independent assurance test results, and the identity of the testing facility, as specified in the ODOT Manual of Field Test Procedures (MFTP), unless otherwise specified in the Contract.

For purposes of this Section, "Quality Compliance Documents" means those documents specified in ODOT's Nonfield-Tested Materials Acceptance Guide, unless otherwise specified in the Contract.

**00165.03 Testing by Agency** - When testing Materials, the Agency will conduct the tests in its central laboratory, field laboratories, or other laboratories designated by the Engineer, even though certain AASHTO, ASTM, and other Materials specifications may require testing at the place of manufacture. Results of the Agency's tests will be made available to the Contractor.

**00165.04 Costs of Testing** - When the Contract requires that the Agency performs the testing, the testing will be at the Agency's expense. The Agency will pay the cost of Contractor-requested source-review tests on unprocessed Aggregates from no more than two sources for each Project, and on no more than three unprocessed samples from each source. Additional source-review tests performed at the Contractor's request shall be at the Contractor's expense.

Unless otherwise provided in the Contract, all testing required to be performed by the Contractor will be at the Contractor's expense.

### Provisions and Requirements

**00165.10 Materials Acceptance Guides** - Unless otherwise specified elsewhere in the Contract, Materials will be accepted according to the following guides:

**(a) Field-Tested Materials** - Field-tested Materials will be accepted according to the ODOT Manual of Field Test Procedures (MFTP). The MFTP is published once per year and is available from the ODOT –Construction Section, 800 Airport Road SE; Salem, OR 97301-4798; phone 503-986-3000. The MFTP is also available on the ODOT Construction Section web site.

**(b) Nonfield-Tested Materials** - Nonfield-tested Materials will be accepted according to the ODOT Nonfield Tested Materials Acceptance Guide (NTMAG), unless otherwise specified in the Contract. The NTMAG is available on the ODOT Construction Section web site.

**00165.20 Materials Specifications and Test Method References** - References to Materials specifications and test methods of ODOT, WAQTC, AASHTO, ASTM, other governmental agencies, or other recognized organizations mean those officially adopted and in current use by the agency or organization on the date of Bid Opening.

If there are conflicting references, or if no reference is made to Materials specifications or test method, Materials must meet the Materials specifications or test methods required by the first applicable of the following agencies and organizations:

- Field-Tested Materials:
  - Special Provisions;
  - MFTP as modified by the Local Public Agency Quality Assurance Program; and
  - Standard Specifications.
  
- Nonfield Tested Materials:
  - ODOT;
  - WAQTC;
  - AASHTO;
  - ASTM;
  - Other recognized national organizations, such as ANSI, AWPA, IMSA, and UL; and
  - Industry standards in the location where the Work is being performed.

If there are conflicting references in the Contract or the Quality Assurance program, to required sampling and testing frequencies, the Contractor shall sample and test the Materials according to the first applicable of the following:

- Special Provisions;
- MFTP as modified by the Local Public Agency Quality Assurance Program; and
- Standard Specifications.

**00165.30 Field-Tested Materials:**

**(a) Contractor's Duties** - The Contractor shall:

- Furnish Materials of the quality specified in the Contract;
- Provide and administer a quality control program as described in the Quality Assurance Manual portion of the MFTP. Upon request, the Contractor shall provide to the Engineer the names, telephone numbers, and copies of certifications for all personnel performing field testing; and
- Perform other testing as required by the Contract.

**(b) Types of Tests** - The types of tests and testing methods generally required by the Agency are described in the MFTP.

**(c) Acceptance of Field-Tested Materials** The Contractor's test results for field-tested Materials will be verified by the Agency according to the Quality Assurance program outlined in the MFTP. Materials will be analyzed as determined by the Engineer for acceptance before the Engineer will accept them for incorporation into the Work. Incorporated Materials that do not meet Specifications will be evaluated according to 00165.01 and 00150.25.

If the Agency's verification testing reveals that the Contractor's data is incorrect, the Agency may require additional testing to determine whether the Materials meet Specifications. The Contractor shall perform additional quality control testing or provide split samples to the Agency for additional testing as directed. If the Materials do not meet Specifications, the Contractor shall reimburse the Agency for the cost of the additional testing, which may be deducted from monies due or to become due the Contractor under the Contract. Incorporated Materials that do not meet Specifications will be evaluated according to 00165.01 and 00150.25. If the Materials meet Specifications the Agency will pay the cost for the additional testing.

**00165.35 Nonfield-Tested Materials** - The Contractor shall furnish Materials meeting Specifications, along with all Materials Conformance and Quality Compliance Documents.

**(a) Test Results Certificate** - The Certificate shall:

- Be from the manufacturer verifying that the Material furnished has been sampled and tested and the test results meet the Specifications.

- Include, or be accompanied by, a copy of the specified test results (ODOT, AASHTO, ASTM, UL or other).
- Identify the testing agency and the representative responsible for the test results.
- Permit positive determination that Material delivered to the Project is the same Material covered by the test results.
- Be delivered to the Engineer with the shipment of the material.

**(b) Quality Compliance Certificate** - The Certificate from the manufacturer shall:

- Verify that the Material meets the Specifications, and identify by number the specified test methods used, (ODOT, AASHTO, ASTM, UL, or other)
- Permit positive determination that Material delivered to the Project is the same Material covered by the certificate,
- Be delivered to the Engineer with the shipment of the Material, or be an identification plate or mark, decal, sticker, label, or tag attached to the container or Material,

**(c) Equipment List and Drawings** - These consist of lists of proposed Equipment and Materials, such as:

- Shop drawings
- Material lists
- Equipment lists
- Catalog description sheets
- Manufacturer's brochures

Submit these lists to the Engineer for review of conformance with the Specifications.

**(d) Certificate of Origin of Steel Materials** - When specified, complete this document (ODOT Form 734-2126) as required by 00160.20 for Federal-aid projects.

Materials will be subject to acceptance testing if the Engineer so elects. The Engineer may reject damaged or non-Specification Materials regardless of the Materials Conformance Documents furnished.

**00165.50 Acceptance Sampling and Testing** -The Contractor shall sample and test Materials for acceptance, as required by the Contract. Materials will be analyzed as determined by the Engineer for acceptance before the Engineer will accept them for incorporation into the Work. When the Engineer determines the Materials or Work does not conform to the Specifications the Engineer may accept the Materials or Work with pay adjustments or reject the Materials or Work per 00150.25.

**00165.70 Use of Materials without Acceptable Materials Conformance Documents:**

**(a) General** - The Contractor shall not incorporate Materials into the Project prior to submittal of Materials Conformance Documents acceptable to the Engineer. The Engineer may waive this requirement temporarily if Materials are necessary for immediate traffic safety.

**(b) Materials Incorporated for Immediate Traffic Safety** - If Materials are incorporated into the Project for immediate traffic safety before acceptable Materials Conformance Documents are available, no payment will be made for the value of the Materials, or the costs of incorporating them, until Materials Conformance Documents have been submitted to and approved by the Engineer, or the Materials are otherwise found through testing to comply with Specifications.

**(c) Contractor's Request for Testing Assistance** - If acceptable Materials Conformance Documents are not available, the Contractor may either have the necessary tests performed at a private laboratory or request in writing that the Engineer:

- Determine if the Agency or its agents can sample and test;
- Estimate the cost to the Contractor for the testing service; and
- Estimate the time required to obtain the test results.

The Engineer will provide this information to the Contractor in writing. If the Contractor requests the Engineer, in writing, to proceed, the Engineer will arrange for the sampling and testing, at the Contractor's expense. If these tests determine the Material complies with the Specifications, the Materials may be incorporated into the Project, or for Materials previously incorporated according to (b) above, payment will be authorized.

**00165.75 Storage and Handling of Materials** - The Contractor shall store and handle Materials so as to preserve their quality and fitness for incorporation into the Work. The Contractor shall restore all storage sites to their original condition according to 00140.90, or to comply with any applicable permits, orders, or agreements, at the Contractor's expense.

Stored Materials:

- Shall be readily accessible for inspection;
- May be stored on approved parts of the Right-of-Way; and
- May be stored on private property if written permission of the owner or lessor is obtained.

## Section 00170 - Legal Relations and Responsibilities

### Description

**00170.00 General** - The Contractor shall comply with all laws, ordinances, codes, regulations and rules, (collectively referred to as "Laws" in this Section), that relate to the Work or to those engaged in the Work. Where the provisions of the Contract are inconsistent or in conflict, the Contractor shall comply with the more stringent standard.

The Contractor shall indemnify, defend, and hold harmless the Agency and its representatives from liability arising from or related to the violation of Laws by those engaged in any phase of the Work. This provision does not apply to Work performed by Agency employees.

In any litigation, the entire text of any order or permit issued by a governmental or regulatory authority, as well as any documents referenced or incorporated therein by reference, shall be admissible for the purpose of Contract interpretation.

The Contract shall not be construed against either party regardless of which party drafted it. Other than as modified by the Contract, the applicable rules of contract construction and evidence shall apply. This Contract shall be governed by and construed according to the laws of the State of Oregon without regard to principles of conflict of laws.

Any dispute between the Agency and the Contractor that arises from or relates to this Contract and that is not resolved under the provisions of Section 00199 shall be brought and conducted solely and exclusively within the Circuit Court for the State of Oregon in the county where the Agency's main office is located; provided, however, if a dispute must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Subsection be construed as a waiver by the State of Oregon on any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR BY EXECUTION OF THE CONTRACT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION.

### Provisions and Requirements

**00170.01 Other Agencies Affecting Agency Contracts** - Representatives of regulatory bodies or units of government whose Laws may apply to the Work shall have access to the Work according to 00150.20(d). These may include but are not limited to those in the following (a), (b), (c), and (d).

#### (a) Federal Agencies:

Agriculture, Department of  
    Forest Service  
    Natural Resource Conservation Service

Army, Department of the  
    Corps of Engineers

Commerce, Department of  
    National Marine Fisheries Service

Defense, Department of

Energy, Department of

Environmental Protection Agency (EPA)

Federal Energy Regulatory Commission

Geology Survey

Health and Human Services, Department of

Homeland Security, Department of  
    U.S. Coast Guard (USCG)

Housing and Urban Development, Department of

Interior, Department of  
    Heritage, Conservation, and Recreation Service

Bureau of Indian Affairs  
Bureau of Land Management  
Bureau of Mines  
Bureau of Reclamation  
Geological Survey  
Minerals Management Service  
Office of Surface Mining, Reclamation, and Enforcement  
Minerals Management Service  
Solar Energy and Energy Conservation Bank  
U.S. Fish and Wildlife Service  
Labor, Department of  
    Mine Safety and Health Administration  
    Occupational Safety and Health Administration (OSHA)  
Transportation, Department of  
    Federal Highway Administration  
Water Resources Council

**(b) State of Oregon Agencies:**

Administrative Services, Department of  
Agriculture, Department of  
    Natural Resources Division  
    Soil and Water Conservation District  
Columbia River Gorge Commission  
Consumer and Business Services, Department of  
    Insurance Division  
    Oregon Occupational Safety and Health Division (OR-OSHA)  
Energy, Office of  
Environmental Quality, Department of (DEQ)  
Fish and Wildlife, Department of  
Forestry, Department of  
Geology and Mineral Industries, Department of  
Human Resources, Department of  
Labor and Industries, Bureau of  
Land Conservation and Development Department  
Parks and Recreation, Department of  
State Lands, Department of  
Water Resources Department

**(c) Local Agencies:**

City Commissions  
County Courts  
County Commissioners, Boards of  
Design Commissions  
Historical Preservation Commissions  
Lane Regional Air Pollution Authority (LRAPA)  
Planning Commissions  
Port Districts  
Special Districts

**(d) Oregon Federally Recognized Tribal Governments:**

Burns Paiute Tribe  
Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians  
Confederated Tribes of Grand Ronde  
Confederated Tribes of Siletz  
Confederated Tribes of Umatilla Indian Reservation  
Confederated Tribes of Warm Springs  
Coquille Tribe  
Cow Creek Band of Umpqua Indians  
Klamath Tribe

**00170.02 Permits, Licenses, and Taxes** - As required to accomplish the Work, the Contractor shall do the following:

- Obtain all necessary permits and licenses, except for those noted in 00170.03;
- Pay all applicable charges, fees and taxes, except for those noted in 00170.03;
- Give all notices required by applicable Laws, or under the terms of the Contract;
- Comply with ORS 274.530 relating to lease of stream beds by Oregon Division of State Lands;
- License, in the State of Oregon, all vehicles subject to licensing;
- Comply with ORS 477.625 and ORS 527.670 relating to clearing and fire hazards on forest lands; and
- Comply with all orders and permits issued by a governmental authority, whether local, State, or federal.

**00170.03 Furnishing Right-of-Way, Easements and Permits** - Unless required to be obtained in the name of the Contractor, the Agency will obtain and pay for the following when they are required by the applicable Laws or by Plans or Specifications:

- All necessary Rights-of-Way and Easements;
- Permits required for crossing or encroaching upon navigable streams;
- Permits required for removing materials from or depositing materials in waterways;
- Permits required for operating in Agency-controlled source of Materials or disposal area;
- System development fees charged by local units of government;
- Building construction permits, not including specialty work such as heating, ventilation, air conditioning, or electrical;
- Cost of referencing and replacing endangered survey monuments; and
- Environmental permits, including erosion control permits.

If, after the Bid Closing date, the Agency obtains any Permits, Rights of Way or Easements which require changes to the Work and thereby causes an increase or decrease in the cost of, or the time required for the performance of the Work, the Contractor shall submit information sufficient for the Engineer to determine the extent of the effects on the cost and/or schedule. If the Engineer agrees the cost and/or schedule will be affected by such changes, such effects will be handled in accordance with the General Conditions. The Engineer will provide the Contractor with a copy of any such Permits, Rights-of-Way or easements.

**00170.04 Patents, Copyrights, and Trademarks** - Prior to use of designs, devices, materials, or processes protected by patent, copyright, or trademark, the Contractor shall obtain from the Entity entitled to enforce the patent, copyright, or trademark all necessary evidence of legal right.

The Contractor shall indemnify, defend and hold harmless the Agency and all third parties and political subdivisions having a possessory or ownership interest or regulatory authority over the Project or Project Site from claims of patent, copyright or trademark infringement, and from costs, expenses and damages the Contractor or Agency may be obligated to pay as a result of such infringement during or after completing the Work.

**00170.05 Assignment of Antitrust Rights** - The Contractor irrevocably assigns to the Agency any claim for relief or cause of action the Contractor acquires during the term of the Contract, or which may accrue thereafter, by reason of any violation of:

- Title 15 (Commerce and Trade), United States Code;
- ORS 646.725; and
- ORS 646.730.

In connection with this assignment, it is an express obligation of the Contractor to take no action that would in any way impair or diminish the value of the rights assigned to the Agency according to the provisions of this Subsection. Further, it is the express obligation of the Contractor to take all action necessary to preserve the rights assigned. It is an express obligation of the Contractor to advise the Agency's legal counsel:

- In advance, of its intention to commence any action involving such claims for relief or causes of action;
- Immediately upon becoming aware of the fact that an action involving such claims for relief or causes of action has been commenced by some other person or persons;
- The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of the Contractor's assignment to the Agency according to the provisions of this Subsection; and
- Immediately upon the discovery of any such antitrust claim for relief or cause of action.

In the event any payment is made to the Contractor under any such claims for relief, the Contractor shall promptly pay the full sum over to the Agency. In the event the Contractor fails to make such payment, the Agency may deduct the amount from monies due or to become due the Contractor under the Contract.

**00170.06 Taxes** - The Contract unit or lump sum prices shall include full compensation for any payroll taxes which may be incurred under State and Federal Unemployment and Social Security Acts, and all Sales Taxes on materials furnished by Contractor. The Contractor shall promptly pay such taxes to the proper agency, and shall indemnify and save harmless the Agency from any liability which may or could arise therefrom.

**00170.07 Record Requirements** - For purposes of this Subsection the term "Contractor" includes the Contractor, all subcontractors, Material Suppliers, and providers of rented operated Equipment (except non-DBE truck drivers), at all tiers, for all subcontracts with first-tier Subcontractors, all subcontracts between the first-tier Subcontractors and their subcontractors and any other lower tier subcontracts, and "Related Entities" as that term is defined in OAR 731-005-0780. The Material Suppliers included in this definition are those for Aggregates, Asphalt Cement Concrete, Portland Cement Concrete and the supply and fabrication of structural steel items or Material Suppliers that provide quotes.

**(a) Records Required** - The Contractor shall maintain all records, whether created before or after execution of the Contract, or during Contract performance, or after Contract completion, to clearly document:

- The Contractor's performance of the Contract or a subcontract;
- The Contractor's ability to continue performance of the Contract or a subcontract; and
- All claims arising from or relating to performance under the Contract or a subcontract.

These records shall include all records, including fiscal records, regardless of when created for the Contractor's business. The records for the Contractor's business include without limitation the:

- Bidding estimates and records, worksheets, tabulations or similar documents.
- Job cost detail reports, including monthly totals.

- Payroll records (including without limitation the ledger or register, and tax forms) and all documents which establish the periods, individuals involved, the hours for the individuals, and the rates for the individuals.
- Records that identify the Equipment used by the Contractor and subcontractors in the performance of the Contract or subcontracts, including without limitation, Equipment lists, rental contracts and any records used in setting rental rates.
- Invoices from vendors, rental agencies, and subcontractors.
- Material quotes, invoices, purchase orders and requisitions.
- Contracts with subcontractors and contracts with Material Suppliers, Suppliers and providers of rented equipment.
- Contracts or documents of other arrangements with any Related Entity as defined in OAR 731-005-0780.
- General ledger.
- Trial Balance.
- Financial statements (including without limitation the balance sheet, income statement, statement of cash flows, and financial statement notes).
- Income tax returns.
- All worksheets used to prepare bids or claims, or to establish the cost components for the Pay Items, including without limitation, the labor, benefits and insurance, Materials, Equipment, and subcontractors.

The following are examples, but not an exhaustive list, of records that would be included, if generated by the Contractor. If the Contractor generates such records, or equivalent records, they are included among the records subject to 00170.07.

- Daily time sheets and supervisor's daily reports.
- Collective bargaining agreements.
- Earnings records.
- Journal entries and supporting schedules.
- Insurance, welfare, and benefits records.
- Material cost distribution worksheet.
- Subcontractors' and lower tier subcontractors' payment certificates.
- Payroll and vendor's cancelled checks.
- Cash disbursements journal.
- All documents related to each and every claim together with all documents that support the amount of damages as to each claim.
- Additional financial statements (including without limitation the balance sheet, income statement, statement of cash flows, and financial notes) preceding the execution of the Contract and following final payment of the Contract.
- Depreciation records on all business Equipment maintained by the business involved, its accountant, or other Entity. (If a source other than depreciation records is used to develop cost for the Contractor's internal purposes in establishing the actual cost of owning and operating Equipment, all such other source documents.)

The Contractor shall maintain all fiscal records in material compliance with generally accepted accounting principles, or other accounting principles that are accepted accounting principles and practices for the subject industry and adequate for the nature of the Contractor's business, and in such a manner that providing a complete copy is neither unreasonably time consuming nor unreasonably burdensome for the Contractor or the Agency. Failure to maintain the records in this manner shall not be an excuse for not providing the records.

The Contractor shall include in its subcontracts, purchase orders, and all other written agreements, a provision requiring all subcontractors, Material Suppliers and providers of rented operated Equipment, (except non-DBE truck drivers), at all tiers to comply with 00170.07. The Contractor shall also require all subcontractors, Material Suppliers, and providers of rented operated Equipment, (except non-DBE truck drivers), at all tiers and Related Entities to include in their contracts, purchase orders, and all other written agreements, a provision requiring all lower tier subcontractors, Material Suppliers and providers of rented operated Equipment (except non-DBE truck

drivers) to comply with 00170.07. The Material Suppliers to which this applies are those for Aggregates, Asphalt Cement Concrete, Portland Cement Concrete and the supply and fabrication of structural steel items or Material Suppliers that provide Material quotes and Related Entities as defined in OAR 731-005-0780.

**(b) Access to Records** - The Contractor shall provide the Engineer access to or a copy of all Contractor records upon request. A Project Manager's authority to request or access records is subject to OAR 731-005-0780(9). During the record retention period the Engineer, employees of the Agency, representatives of the Agency, or representatives of regulatory bodies or units of government may:

- Inspect, examine and copy or be provided a copy of all Contractor records;
- Audit the records, a Contract or the performance of a Contract;
- Inspect, examine and audit the records when, in the Agency's sole discretion, the records may be helpful in the resolution of any claim, litigation, administrative proceeding or controversy arising out of or related to a Contract.

Reasons for access to audit, inspect, examine and copy records include without limitation, general auditing, reviewing claims, checking for collusive bidding, reviewing or checking payment of required wages, performance and contract compliance, workplace safety compliance, evaluating related Entities, environmental compliance, and qualifications for performance of the Contract, including the ability to perform and the integrity of the Contractor.

Where such records are stored in a computer or in other digital media, the Engineer may request, and the Contractor shall provide, a copy of the data files and such other information or access to software to allow the Engineer review of the records.

Nothing in 00170.07 is intended to operate as a waiver of the confidentiality of any communications privileged under the Oregon Evidence Code. Nothing in 00170.07 limits the records or documents that can be obtained by legal process.

**(c) Record Retention Period** - The Contractor shall maintain the records and keep the records accessible and available at reasonable times and places for at least 3 years from the date of final payment under the Contract, or until the conclusion of all audits, litigation, administrative proceedings, disputes and claims arising out of or related to the Contract, whichever date is later.

**(d) Public Records Requests** - If records provided under this section contain any information that may be considered exempt from disclosure as a trade secret under either ORS 192.501(2) or ORS 646.461(4), or under other grounds specified in Oregon Public Records Law, ORS 192.410 through ORS 192.505, the Contractor shall clearly designate on or with the records the portions which the Contractor claims are exempt from disclosure, along with a justification and citation to the authority relied upon. Entire records or documents should not be designated as a trade secret or otherwise exempt from disclosure. Only specific information within a record or document should be so designated.

To the extent allowed by the Oregon Public Records Law or other applicable law related to the disclosure of public records, Agency will not disclose records or portions of records the Contractor has designated as trade secrets to a third party, who is not a representative of the Agency, to the extent the records are exempt from disclosure as trade secrets under the Oregon Public Records Law or other applicable law, except to the extent Agency is ordered to disclose in accordance with the Oregon Public Records Law or by a court of competent jurisdiction. Application of the Oregon Public Records Law or other applicable law shall determine whether any record, document or information is actually exempt from disclosure.

In addition, in response to a public records request, the Agency will not produce or disclose records so identified as exempt by the Contractor to any person other than representatives of the Agency, and others with authorized access under 00170.07(b), without providing the Contractor a copy of the public records request, unless:

The Contractor consents to such disclosure; or

Agency is prohibited by applicable law or court order from providing a copy of the public records request to the Contractor.

**00170.10 Required Payments by Contractors** - The Contractor shall comply with ORS 279C.505 and ORS 279C.515 during the term of the Contract.

**(a) Prompt Payment by Contractor for Labor and Materials** - As required by ORS 279C.505, the Contractor shall:

- Make payment promptly, as due, to all Entities supplying labor or Materials under the Contract;
- Pay all contributions or amounts due the Industrial Accident Fund, whether from the Contractor or a subcontractor, incurred in the performance of the Contract;
- Not permit any lien or claim to be filed against the State or any political subdivision thereof, on account of any labor or Material furnished in performance of the Contract; and
- Pay to the Department of Revenue all sums withheld from employees according to ORS 316.167.

**(b) Prompt Payment by Contractor to First-Tier Subcontractor(s)** - According to ORS 279C.580(3)(a), after the Contractor has determined and certified to the Agency that one or more of its Subcontractors has satisfactorily performed subcontracted Work, the Contractor may request payment from the Agency for the Work, and shall pay the Subcontractor(s) within 10 Calendar Days out of such amounts as the Agency has paid to the Contractor for the subcontracted Work.

**(c) Interest on Unpaid Amount** - If the Contractor or a first-tier Subcontractor fails, neglects, or refuses to make payment to an Entity furnishing labor or Materials in connection with the Contract within 30 Days after the Contractor's receipt of payment, the Contractor or first-tier Subcontractor shall owe the Entity 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(3) and that end upon final payment, unless payment is subject to a good-faith dispute as defined in ORS 279C.580(5)(b). The rate of interest on the amount due shall be in accordance with ORS 279C.515(2). The amount of interest shall not be waived.

**(d) Agency's Payment of the Contractor's Prompt Payment Obligations** - If the Contractor fails, neglects or refuses to make prompt payment of any invoice or other demand for payment for labor or services furnished to the Contractor or a Subcontractor by any Entity in connection with the Contract as such payment becomes due, the Agency may pay the Entity furnishing the labor or services and charge the amount of the payment against monies due or to become due the Contractor under the Contract.

The payment of a claim by the Agency in the manner authorized in this Subsection shall not relieve the Contractor or the Contractor's Surety from obligations with respect to any such claims.

**(e) Right to Complain to the Construction Contractors Board** - If the Contractor or a subcontractor fails, neglects, or refuses to make payment to an Entity furnishing labor or Materials in connection with the Contract, the Entity may file a complaint with the Construction Contractors Board, unless payment is subject to a good-faith dispute as defined in ORS 279C.580(5)(b).

**(f) Notice of Claim Against Bond** - An Entity (which by definition includes a natural person) claiming not to have been paid in full for labor or Materials supplied for the prosecution of the Work may have a right of action on the Contractor's Payment Bond as provided in ORS 279C.600 and ORS 279C.605.

The Commissioner of the Bureau of Labor and Industries (BOLI) may have a right of action on the Contractor's and Subcontractors' public works bonds and Payment Bonds for workers who have not been paid in full, as provided in ORS 279C.600 and ORS 279C.605.

**00170.20 Public Works Bond** - Before starting Work, the Contractor and subcontractors shall each file with the Construction Contractors Board, and maintain in full force and effect, a separate public works bond, in the amount of \$30,000 unless otherwise exempt, as required by ORS 279C.830(3) and ORS 279C.836. The Contractor shall verify subcontractors have filed a public works bond before the subcontractor begins Work.

**00170.32 Protection of Navigable Waters** - The Contractor shall comply with all applicable Laws, including without limitation the Federal River and Harbor Act of March 3, 1899 and its amendments.

The Contractor shall not interfere with waterway navigation or impair navigable depths or clearances, except as U.S. Coast Guard or Corps of Engineer permits allow.

**00170.60 Safety, Health, and Sanitation Provisions** - The Contractor shall comply with all Laws concerning safety, health, and sanitation standards. The Contractor shall not require workers to perform Work under conditions that are hazardous, dangerous, or unsanitary.

Workers exposed to traffic shall wear upper body garments or safety vests that are highly visible and meet the requirements of 00225.25.

Workers exposed to falling or flying objects or electrical shock shall wear hard hats.

Upon their presentation of proper credentials, the Contractor shall allow inspectors of the U.S. Occupational Safety and Health Administration (OSHA) and the Oregon Occupational Safety and Health Division (OR-OSHA) to inspect the Work and Project Site without delay and without an inspection warrant.

According to ORS 468A.715 and ORS 468A.720, the Contractor or a Subcontractor who performs Project Work involving asbestos abatement shall possess a valid DEQ asbestos abatement license.

**00170.61 Industrial Accident Protection:**

**(a) Workers' Compensation** - The Contractor shall provide workers' compensation coverage for on-the-job injuries as required by 00170.70(d).

**(b) Longshoremen's and Harbor Workers' Compensation** - If Work to be performed is over or adjacent to navigable waters, the Longshoremen's and Harbor Workers' Compensation Act, (Chapter 18, Title 33 of the USC) may apply, and the Contractor shall be responsible for complying with its provisions (which may include the provision of additional workers' compensation benefits to employees).

**00170.62 Labor Nondiscrimination** - The Contractor shall comply with all Laws concerning equal employment opportunity, including without limitation those prohibiting discrimination because of race, religion, color, sex, disability, or national origin.

**00170.63 Payment for Medical Care** - According to ORS 279C.530, the 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.

**00170.65 Minimum Wage and Overtime Rates for Public Works Projects:**

**(a) General** - The Contractor is responsible for investigating local labor conditions. The Agency does not imply that labor can be obtained at the minimum hourly wage rates specified in State or federal wage rate publications, and no increase in the Contract Amount will be made if wage rates paid are more than those listed.

**(b) State Prevailing Wage Requirements** - The Contractor shall comply with the prevailing wage provisions of ORS 279C.800 through ORS 279C.870.

**(1) Minimum Wage Rates** - The Bureau of Labor and Industries (BOLI) determines and publishes the existing State prevailing wage rates in the publication "Prevailing Wage Rates for Public Works Contracts in Oregon". The Contractor shall pay workers not less than the specified minimum hourly wage rate according to ORS 279C.838 and ORS 279C.840 and shall include this requirement in all subcontracts.

See the Project Wage Rates page included with the Special Provisions for additional information about which wage rates apply to the project and how to access the applicable wage rates.

**(2) Payroll and Certified Statements** - As required in ORS 279C.845, the Contractor and every subcontractor shall submit written certified statements to the Engineer on the form prescribed by the Commissioner of BOLI in OAR 839-025-0010 certifying compliance with wage payment requirements and accurately setting out the Contractor's or subcontractor's weekly payroll records for each worker employed upon the project.

The Contractor and subcontractors shall preserve the certified statements for a period of 6 years from the date of completion of the Contract.

**(3) Additional Retainage:**

**a. Agency** - As required in ORS 279C.845(7) the Agency will retain 25% of any amount earned by the Contractor on the project until the Contractor has filed the certified statements required in ORS 279C.845 and in FHWA Form 1273, if applicable. The Agency will pay to the Contractor the amount retained within 14 Days after the Contractor files the required certified statements, regardless of whether a subcontractor has failed to file certified statements.

**b. Contractor** - As required in ORS 279C.845(8) the Contractor shall retain 25% of any amount earned by a first tier subcontractor on the project until the first tier subcontractor has filed with the Agency the certified statements required in ORS 279C.845 and in FHWA Form 1273, if applicable. Before paying any amount retained, the Contractor shall verify that the first tier subcontractor has filed the certified statement. Within 14 Days after the first tier subcontractor files the required certified statement the Contractor shall pay the first tier subcontractor any amount retained.

**(4) Owner/Operator Data** - For a project funded by the FHWA, the Contractor shall furnish data to the Engineer for each owner/operator providing trucking services. Furnish the data before the time the services are performed and include without limitation for each owner/operator:

- Drivers name;
- Copy of driver's license;
- Vehicle identification number;
- Copy of vehicle registration;
- Motor vehicle license plate number;
- Motor Carrier Plate Number;
- Copy of ODOT Motor Carrier 1A Permit; and Name of owner/operator from the side of the truck.

**(c) State Overtime Requirements** - As a condition of the Contract, the Contractor shall comply with the pertinent provisions of ORS 279C.540.

**(1) Maximum Hours of Labor and Overtime Pay** - According to ORS 279C.540, no person shall be employed to perform Work under this Contract for more than 10 hours in any 1 Day, or 40 hours in any 1 week, except in cases of necessity, emergency, or where public policy absolutely requires it. In such instances, the Contractor shall pay the employee at least time and a half pay:

- For all overtime in excess of 8 hours a day or 40 hours in any 1 week when the work week is 5 consecutive days, Monday through Friday; or
- For all overtime in excess of 10 hours a day or 40 hours in any 1 week when the work week is 4 consecutive days, Monday through Friday; and
- For all Work performed on Saturday and on any legal holiday specified in ORS 279C.540.

For additional information on requirements for overtime and establishing a work schedule see OAR 839-025-0050 and OAR 839-025-0034.

**(2) Notice of Hours of Labor** - The Contractor shall give written notice to employees of the number of hours per day and days per week the employees may be required to work. Provide the notice either at the time of hire or before commencement of work on this Contract, or by posting a notice in a location frequented by employees.

**(3) Exception** - The maximum hours of labor and overtime requirements under ORS 279C.540 will not apply to the Contractor's Work under this Contract if the Contractor is a party to a collective bargaining agreement in effect with any labor organization. For a collective bargaining agreement to be in effect it shall be enforceable within the geographic area of the project, and its terms shall extend to workers who are working on the project (see OAR 839-025-0054).

**(d) State Time Limitation on Claim for Overtime** - According to ORS 279C.545, any worker employed by the Contractor is foreclosed from the right to collect any overtime provided in ORS 279C.540 unless a claim for payment is filed with the Contractor within 90 Days from the completion of the contract, provided the Contractor posted and maintained a circular as specified in this provision. Accordingly, the Contractor shall:

- (1) Cause a circular, clearly printed in boldfaced 12-point type containing a copy of ORS 279C.545, to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed to perform Work; and
- (2) Maintain such circular continuously posted from the inception to the completion of the Contract on which workers are or have been employed.

**(e) Additional Requirements When Federal Funds are Involved** - When federal funds are involved, the following requirements shall apply in addition to the requirements of 00170.65(a) through 00170.65(d). The Contractor shall include these provisions in all subcontracts as well as ensure that all Subcontractors include these provisions in their lower tier subcontracts.

**(1) FHWA Requirements** - For Federal-Aid projects, the Contractor shall comply with the provisions of FHWA Form 1273, "Required Contract Provisions Federal-Aid Construction Contracts".

**(2) Minimum Wage Rates** - The Contractor shall pay each worker in each trade or occupation employed to perform any work under the contract not less than the existing State (BOLI) prevailing wage rate or the applicable federal prevailing wage rate required under the Davis-Bacon Act (40 U.S.C. 3141 et seq.), whichever is higher. The Contractor shall include this provision in all subcontracts.

See the Project Wage Rates page included with the Special Provisions for additional information about which wage rates apply to the project and how to access the applicable wage rates.

**(3) Payroll and Certified Statements** - In addition to providing the payroll information and certified statements required under ORS 279C.845 (see 00170.65(b-2)), the Contractor and every subcontractor shall submit written certified statements that also meet the requirements in Section IV of FHWA Form 1273 except the Contractor and every subcontractor shall preserve the certified statements for a period of 6 years from the date of completion of the Contract.

**(4) Overtime** - With regard to overtime pay, the Contractor shall comply with the overtime provision affording the greatest compensation required under FHWA Form 1273 and ORS 279C.540.

#### **00170.70 Insurance:**

**(a) Insurance Coverages** - Prior to starting work hereunder, CONTRATOR, at CONTRATOR'S cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance, written on an occurrence basis, in amounts not less than the limitations on liability for local public bodies provided in ORS 30.272 and ORS 30.273:

**Commercial General Liability** - CONTRATOR shall obtain, at CONTRATOR'S expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage. Coverage shall include Contractors, subcontractors and anyone directly or indirectly employed by either.

**Pollution Liability** - If indicated by **Special Provisions**, Pollution Liability Insurance covering the Contractor's liability, or the liability of an appropriate subcontractor, if the coverage is obtained by the subcontractor, for bodily injury and property damage, and environmental damage resulting from sudden and accidental pollution, gradual pollution, and related clean-up costs incurred by the Contractor, or by the subcontractor if the coverage is obtained by the subcontractor, while performing Work required by the Contract. If the coverage is obtained by the Contractor, the coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Pollution Liability and Commercial General Liability. Combined single limit per occurrence shall not be less than the dollar amount indicated in the **Special Provisions**. The annual aggregate limit shall not be less than the dollar amount indicated in the **Special Provisions**. The policy shall be endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.

**Asbestos Liability** - If indicated by **Special Provisions**, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide an Asbestos Liability endorsement to the pollution liability coverage. If an endorsement cannot be obtained, The Contractor or subcontractor shall provide separate Asbestos Liability Insurance at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance with the policy endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.

**Lead Liability** - If indicated by **Special Provisions**, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide a Lead Liability endorsement to the pollution liability coverage. If an endorsement cannot be obtained, the Contractor or subcontractor shall provide separate Lead Liability Insurance at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance with the separate policy endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.

**Commercial Automobile Liability** - CONTRATOR shall obtain, at CONTRATOR'S expense and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits).

**Commercial Automobile Liability with Pollution Coverage** - If indicated by **Special Provisions**, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide Commercial Automobile Liability Insurance with Pollution coverage covering the Contractor's liability, or the liability of an appropriate subcontractor, if the coverage is obtained by the subcontractor, for bodily injury and property damage, and environmental damage arising out of the use of all owned, non-owned, or hired vehicles while performing Work under the Contract. If the coverage is obtained by the Contractor, the coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Commercial Automobile Liability with Pollution Coverage and Commercial General Liability. Combined single limit per occurrence shall not be less than the dollar amount indicated in the **Special Provisions** or the amount required by the U.S. Department of Transportation, whichever is greater. If this coverage is written in combination with the Commercial General Liability, the policy shall be endorsed to state that the Commercial General Liability annual aggregate limit shall apply separately to the Contract.

Commercial Automobile Liability with Pollution Coverage is required for this Project because the Project includes pollution related Work. If the Contractor will be performing pollution related Work, this coverage covering the Contractor must be provided. If an appropriate subcontractor, but not the Contractor, will perform the pollution related Work, Commercial Automobile Liability with Pollution Coverage covering the subcontractor, but not the Contractor, must be provided, however, the Contractor shall provide Commercial Automobile Liability insurance coverage covering the Contractor as provided in the Commercial Automobile Liability bullet above. If both the Contractor and an appropriate subcontractor will be performing pollution related Work, Commercial Automobile Liability with Pollution Coverage covering both the Contractor and the subcontractor shall be provided, and the Contractor may provide the coverage covering both the Contractor and the subcontractor, or the Contractor and the subcontractor may provide their own, separate Commercial Automobile Liability with Pollution coverages.

**(b) Tail Coverage** - If any of the required liability insurance coverages of 00170.70(a) are on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described, or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Contract. If Continuous "claims made" coverage is used, the Contractor shall keep the coverage in effect for a duration of not less than 24 months from the end of the Contract. This will be a condition to the Engineer's issuance of a Third Notification.

**(c) Additional Insured** - The liability insurance coverage shall include CITY and its officers and employees as Additional Insured but only with respect to CONTRATOR'S activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONTRATOR shall furnish a certificate to CITY from each insurance company providing insurance showing that the CITY is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.

**(d) Professional Liability Insurance** - Professional Liability Insurance. The CONTRATOR shall have in force a policy of Professional Liability Insurance. The CONTRATOR shall keep such policy in force and current during the term of this contract.

**(e) Workers' Compensation** - All employers, including the Contractor and its Subcontractors, if any, that employ subject workers who are performing Work or providing labor or Materials under the Contract in the State shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. The Contractor shall ensure that each of its Subcontractors complies with these requirements.

The Contractor shall certify in the Contract that the Contractor is registered by the Oregon Workers' Compensation Division either as a carrier-insured employer, a self-insured employer, an exempt employer, or is an independent contractor who will perform the Work without the assistance of others.

The Contractor shall ensure that its insurance carrier files a guaranty contract with the Oregon Workers' Compensation Division before performing any Work.

**(f) Notice of Cancellation or Change** - There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from CONTRACTOR or its insurer(s) to CITY. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

**(g) Certificate(s) of Insurance** - As evidence of the insurance coverages required by this Contract, the Contractor shall furnish Certificate(s) of Insurance to the Agency at the time(s) provided in 00130.50(a). As evidence of insurance coverages required by this Contract but permitted by the Agency under 00170.70(a) to be obtained by an appropriate subcontractor, the Contractor shall furnish Certificate(s) of Insurance to the Agency for such coverages together with the Contractor's request under 00180.21 for approval of the subcontract with that subcontractor. The Certificate(s) will specify all of the parties who are Additional Insureds. The Contractor shall obtain, or ensure that the appropriate subcontractors obtain, insurance coverages required under this Contract from insurance companies or entities acceptable to the Agency and authorized to issue insurance in the State. The Contractor, or the appropriate subcontractor, but not the Agency, shall be responsible for paying all deductibles, self-insured retentions and/or self-insurance included under these provisions.

**(h) Builders' Risk** - If indicated by **Special Provision**, the Contractor shall obtain, at its expense, and keep in effect during the term of the Contract, Builders' Risk insurance on an all risks of direct physical loss basis, including, without limitation, earthquake and flood damage, for an amount equal to at least the value indicated in the **Special Provisions**. Any deductible shall not exceed \$50,000 for each loss, except that the earthquake and flood deductible shall not exceed 5% of each loss or \$50,000, whichever is greater. The policy shall include the Agency as loss payee.

**00170.71 Independent Contractor Status** - The service or services to be rendered under this Contract are those of an independent contractor. The Contractor is not an officer, employee, or agent of the Agency as those terms are used in ORS 30.265.

**00170.72 Indemnity/Hold Harmless** - 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 Agency) and hold harmless the Agency, Agency's Authorized Representative, Architect/Engineer, Architect/Engineer's consultants, and their respective officers, directors, agents, employees, partners, members, stockholders and affiliated companies, and when federal transportation funding is involved the State of Oregon, the Oregon Transportation Commission and the Oregon Department of Transportation and their respective officers and members and employees (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever which arise out of, result from or are related to the following:

- Any damage, injury, loss, expense, inconvenience or delay described in this Subsection.
- Any accident or occurrence which happens or is alleged to have happened in or about the Project Site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects.
- Any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract.

- 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.
- 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.

**00170.74 Employee Drug Testing Program** - As required by ORS 279C.505(2), the Contractor shall have in place, and maintain during the period of the Contract, an employee drug-testing program. The Agency retains the right to audit and/or monitor the program. On request by the Engineer, the Contractor shall furnish a copy of the employee drug-testing program.

**00170.78 Conflict of Interest** - The Contractor shall not give or offer any gift, loan, or other thing of value to any member of the Agency's governing body or employee of the Agency in connection with the award or performance of any Contract.

The Contractor shall not rent, lease, or purchase Materials, supplies, or Equipment, with or through any Agency employee or member of the Agency's governing body.

No ex-employee of the Agency who has worked for the Agency on any phase of the Project within the prior 2 years may be employed by the Contractor to perform Work on the Project.

**00170.79 Third Party Beneficiary** - There are no third-party beneficiaries of the Contract, unless federal transportation funding is involved then the State of Oregon, the Oregon Transportation Commission and the Oregon Department of Transportation and their respective officers and members and employees, are third-party beneficiaries of the Contract.

**00170.80 Responsibility for Damage to Work:**

**(a) Responsibility for Damage in General** - The Contractor shall perform Work, and furnish Materials and Equipment for incorporation into the Work, at the Contractor's own risk, until the entire Project has been completed and accepted by the Agency. The Contractor shall repair all damages to Work performed, Materials supplied, and Equipment incorporated into the Work, except as otherwise provided in this Section.

**(b) Repair of Damage to Work** - Until Final Acceptance, the Contractor shall promptly rebuild, repair, restore, and make good damages to all portions of the permanent or temporary Work. The Contractor shall perform all repairs of damage to Work at no additional cost to the Agency, except for repairs necessitated by damage caused by:

- Acts of God or Nature, as defined in Section 00110; or
- Actions of governmental authorities.

**(c) Vandalism and Theft** - Vandalism includes damage to or destruction of Work or portions of Work that remain on the Project Site resulting from vandalism, criminal mischief, arson, or other criminal or illegal behavior.

Theft includes the loss of Work or portions of Work that are lost or stolen or otherwise unaccounted for from the Project Site or from Materials or fabrication locations. The Contractor shall remain solely responsible for all losses caused by theft, including without limitation theft that occurs in conjunction with vandalism.

The Contractor shall provide protection of the Work from vandalism and theft until Third Notification.

#### **00170.82 Responsibility for Damage to Property and Facilities:**

**(a) In General** - As used in this Subsection, the term "Contractor" shall include the Contractor's agents, Subcontractors, and all workers performing Work under the Contract; and the term "damage" shall include without limitation soiling or staining surfaces by tracking or splashing mud, asphalt, and other materials, as well as damage of a more serious nature.

The Contractor shall be solely responsible for damages arising from:

- The Contractor's operations;
- The Contractor's negligence, gross negligence, or intentional wrongful acts; and
- The Contractor's failure to comply with any Contract provision.

The Agency may withhold funds due the Contractor or the Contractor's Surety until all lawsuits, actions, and claims for injuries or damages are resolved, and satisfactory evidence of resolution is furnished to the Agency.

**(b) Protection and Restoration of Agency Property and Facilities** - The following requirements apply to highways, highway Structures and other improvements that are existing, under construction, or completed. The Contractor shall:

- Provide adequate protection to avoid damaging Agency property and facilities;
- Be responsible for damage to Agency property and facilities caused by or resulting from the Contractor's operations; and
- Clean up and restore such damage by repair, rebuilding, replacement, or compensation, as determined by the Engineer.

**(c) Protection and Restoration of Non-Agency Property and Facilities** - The Contractor shall determine the location of properties and facilities that could be damaged by the Contractor's operations, and shall protect them from damage. The Contractor shall protect monuments and property marks until the Engineer has referenced their location and authorized their removal. The Contractor shall restore property or facilities damaged by its operations to the condition that existed before the damage, at no additional compensation.

The Contractor shall provide temporary facilities when needed, e.g., to maintain normal service or as directed by the Engineer, until the required repair, rebuilding, or replacement is accomplished.

The Contractor shall protect specific service signs, e.g., business logos, and tourist-oriented directional signs (TODS) from damage, whether the signs are to remain in place or be placed on temporary supports. The Contractor shall repair or replace damaged signs at no cost to the Agency. Liquidated damages will be assessed against the Contractor in the amount of \$200 per day for each sign out of service for more than 5 Calendar Days because of the Contractor's operations.

#### **00170.85 Responsibility for Defective Work** - The Contractor shall make good any defective Work, Materials or Equipment incorporated into the Work, according to the provisions of Section 00150.

**(a) Latent Defects** - The Contractor shall remain liable for all latent defects resulting from causes other than fraud or gross mistakes that amount to fraud until the expiration of all applicable statutes of limitation and ultimate repose, the Performance Bond, Warranty Bond, or Correction Period, whichever expires last. The Contractor shall remain liable for all latent defects resulting from fraud or gross mistakes that amount to fraud regardless of when those latent defects may be discovered, and regardless of whether such discovery occurs outside any applicable statutes of limitation or ultimate repose or any applicable Performance Bond, Warranty Bond, or Correction Period.

**(b) Correction Period Warranty for Agency Projects:** - The Contractor shall warrant all Work and workmanship, including Changed Work, Additional Work, Incidental Work, On-Site Work, and Extra Work, and Materials and Equipment incorporated in the Work, for one year from the date of Second Notification (Correction Period), except that manufacturers' warranties and extended warranties according to 00170.85(c) shall not be abridged. The Correction Period warranty described herein shall include extension of the Performance Bond for a period of one year from the date of Second Notification.

The Contractor shall be responsible for meeting the technical and performance Specifications required, making good the Work, and for all repairs of damage to the Work and other improvements, natural and artificial structures, systems, equipment, and vegetation caused by, or resulting in whole or in part from occurrences beginning during the Correction Period and are the result of defects in Materials, Equipment, and workmanship. The Contractor shall be responsible for all costs associated with completing the repair of the defects and for associated Work including but not limited to permitting, mobilization, traffic control, erosion control, surface restoration, site cleanup and remediation caused by, or resulting in whole or in part from, defects in Materials, Equipment, or workmanship, and other Work determined by the Engineer to be necessary to complete the repair of the defects.

Within 10 Calendar Days of the Agency's written notice of defects, the Contractor, or the Contractor's Surety, shall vigorously and continuously correct and repair the defects and all related damage. If the Contractor or the Contractor's Surety fails to correct and repair the defects, the Agency may have the correction and repair done by others. The Contractor or Contractor's Surety shall promptly reimburse the Agency for all expenses incurred to correct and repair the defects.

In the event of an emergency, where delay could result in serious loss or damage, the Agency may make emergency corrections and repairs, without written notice. The Contractor or Contractor's Surety shall promptly reimburse the Agency for all expenses incurred to correct and repair the defects.

Corrections, repairs, replacements or changes shall be warranted for an additional one year period beginning on the date of the Agency's acceptance of the corrections, repairs, replacements or changes.

Without limiting the general applicability of other survival clauses under the Contract, this warranty provision shall survive expiration or termination of the Contract.

**(c) Manufacturer, Installer or Supplier Warranties and Guarantees:**

**(1) Manufacturer, Installer or Supplier Warranties** - For those Specification Sections referencing this 00170.85(c-1) Subsection, the Contractor shall furnish Warranties from the Manufacturer, Installer or Supplier and signed by an authorized Representative.

The warranty period will be specified in the applicable Specification Section for which it applies.

The warranty period will begin on the date the Engineer issues Second Notification unless otherwise specified in the Contract.

Corrections, repairs, replacements or changes shall be warranted for an additional Warranty period beginning on the date of the Agency's acceptance of the corrections, repairs, replacements or changes.

When the Agency makes written notification to the Manufacturer of failure of an item covered by this warranty, the warranty period will stop for the effected item or the portion of the effected item that failed, as applicable, until the required repairs or replacements are made and accepted. All repaired or replaced items shall meet current specifications, unless otherwise specified in the Contract, and will be warranted for the remaining warranty period.

Warranty work shall be performed when weather permits. If, in the opinion of the Engineer, temporary repairs are necessary, the temporary repairs will be made by the Agency or an independent contractor at the Manufacturer's expense. The Manufacturer shall replace all temporary repairs at no additional cost to the Agency.

The Manufacturer shall provide all required traffic control during repair or replacement of failed items at no additional cost to the Agency.

**(2) Trade Practice Guarantees** - For those Items installed on the Project that have customary trade practice guarantees, the Contractor shall furnish the guarantees to the Engineer at the completion of the Contract.

**00170.89 Protection of Utility, Fire-control, and Railroad Property and Services; Repair; Roadway Restoration:**

**(a) Protection of Utility, Fire-Control, and Railroad Property and Services; Coordination** - The Contractor shall avoid damaging the properties of Utilities, Railroads, railways, and fire-control authorities during performance

of the Work. The Contractor shall cooperate with and facilitate the relocation or repair of all Utilities and Utility services, as required under 00150.50, and of Railroad and fire-control property and railways.

The Contractor shall conduct no activities of any kind around fire hydrants until the local fire-control authority has approved provisions for continued service.

The Contractor shall immediately notify any Utility, Railroad, or fire-control authority whose facilities have been damaged.

If an Entity has a valid permit from the proper authority to construct, reconstruct, or repair Utility, Railroad, or fire-control service in the Roadway, the Contractor shall allow the permit holder to perform the work.

**(b) Restoration of Roadway after Repair Work** - The Contractor shall restore the Roadway to a condition at least equal to that which existed before the repair work addressed under this Subsection was performed, as directed by the Engineer. All restoration work required as a result of Contractor's failure to protect Utilities, Railroads, railways and fire-control facilities shall be at the Contractor's expense. Restoration which constitutes Extra Work will be paid as Extra Work.

**00170.92 Fencing, Protecting Stock, and Safeguarding Excavations** - The Contractor shall be responsible for loss, injury, or damage that results from its failure to restrain stock and persons.

**(a) At the Contractor's Expense** - The Contractor shall restrain stock to lands on which they are confined using temporary fences or other adequate means. The Contractor shall provide adequate temporary fences or other protection around excavations to prevent animals and unauthorized persons from entering.

The Contractor shall repair, at Contractor's expense and to the Engineer's satisfaction, fences damaged by the Contractor's operations and the operations of the Contractor's agents, employees and Subcontractors.

**(b) At the Agency's Expense** - The Contractor shall construct fences, or move and reconstruct fences, as shown on the Contract Documents or as directed by the Engineer. The Contractor shall tear down and remove fencing within the Right-of-Way when no longer needed, as part of the removal Work described in and paid for according to Section 00310.

**00170.93 Trespass** - The Contractor shall be responsible for its own, its agents' and employees', and its Subcontractors' trespass or encroachment upon, or damage to, property during performance of the Contract.

**00170.94 Use of Explosives** - The Contractor shall comply with all Laws pertaining to the use of explosives. The Contractor shall notify anyone having facilities near the Contractor's operations of Contractor's intended use or storage of explosives. The Contractor shall be responsible for all damage resulting from its own, its agents' and employees', and its Subcontractors' use of explosives. (see 00330.41(e) and Section 00335)

**00170.95 Unlawful Discrimination Policy - Agency** – It is the policy of the City of Warrenton that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Warrenton also requires its contractors and grantees to comply with this policy.

## Section 00180 - Prosecution and Progress

**00180.00 Scope** - This Section consists of requirements for assignment of the Contract, subcontracting, time for performance, Contract responsibility, suspensions, terminations, and related provisions.

**00180.05 Assignment/Delegation of Contract** - Unless the Agency gives prior written consent, the Contractor shall not assign, delegate, sell, or transfer to any Entity, or otherwise dispose of any Contract rights or obligations, including without limitation:

- The power to execute or perform the Contract; or
- Any of its right, title or interest in the Contract.

Any attempted assignment, delegation, or disposition without prior Agency consent shall be void.

Such Agency consent will not normally be given except for the assignment of funds due under the Contract, as provided in 00180.06.

If written Agency consent is given to assign, delegate, or otherwise dispose of any Contract rights or obligations, it shall not relieve the Contractor or its Surety of any part of their responsibility under the Contract.

**00180.06 Assignment of Funds Due under the Contract** - Assignment of funds due or to become due under the Contract to the Contractor will not be permitted unless:

- The assignment request is made on the form acceptable to the Agency;
- The Contractor secures the written consent of the Contractor's Surety to the assignment; and
- The Engineer approves the assignment.

**00180.10 Responsibility for Contract** - The Contractor shall direct and coordinate the operations of its employees, Subcontractors and agents performing Work, and see that the Engineer's orders are carried out promptly. The Contractor's failure to direct, supervise and control its employees, Subcontractors and agents performing Work will result in one or more of the following actions, or other actions as the Engineer deems appropriate:

- Suspension of the Work;
- Withholding of Contract payments, as necessary to protect the Agency;
- Ordering removal of individuals from the Project Site; or
- Termination of the Contract.

Action by the Agency under this provision will not prejudice any other remedy it may have.

**00180.15 Agency's Right to Do Work at Contractor's Expense** - Except as otherwise provided in 00150.75 and 00220.60, if the Contractor neglects to prosecute the Work properly or fails to perform any provision of the Contract, the Agency may, after 2 Calendar Days' written notice, correct the deficiencies at the Contractor's expense. In situations where the Engineer reasonably believes there is danger to life or property, the Agency may immediately and without notice correct the deficiencies at the Contractor's expense.

Action by the Agency under this provision will not prejudice any other remedy it may have.

### **00180.20 Subcontracting Limitations:**

**(a) General** - The Contractor's own organization shall perform Work amounting to at least the percentage of the original Contract Amount as indicated in the Special Provisions. The value of subcontracted Work is the full compensation to be paid to the Subcontractor(s) for all pay items in the Subcontract(s).

**(b) Own Organization** - The term "own organization", as used in Section 00180, includes only employees of the Contractor, Equipment owned or rented by the Contractor, Incidental rental of operated Equipment, and Materials and Equipment to be incorporated into the Work purchased or produced by the Contractor.

**(c) Rental of Operated Equipment** - For projects funded by FWHA, the Agency will not allow a Disadvantaged Business Enterprise (DBE) firm to provide services without a subcontract covering all Work to be performed by the DBE firm. For non-DBE firms, the use of Equipment rented with operators will be allowed without a subcontract only when the following requirements are met:

**(1) Written Request** - The Contractor has submitted to the Engineer a written request describing the service to be provided, its estimated cost, and the estimated duration. The Engineer must approve the request before the service is provided.

**(2) Limitations** - The use of Equipment rented with operators is limited to the following services:

- Truck hauling of Materials (If the trucking is by an owner/operator, in addition to the requirements of 00170.65(e), each truck shall have the name of the owner/operator clearly displayed on the side of the truck); or
- Performing minor, Incidental, short-duration work under the direct supervision of the Contractor or Subcontractor, with Equipment not customarily owned, leased, or operated by a Contractor, or with Equipment that is temporarily unavailable to the Contractor.

**(3) Submittals** - The Contractor shall provide the Engineer with a copy of the rental agreement or purchase order covering the service to be provided. For owner/operator trucking, attach copies of the data required under 00170.65(e). The Contractor shall make certain that the provider of approved services submits payrolls required under Section 00170 and complies with applicable Contract provisions, including without limitation 00170.07. The service provider will not be considered a Subcontractor under the Contract, but will be considered an agent of the Contractor in the performance of Work.

**(4) Revocation of Approval** - The Engineer may revoke approval for the services provided through rented, operated Equipment at any time the Engineer determines that the work is outside that authorized under 00180.20(c-2). Unless the Contractor promptly submits to the Engineer a subcontract agreement for consent under 00180.21, the service provider shall be immediately removed from the Project Site.

#### **00180.21 Subcontracting:**

**(a) Substitution of Disclosed Subcontractors** - The Contractor may only substitute a previously disclosed first-tier Subcontractor according to the provisions of ORS 279C.585. The Contractor shall provide the Engineer with a written notification that identifies the name of the proposed new Subcontractor and the reason for the substitution. Authorized reasons for substitution are limited to the following circumstances (see ORS 279C.585(1) through ORS 279C.585(10)):

- The disclosed Subcontractor fails or refuses to execute a written contract that is reasonably based either upon the Project Plans and Specifications, or the terms of the Subcontractor's written Bid, after having had a reasonable opportunity to do so;
- The disclosed Subcontractor becomes bankrupt or insolvent;
- The disclosed Subcontractor fails or refuses to perform the contract;
- The disclosed Subcontractor fails or refuses to meet the bond requirements of the prime Contractor that had been identified prior to the Bid submittal;
- The Contractor demonstrates to the Agency that the Subcontractor was disclosed as the result of an inadvertent clerical error;
- The disclosed Subcontractor does not hold a license from the Construction Contractors Board and is required to be licensed by the board;
- The Contractor determines that the Work performed by the disclosed Subcontractor is not in substantial compliance with the Plans and Specifications, or that the Subcontractor is substantially delaying or disrupting the progress of the Work;

- The disclosed Subcontractor is ineligible to work on a public improvement according to the applicable statutory provisions;
- The substitution is for "good cause" as defined by State Construction Contractors Board rule; or
- The substitution is reasonably based on the Contract alternates chosen by the Agency.

**(b) Terms of Subcontracts** - Subcontracts shall provide that work performed under the subcontract shall be conducted and performed according to the terms of the Contract. Compliance with 00170.07 is required. All subcontracts, including Contractor's with the first-tier Subcontractors and those of the first-tier Subcontractors with their subcontractors, and any other lower tier subcontracts shall contain a clause or condition that if the Contractor or a subcontractor fails, neglects, or refuses to make payment to an Entity furnishing labor or Materials in connection with the Contract, the Entity may file a complaint with the Construction Contractors Board, unless payment is subject to a good-faith dispute as defined in ORS 279C.580. Additionally, according to the provisions of ORS 279C.580, subcontracts shall include:

**(1)** A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under the subcontract within 10 Calendar Days out of amounts the Agency pays to the Contractor under the Contract.

**(2)** A clause that requires the Contractor to provide the first-tier Subcontractor with a standard form that the first-tier Subcontractor may use as an application for payment or as another method by which the Subcontractor may claim a payment due from the Contractor.

**(3)** A clause that requires the Contractor, except as otherwise provided in this subsection, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. The Contractor may change the form or the regular administrative procedures the Contractor uses for processing payments if the Contractor:

- Notifies the Subcontractor in writing at least 45 Calendar days before the date on which the Contractor makes the change; and
- 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 the Contractor, if the Contractor does not pay the first-tier Subcontractor within 30 Calendar Days after receiving payment from the Agency, to pay the first-tier Subcontractor an interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract under 00180.21(d-1). The Contractor or first-tier Subcontractor is not obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor did not receive payment from the Agency or the Contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and ends on the date on which the amount due is paid; and shall be computed at the rate specified in 00170.10(c).

**(5)** A clause that requires the Contractor's first-tier Subcontractor to include a payment clause and an interest penalty clause that conform to the standards of ORS 279C.580 (see 00180.21(d-1) and 00180.21(d-4)) 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 their subcontracts with each lower-tier subcontractor or Material supplier.

These payment clauses shall require the Contractor to return all retainage withheld from the Subcontractor, whether held by the Contractor or the Agency, as specified in 00195.50(d).

As required by ORS 279C.800 through ORS 279C.870, subcontracts shall include:

- A provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work on the Project, unless exempt.
- A provision requiring that the workers shall be paid not less than the specified minimum hourly rate of wage.

**(c) Contractor's Responsibilities** - The Contractor shall remain solely responsible for administration of the subcontract, including but not limited to:

- Performance of subcontracted Work;
- Progress of subcontracted Work;
- Payments for accepted subcontracted Work; and
- Disputes and claims for additional compensation regarding subcontracted Work.

It shall be the direct responsibility of the Contractor to ensure that each and every subcontractor will not only be issued a complete and current set of Plans and Specifications, but also that these Plans and Specifications are on the project site and in use by the subcontractor when it is performing its portion of the project.

Subcontracted Work shall not create a contract between the Agency and the Subcontractor, will not convey to the Subcontractor any rights against the Agency, and will not relieve the Contractor or the Contractor's Surety of any of their responsibilities under the Contract.

**(f) Failure to Comply** - Failure to comply with 00180.21 will be cause for the Engineer to take action reasonably necessary to obtain compliance. This action may include, but is not limited to:

- Suspension of the Work;
- Withholding of Contract payments as necessary to protect the Agency; and
- Termination of the Contract.

**00180.22 Payments to Subcontractors and Agents of the Contractor** - To the extent practicable, the Contractor shall pay in the same units and on the same basis of measurement as listed in the Schedule of Items for subcontracted Work or other Work not done by the Contractor's own organization. In making payment to Subcontractors and to its other agents performing Work and furnishing Materials and Equipment to be incorporated into the Work, the Contractor shall assume all losses resulting from overpayment.

If requested in writing by a first-tier Subcontractor, the Contractor shall send to the Subcontractor, within 10 Calendar Days of receiving the request, a copy of that portion of any invoice or request for payment submitted to the Agency, or pay document provided by the Agency to the Contractor, specifically related to any labor, Equipment, or Materials supplied by the first-tier Subcontractor.

**00180.30 Materials, Equipment, and Work Force** - The Contractor shall furnish suitable and sufficient Materials, Equipment, and personnel to properly prosecute and complete the Work. The Contractor shall use only Equipment of adequate size and condition to meet the requirements of the Work and Specifications, and to produce a satisfactory quality of Work. Upon receipt of the Engineer's written order, the Contractor shall immediately remove, and not use again on the Project without the Engineer's prior written approval, Equipment that, in the Engineer's opinion, fails to meet Specifications or produce a satisfactory product or result.

The work force shall be trained and experienced for the Work to be performed. Upon receipt of the Engineer's written order, the Contractor shall immediately remove from the Project Site, and shall not employ again on the Project without the Engineer's prior written approval, any supervisor or employee of the Contractor or any subcontractor who, in the Engineer's opinion, does not perform satisfactory Work or whose conduct interferes with the progress of the Work.

If the Contractor fails to remove Equipment or persons as ordered, or fails to furnish suitable and sufficient Materials, Equipment and personnel for the proper prosecution of the Work, the Engineer may suspend the Work by written notice until such orders are complied with and such deficiencies are corrected, or the Engineer may terminate the Contract under the provisions of 00180.90(a).

**00180.31 Required Materials, Equipment, and Methods** - The Engineer's decisions under this Section are final.

**(a) General** - When the Equipment and methods to be used are not specified in the Contract, any Equipment or methods that accomplish the Work as required by the Contract will be permitted.

When the Contract specifies certain Equipment or methods, the Contractor shall use the Equipment or methods specified unless otherwise authorized by the Engineer in writing.

**(b) Substitution of Materials and Equipment to be Incorporated into the Work** - After execution of the Contract, the Engineer may approve substitution of Materials and Equipment to be incorporated into the Work as follows:

**(1) Reasons for Substitution** - The Engineer will consider substitution only if:

- In the judgement of the Engineer, the proposed Materials or Equipment are equal to or superior to the specified items in construction, efficiency and utility; or
- Due to reasons beyond the control of the Contractor, the specified Materials or Equipment cannot be delivered to the Project in sufficient time to complete the Work in proper sequence.

**(2) Submittal of Request** - The Contractor shall submit requests for substitution to the Engineer, including manufacturers' brochures and other information needed to verify equality of the proposed item(s).

**(c) Substitution of Equipment Specified to Perform Work** - The Agency encourages development of new or improved Equipment and innovative use of Equipment. When the Specifications require Equipment of a particular size or type to be used to perform certain portions of the Work, the Contractor may submit a request to the Engineer to use Equipment of a different size or type. The request will not be considered as a cost reduction proposal under 00140.70. The request shall:

- Be in writing and include a full description of the Equipment proposed and its intended use;
- Include the reasons for requesting the substitution; and
- Include evidence, obtained at the Contractor's expense and satisfactory to the Engineer, that the proposed Equipment is capable of functioning as well as or better than the specified Equipment.

The Engineer will consider the Contractor's request and will provide a written response to the Contractor, either permitting or denying use of the proposed Equipment.

Permission may be granted on a trial basis to test the quality of Work actually produced, subject to the following:

- There will be no cost to the Agency, either in Contract Amount or in Contract Time;
- The permission may be withdrawn by the Engineer at any time if, in the Engineer's opinion, the Equipment is not performing in all respects equivalent to the Equipment specified in the Contract;
- If permission is withdrawn, the Contractor shall perform the remaining Work with the originally-specified Equipment; and
- The Contractor shall remove and replace nonspecification Work resulting from the use of the Contractor's proposed Equipment, or otherwise correct it as the Engineer directs, at no additional compensation.

**(d) Substitution of Methods** - The Agency encourages development of new, improved, and innovative construction methods. When the Plans or Specifications require a certain construction method for a portion of the Work, the Contractor may submit a request for a change by following the provisions of 00140.70, "Cost Reduction Proposals".

**00180.32 Alternative Materials, Equipment, and Methods** - Whenever the Contract authorizes certain alternative Materials, Equipment, or methods of construction for the Contractor's use to perform portions of the Work, and leaves the selection to the Contractor, the Agency does not guarantee that all listed alternative Materials, Equipment, or methods of construction can be used successfully throughout all or any part of the Work.

The Contractor shall employ only those alternatives that can be used to satisfactorily perform the Work. No additional compensation will be paid for corrective work necessitated by the Contractor's use of an inappropriate alternative.

**00180.40 Limitation of Operations:**

**(a) In General** - The Contractor shall comply with all Contract provisions and shall:

- Conduct the Work at all times so as to cause the least interference with traffic, and
- Not begin Work that may allow damage to Work already started.

**(b) On-Site Work** - The Contractor shall not begin On-Site Work until the Contractor has:

- Received Notice to Proceed;
- Filed with the Construction Contractors Board the public works bond as required in 00170.20;
- An approved Project Work schedule;
- An approved Traffic Control Plan;
- An approved Spill Prevention Control and Countermeasure Plan, if required;
- An approved Pollution Control Plan;
- An approved Erosion and Sediment Control Plan;
- Met with the Engineer at the required preconstruction conference; and

Assembled all Materials, Equipment, and labor on the Project Site, or has reasonably assured that they will arrive on the Project Site, so the Work can proceed according to the Project Work schedule.

**00180.41 Project Work Schedules** - The Contractor shall submit a Project Work schedule meeting the requirements of this Subsection to the Engineer. The Project Work schedule is intended to identify the sequencing of activities and time required for prosecution of the Work. The schedule is used to plan, coordinate, and control the progress of construction. Therefore, the Project Work schedule shall provide for orderly, timely, and efficient prosecution of the Work, and shall contain sufficient detail to enable both the Contractor and the Engineer to plan, coordinate, analyze, document, and control their respective Contract responsibilities.

The Contractor shall submit a schedule or plan for each activity that is behind schedule showing, in sufficient detail, the proposed corrective action to complete Contract Work within the Contract Time. Sufficient detail shall include all required double shifts, overtime work, or combination of both.

Contractor's activity related to developing, furnishing, monitoring, and updating these required schedules is Incidental.

The Contractor shall submit a supplemental "look ahead" Project Work schedule to the Engineer prior to or at each Progress Meeting. The "look ahead" Project Work schedule is supplemental to the Type A, B, or C schedule specified below. The supplemental "look ahead" Project Work schedule shall:

- Identify the sequencing of activities and time required for prosecution of the Work.
- Provide for orderly, timely, and efficient prosecution of the Work.
- Contain sufficient detail to enable both the Contractor and the Engineer to plan, coordinate, analyze, document, and control their respective Contract responsibilities.

The supplemental "look ahead" Project Work schedule shall be written in common terminology and show the planned Work activities broken down into logical, separate activities by area, stage, and size and include the following information:

- The resources the Contractor, subcontractors, or services will use.
- The locations of each activity that will be done including the limits of the work by mile posts, stations, or other indicators.
- The time frames of each activity by Calendar Days, shifts, and hours.
- All anticipated shoulder, lane, and road closures.

At a minimum, the Contractor shall prepare a bar chart that:

- Shows at least 3 weeks of activity including the week the bar chart is issued.
- Uses a largest time scale unit of 1 Calendar Day. Smaller time scale units may be used if needed.
- Is appropriate to the activities.
- Identifies each Calendar Day by month and day.

Include the Contract name, Contract number, Contractor's name, and date of issue on each page of the bar chart.

The Contractor shall submit the supplemental "look ahead" Project Work schedule starting at First Notification and continuing each week until Second Notification has been issued and all punch list items and final trimming and

clean-up has been completed. The Contractor shall meet with the Engineer each week to review the supplemental "look ahead" Project Work schedule. If the Engineer or the Contractor determines that the current supplemental "look ahead" Project Work schedule requires changes or additions, either notations can be made on the current schedule or the Engineer may require the submittal of a revised supplemental "look ahead" Project Work schedule. Review of the current and subsequent supplemental "look ahead" Project Work schedules does not relieve the Contractor of responsibility for timely and efficient execution of the Contract.

One of the following Type "A", "B", or "C" schedules will be required under the Contract. The type of schedule will be identified in the **Special Provisions**.

**(a) Type "A" Schedule** - When a Type "A" schedule is required, the Contractor shall do the following:

**(1) Schedule** -At the preconstruction conference, the Contractor shall provide to the Engineer four copies of a Project Work schedule, including a time-scaled bar chart and narrative, showing:

- Expected beginning and completion dates of each activity, including all staging; and
- Elements of the Traffic Control Plan as required under 00225.05.

The schedule shall show detailed Work activities as follows:

- Construction activities;
- The time needed for completion of the utility relocation work;
- Submittal and approval of Materials samples and shop drawings;
- Fabrication, installation, and testing of special Materials and Equipment; and
- Duration of Work, including completion times of all stages and their sub phases.

For each activity, the Project Work schedule shall list the following information:

- A description in common terminology;
- The quantity of Work, where appropriate, in common units of measure;
- The activity duration in Calendar Days; and
- Scheduled start, completion, and time frame shown graphically using a time-scaled bar chart.

The schedule shall show the Work broken down into logical, separate activities by area, stage, or size. The duration of each activity shall be verifiable by manpower and Equipment allocation, in common units of measure, or by delivery dates.

The bar chart shall be prepared as follows:

- The length of bar shall represent the number of workdays scheduled.
- The time scale shall be appropriate for the duration of the Contract.
- The time scale shall be in Calendar Days.
- The smallest unit shown shall be 1 Calendar Day.
- The first day and midpoint of each month shall be identified by date.
- Distinct symbols shall be used to denote multiple shift, holiday, and weekend Work.

Each page of the bar chart shall include a title block showing the Contract name and number, Contractor's name, date of original schedule, and all update dates; and a legend containing the symbols used, their definitions, and the time scale, shown graphically. To ensure readability the bar chart shall be drawn on a reasonable size of paper up to a maximum of 36 inch by 36 inch, using multiple sheets when needed.

Within 7 Calendar Days after the preconstruction conference, the Engineer and the Contractor shall meet to review the Project Work schedule as submitted. The Engineer will review the schedule for compliance with all Contract Time limitations and other restraints. Review of this and subsequent schedules by the Engineer shall not relieve the Contractor of responsibility for timely and efficient execution of the Contract. Within 10 Calendar

Days of this meeting, the Contractor shall resubmit to the Engineer four copies of the Project Work schedule, including required revisions.

**(2) Review by the Engineer** - The Project Work schedule may need revision as the Work progresses. Therefore, the Contractor shall periodically review the Project Work schedule and progress of the Work with the Engineer. If the Engineer or the Contractor determines that the Project Work schedule no longer represents the Contractor's own plans or expected time for the Work, a meeting shall be held between the Engineer and the Contractor. At this meeting, the Contractor and the Engineer shall review Project events and any changes for their effect on the Project Work schedule.

The Contractor shall compile an updated Project Work schedule incorporating any changes to the Project completion time(s). The bar chart shall reflect the updated information. The Contractor shall submit four copies of the updated Project Work schedule to the Engineer within 7 Calendar Days after the meeting. The report shall include without limitation the following:

- Sufficient narrative to describe the past progress, anticipated activities, and stage Work;
- A description of any current and expected changes or delaying factors and their effect on the construction schedule; and
- Proposed corrective actions.

**(b) Type "B" Schedule** - When a Type "B" Schedule is required, the Contractor shall do the following:

**(1) Initial Schedule** - 5 Calendar Days prior to the preconstruction conference, the Contractor shall provide to the Engineer four copies of a time-scaled bar chart Project Work schedule showing:

- Expected beginning and completion date of each activity, including all staging; and
- Elements of the Traffic Control Plan as required under 00225.05.

The initial schedule shall show all Work intended for the first 60 Days of the Contract to the level of detail described in (2) below, and shall show the priority and interdependence (sequencing and network logic) of all major segments of the remainder of the Work.

**(2) Detailed Schedule** - In addition to the above requirements, and within 30 Calendar Days after the Notice to Proceed, the Contractor shall provide the Engineer one digital copy and four paper copies of a detailed time-scaled bar chart Project Work schedule indicating the critical course of the Work. The digital copy shall be compatible with MS Project 2003, Primavera P3, SureTrak Project Manager 3.0, or another scheduling program approved by the Engineer.

Detailed work schedule activities shall include the following:

- Construction activities;
- The time needed for completion of the utility relocation work;
- Submittal and approval of Material samples and shop drawings;
- Procurement of critical Materials;
- Fabrication, installation, and testing of special Material and Equipment; and
- Duration of Work, including completion times of all stages and their sub phases.

For each activity, the Project Work schedule shall list the following information:

- A description in common terminology;
- The quantity of Work, where appropriate, in common units of measure;
- The activity duration in normal workdays; and
- Scheduled start, completion, and time frame shown graphically using a time-scaled bar chart.

The schedule shall show the Work broken down into logical, separate activities by area, stage, or size. The duration of each activity shall be verifiable by manpower and Equipment allocation, in common units of measure, or by delivery dates.

The bar chart shall be prepared as follows:

- The length of bar shall represent the number of normal workdays scheduled.
- The time scale shall be appropriate for the duration of the Contract.
- The time scale shall be in normal workdays (every day except Saturday, Sunday, and legal holidays).
- The smallest unit shown shall be 1 Calendar Day.
- The first day and midpoint of each month shall be identified by date.
- Distinct symbols shall be used to denote multiple shift, holiday, and weekend Work.

The bar chart drawing(s) shall include a title block showing the Contract name and number, Contractor's name, date of original schedule, and all update dates; and a legend containing the symbols used, their definitions, and the time scale, shown graphically. To ensure readability the bar chart shall be drawn on a reasonable size of paper up to a maximum of 36 inch x 36 inch, using multiple sheets when needed.

Within 10 Calendar Days after submission of the Project schedule the Engineer and the Contractor shall meet to review the Project schedule as submitted. Within 10 Days of the review meeting, the Contractor shall resubmit to the Engineer one digital and four paper copies of the Project schedule, including required revisions.

The accepted Project schedule shall represent all Work, as well as the planned sequence and time for the Work. Review of this and subsequent schedules by the Engineer shall not relieve the Contractor of responsibility for timely and efficient execution of the Contract.

**(3) Review and Reporting** - The Project Work schedule may require revision as the Work progresses. Therefore, the Contractor shall monitor and when necessary revise the Project Work schedule as follows:

**a. Review with the Engineer** - The Contractor shall perform ongoing review of the Project Work schedule and progress of the Work with the Engineer. If the Engineer or the Contractor determines that the Project Work schedule no longer represents the Contractor's own plans or expected time for the Work, a meeting shall be held between the Engineer and the Contractor. At this meeting, the Contractor and the Engineer shall review Project events and any changes for their effect on the Project Work schedule. After any necessary action has been agreed upon, the Contractor shall make required changes to the Project Work schedule.

The Contractor shall collect information on all activities worked on or scheduled to be worked on during the previous report period, including shop drawings, Material procurement, and Contract Change Orders that have been issued. Information shall include commencement and completion dates on activities started or completed, or if still in progress, the remaining time duration.

The Contractor shall develop detailed sub-networks to incorporate changes, Additional Work, and Extra Work into the Project Work schedule. Detailed sub-networks shall include all necessary activities and logic connectors to describe the Work and all restrictions on it. The restraints shall include those activities from the Project Work schedule that initiated the sub-network as well as those restrained by it.

The Contractor shall evaluate this information and compare it with the Contractor's project schedule. If necessary, the Contractor shall make an updated bar chart schedule to incorporate the effect changes may have on the Project completion time(s). For any activity that has started, the Contractor shall add a symbol to show the actual date the activity started and the number of normal workdays remaining until completion. For activities that are finished, a symbol shall be added to show the actual date. The Contractor shall submit one digital and four paper copies of the updated bar chart to the Engineer within 7 Days after the progress meeting, along with a progress report as required by "b." below.

**b. Progress Report** - The Contractor shall submit a progress report to the Engineer each month. The report shall include the following:

- Sufficient narrative to describe the past progress, anticipated activities, and stage Work;
- A description of any current and expected changes or delaying factors and their effect on the construction schedule; and
- Proposed corrective actions.

**(c) Type "C" Schedule** - When a Type "C" Schedule is required, the Contractor shall do the following:

**(1) Initial Schedule** - 10 Calendar Days prior to the preconstruction conference, the Contractor shall provide to the Engineer one digital copy and four paper copies of a time-scaled bar chart Project Work schedule. The digital copy shall be compatible with MS Project 2003, Primavera P3, SureTrak Project Manager 3.0, or another scheduling program approved by the Engineer. The initial schedule shall show:

- The expected beginning and completion date of each activity, including all stages and phases;
- The time needed for completion of the utility relocation work; and
- The elements of the traffic control plan as required under 00225.05.

A logic diagram and a time-scaled bar chart will be acceptable in lieu of a time-scaled logic diagram.

The initial schedule shall show all Work intended for the first 60 Days of the Contract to the level of detail described in (2) below, and shall show the priority and interdependence (sequencing and network logic) of all major segments of the remainder of the Work.

**(2) Detailed Project Work Schedule** - In addition to the above requirements, and within 30 Calendar Days after First Notification, the Contractor shall provide the Engineer one digital copy and four paper copies of a detailed time-scaled critical path method (CPM) network Project Work schedule and computer analysis printout, both clearly indicating the critical path. The digital copy shall be compatible with MS Project 2003, Primavera P3, SureTrak Project Manager 3.0, or another scheduling program approved by the Engineer. The first submitted detailed time-scaled critical path method (CPM) network Project Work schedule shall also contain a listing of the quantity of Work for each activity, when appropriate, in common units of measure.

Detailed work schedule activities shall include the following:

- Construction activities;
- Any limitations of operation specified in 00180.40;
- The time needed for completion of the utility relocation work;
- Implementation of TCP for each stage and phase;
- Submittal and approval of Material samples, mix designs, and shop drawings;
- Agency timeframes to process and return Contractor submitted plans, working drawings, equipment lists and other submittals;
- Procurement of critical Materials;
- Fabrication, installation, and testing of special Material and Equipment;
- Duration of Work, including completion times of all stages and their sub-phases; and
- Specified cure times for all concrete elements.

The activities shall be separately identifiable by coding or use of sub-networks or both. The duration of each activity shall be verifiable and consistent with the description in the Project narrative required in (3) below.

Detailed sub-networks shall include all necessary activities and logic connectors to describe the Work and all restrictions on it. In the restraints, include those activities from any Project Work schedule that initiated the sub-network as well as those restrained by it.

The time scale used on the Contractor's detailed time-scaled critical path method (CPM) network Project Work schedule shall be appropriate for the duration of the activities and the Project duration. The time scale shall be in normal workdays, defined as every day except Saturday, Sunday and legal holidays, with calendar dates identified no less than the first and midpoint of each calendar month. The smallest unit shown shall be 1 Day. The network shall show the length of the activity or part scaled to accurately represent the number of normal workdays scheduled. Distinct symbols or graphics shall be used to show multiple shift, holiday, or weekend work.

The schedule network drawing(s) shall include a title block showing the Contract name and number, Contractor's name, date of original schedule, and all update dates; and a legend containing the symbols used,

their definitions, and the time scale, shown graphically. To ensure readability the drawings shall be on a reasonable size of paper up to a maximum of 36 inch x 36 inch, using multiple sheets when needed.

The Contractor shall include a tabulation of each activity in the computer mathematical analysis of the network diagram. The following information represents the minimum required for each activity:

- Event (node) number(s) for each activity;
- Maintain event (node) numbers throughout the Project;
- Activity description;
- Original duration of activities (in normal workdays);
- Estimated remaining duration of activities (in normal workdays);
- Earliest start date and actual start date (by calendar date);
- Earliest finish date and actual finish date (by calendar date);
- Latest start date (by calendar date);
- Latest finish date (by calendar date); and
- Slack or float time (in workdays).

Computer print-outs shall consist of at least a node sort and an "early start/total-float" sort.

Within 14 Calendar Days after submission of the detailed time-scaled critical path method (CPM) network Project Work schedule, the Engineer and the Contractor shall meet to review the detailed time-scaled critical path method (CPM) network Project Work schedule as submitted. Within 7 Calendar Days of the meeting, the Contractor shall resubmit to the Engineer one digital and four paper copies of the detailed time-scaled critical path method (CPM) network Project Work schedule, including required revisions.

This first accepted detailed time-scaled critical path method (CPM) network Project Work schedule, also called the accepted Project Work schedule, shall represent all Work, as well as the planned sequence and time for the Work. Review and acceptance of any Project Work schedules and Project narratives by the Engineer shall not relieve the Contractor of responsibility for timely and efficient execution of the Contract.

**(3) Project Narrative** - In addition to the above requirements, and within 30 Calendar Days after First Notification, the Contractor shall provide to the Engineer a final written Project narrative that discusses the planning, coordinating, scheduling and resourcing of the Work. The Project narrative shall include the following written description:

- Plans for staging the project.
- All critical activities.
- All near critical activities defined as those with less than 30 Days of float.
- All subcontractor activities that are critical, near critical, and those that are greater than two weeks in duration.
- Labor resourcing, by stage and phase, to include the number of crews, average crew size and planned night/weekend shifts including that of subcontractors.
- Equipment allocation, by stage and phase to include mobilization, demobilization and planned activities including that of subcontractors.
- Notifications required under the Contract during each stage and phase which may include but is not limited to road closures, lanes closures, night work, cold plane pavement removal, and pile driving.
- Provide discussion on addressing reasonably predictable weather conditions and their impact on all weather sensitive activities. Also, provide discussion on other weather limitations that may affect the project schedule.
- Submittal and approval of material samples, mix designs, and shop drawings.
- Procurement of critical materials.
- Plans for dealing with "unique" construction items.
- Coordination of utilities and any immediate concerns for impacts/delays.

- Constructability issues.
- Cost Reduction Proposals and/or immediate requests for changes to the specifications.
- Concerns/issues that need to be addressed within the first 90 Days following First Notification.

The accepted Project narrative shall represent all critical and near critical Work, as well as the planned sequence and time for the Work.

**(4) Review and Reporting** - The Project Work schedule may require revision as the Work progresses. Therefore, the Contractor shall monitor and when necessary revise the Project Work schedule as follows:

**a. Review with the Engineer** - The Contractor shall perform ongoing review of the accepted Project Work schedule and progress of the Work with the Engineer. If the Engineer or the Contractor determines that the accepted Project Work schedule no longer represents the Contractor's own plans or expected time for the Work, a meeting shall be held between the Engineer and the Contractor. At this meeting, the Contractor and the Engineer shall review Project events and any changes for their effect on the accepted Project Work schedule. After any necessary action has been agreed upon, the Contractor shall make required changes to the accepted Project Work schedule and associated Project narrative. Upon acceptance by the Engineer, this will become the new accepted Project Work schedule and associated Project narrative.

The Contractor shall collect information on all activities worked on or scheduled to be worked on during the previous report period, including shop drawings, Material procurement, and Contract Change Orders that have been issued. Information shall include actual start and completion dates on activities started or completed, or if still in progress, the remaining time duration.

The Contractor shall develop detailed sub-networks to incorporate changes, Additional Work, and Extra Work into the Project Work schedule. Detailed sub-networks shall include all necessary activities and logic connectors to describe the Work and all restrictions on it. The restraints shall include those activities from the Project Work schedule that initiated the sub-network as well as those restrained by it. The procedure for acceptance of the revised or updated Project Work schedule as the new accepted Project Work schedule will be as provided above.

The Contractor shall evaluate this information each month and compare it with the accepted Project Work schedule. The Contractor shall make an updated bar chart schedule to incorporate the effect changes may have on the Project completion time(s). For any activity that has started, the Contractor shall add a symbol to show the actual date the activity started and the number of normal workdays remaining until completion. For activities that are finished, a symbol shall be added to show the actual date. The Contractor shall submit , digitally and in paper, copies of the updated bar chart to the Engineer within 7 Days after the progress meeting, along with a progress report as required by "b." below.

**b. Progress Report** - Each month the Contractor shall submit a progress report and an update of the Project Work schedule to the Engineer. The report and updated schedule shall be submitted both digitally and in paper copy and shall include the following:

- A sufficient description, in narrative form, to describe the past progress, anticipated activities, and stage Work;
- A description of any current and expected changes or delaying factors and their effect on the construction schedule;
- Proposed corrective actions;
- Proposals to keep the Project on schedule in the event of a delay; and
- Any changes to the logic as compared to the accepted Project Work schedule.

**(d) Substitution of Schedules** - When a Type "A" schedule is required, a Type "B" or Type "C" schedule may be substituted for the Type "A" schedule.

When a Type "B" schedule is required, a Type "C" schedule may be substituted for the Type "B" schedule.

**(e) Specified Contract Time Not Superseded by Schedule Revisions** - The completion dates in any Project Work schedule and any revised or updated Project Work schedules shall be within the Contract Time(s) specified for the Project, or within adjusted Contract Times approved according to 00180.80(c). Acceptance of any Project

Work schedule or any revised or updated Project Work schedules shall not constitute approval of any completion dates that exceed such Contract Time(s). If the Contractor believes that additional Contract Time is due, the Contractor shall submit, with a revised Project Work schedule, a request for adjustment of Contract Time according to 00180.80(c). A request for an adjustment of Contract Time will be evaluated using the most recently accepted Project Work schedule.

**(f) Float Time** - Float time shown on the Project Work schedule, including any time between a Contractor's scheduled completion date and the specified Contract Time(s), does not exist for the exclusive use of either party to the Contract and belongs to the Project.

**(g) Schedules Do Not Constitute Notice** - Submittal of a Project Work schedule, with supporting Project narrative, does not constitute or substitute for any notice the Contractor is required under the terms of the Contract to give the Agency.

**(h) Failure to Provide Schedule** - The Project Work schedule is essential to the Agency. The Contractor's failure to provide the schedule, schedule information, progress reports, Project narratives, or schedule updates when required will be cause to suspend the Work, or to withhold Contract payments as necessary to protect the Agency, until the Contractor provides the required information to the Engineer.

**00180.42 Preconstruction Conference** - Unless otherwise approved in writing by the Engineer, before any Work is performed and within 7 Calendar Days of the Notice to Proceed, the Contractor shall meet with the Engineer for a preconstruction conference at a time mutually agreed upon.

**00180.43 Commencement and Performance of Work** - From the time of commencement of the Work to the time of Final Acceptance the Contractor shall:

- Provide adequate Materials, Equipment, labor, and supervision to perform and complete the Work;
- Perform the Work as vigorously and as continuously as conditions permit, and according to a Project Work schedule that ensures completion within the Contract Time or the adjusted Contract Time;
- Not voluntarily suspend or slow down operations without prior written approval from the Engineer; and
- Not resume suspended Work without the Engineer's written authorization.

**00180.44 Project Meetings** – The Contractor shall participate in conferences and meetings for the purposes of addressing issues related to the Work, reviewing and coordinating progress of the Work and other matters of common interest to the Contractor, Engineer and Agency.

- (a) Meeting Participants** - Representatives of entities participating in meetings shall be qualified and authorized to act on behalf of entity each represents.
- (b)** Meet in Agency's meeting room facility, or in a location otherwise agreed to by Agency and Contractor.
- (c)** Engineer will distribute to each anticipated participant written notice and agenda of each meeting at least 4 days before meeting.
- (d)** Require attendance of Contractor's superintendent and project manager, and subcontractors who are or are proximate to be actively involved in the Work, or who are necessary to agenda.
- (e)** Engineer will invite agencies, utility companies or others when the Work affects their interests, and others necessary to agenda.
- (f)** Engineer will record minutes of meeting and distribute copies of minutes within 7 days of meeting to participants and interested parties.

**(g) Progress Meetings**

- (1) Purpose of Progress Meetings: To expedite work of subcontractors or other organizations that are not meeting scheduled progress, resolve conflicts, and coordinate and expedite execution of the Work.

- (2) Attend regularly scheduled bi-weekly progress meetings conducted by Engineer.
- (3) Review progress of the Work, Progress Schedule, 3-week look-ahead schedule, narrative report, Application for Payment, record documents, and additional items of current interest that are pertinent to execution of the Work.
- (4) Verify:
  - Actual start and finish dates of completed activities since last progress meeting.
  - Durations and progress of activities not completed.
  - Reason, time, and cost data for Change Order Work that will be incorporated into Progress Schedule and Application for Payment.
  - Percentage completion of items on Application for Payment.
  - Reasons for required revisions to Progress Schedule and their effect on Contract Time and Contract Amount.
- (5) Review status of Requests for Clarification/Information and Submittals review.
- (6) Discuss Project safety and security.
- (7) Discuss traffic control.
- (8) Discuss potential problems which may impede scheduled progress and corrective measures.

**(h) Coordination Meetings**

- (1) Purpose of Coordination Meetings: To coordinate the Work of this Contract with the work of the Agency and with work of other contractors.

**(i) Pre-Event Meetings**

- (1) Prior to start of critical activities, the Contractor shall schedule a meeting with Engineer review applicable specifications and drawings, coordination of inspection requirements and other key activities.

**(j) Pre-Survey Conference**

- (1) The Contractor, applicable subcontractors, Contractor's surveyor, Agency and Agency's surveyor shall meet with the Engineer two weeks prior to beginning survey work. The purpose of the meeting is to discuss methods and practices of accomplishing the survey work.

**(k) Other Meetings**

- (1) The Contractor shall prepare for and attend other meetings as identified elsewhere in the Contract Documents.

**00180.50 Contract Time to Complete Work:**

**(a) General** - The time allowed to complete the Work or Pay Item is stipulated in the Solicitation Documents, and will be known as the "Contract Time". (see 00110.20)

**(b) Kinds of Contract Time** - The Contract Time will be expressed in one or more of the following ways:

**(1) Fixed Date Calculation** - The calendar date on which the Work or Pay Item shall be completed; or

**(2) Calendar Day Calculation** - The number of Calendar Days from a specified beginning point in which the Work or Pay Item shall be completed.

**(3) Work Day Calculation** – The number of Work Days from a specified beginning point in which the Work or Pay item shall be completed.

**(c) Beginning of Contract Time** - When the Contract Time is stated in Calendar Days, counting of Contract Calendar Days will begin at the date of the Notice to Proceed. When the Contract Time is stated in Work Days, counting of Contract Work Days will begin at the date of the Notice to Proceed.

**(d) Recording Contract Time** - All Contract Time will be recorded and charged to the nearest one-half Day.

Contract Times may be extended because of delays in the completion of the Work due to abnormal weather conditions provided that the Contractor shall, within 10 days of the beginning of such delay, notify Engineer in writing of the cause of the delay and request an extension of time. Such requests shall be accompanied with supporting documentation referenced to the NOAA INDEX weather in the Project vicinity. Engineer will make recommendations to Agency to extend the Contract Times for completing the Work when, in Engineer's judgement, the findings of facts and extent of delay justify such an extension. Contractor shall not be entitled to any additional compensation of any kind arising out of or relating to abnormal weather conditions.

On Contracts with Calendar Day or Work Day counts, the Engineer will furnish the Contractor a weekly statement of Contract Time charges. The statement will show the number of Calendar Days counted for the preceding week and the number of Calendar Days remaining prior to the established completion date.

For Contracts with fixed completion dates, or fixed completion dates for Pay Items or fixed milestone dates, the Engineer will furnish the Contractor a weekly statement of Contract Time charges only after expiration of the Contract Time. The statement will show the number of Calendar Days of liquidated damages that have been assessed, if any.

These statements will include any exclusions from, or adjustments to, Contract Time.

**(e) Exclusions from Contract Time** - Regardless of the way Contract Time is expressed in the Contract, certain Calendar Days will not be charged against Contract Time. These exclusions will be allowed when the Contractor is prevented from performing Work due to one of the following reasons, resulting in delay:

- Acts of God or Nature;
- Court orders enjoining prosecution of the Work;
- Strikes, labor disputes or freight embargoes that, despite the Contractor's reasonable efforts to avoid them, cause a shutdown of the entire Project or one or more major operations. "Strike" and "labor dispute" may include union action against the Contractor, a Subcontractor, a Materials supplier, or the Agency; or
- Suspension of the Work by written order of the Engineer for reasons other than the Contractor's failure or neglect.

**(f) Time Calculation Protest** - In the event the Contractor disputes the accuracy of the statement of Contract Time charges, it shall immediately contact the Engineer and attempt to resolve the dispute. If the dispute cannot be resolved informally, the Contractor shall submit a formal written protest to the Engineer within 7 Calendar Days of the date the Engineer mailed or delivered the statement. Failure to submit a formal written protest within the 7 Calendar Day period constitutes the Contractor's approval of the time charges, or adjusted time charges, itemized in the statement.

**(g) End of Contract Time** - When the Engineer determines that the On-Site Work has been completed, except for the items listed below, the Engineer will issue a Second Notification.

The Second Notification will list:

- The date the time charges stopped;
- Final trimming and cleanup tasks (see 00140.90);
- Equipment to be removed from the Project Site;
- Minor corrective work not involving additional payment to be completed; and

- Submittals, including without limitation all required certifications, bills, forms, warranties, certificate of insurance coverage (00170.70(b)), and other documents, required to be provided to the Engineer before Third Notification will issue.

The Contractor shall complete all tasks listed in the Second Notification in an expeditious manner within the time frame proposed by the Contractor and accepted by the Engineer. Unless otherwise agreed by the Agency, failure of the Contractor to complete all tasks listed in the Second Notification within the time frame accepted, will result in the Agency rescinding the Second Notification. Counting of time charges will resume upon expiration of the accepted time frame.

**00180.60 Notice of Delay** - The Contractor shall notify the Engineer of any delay that will likely prevent completion of the Work or a Pay Item by the date specified in the Project Work schedule. The notice shall be in writing and shall be submitted within 7 Calendar Days of when the Contractor knew or should have known of the delay. The notice shall include, to the extent available, the following:

- The reasons or causes for the delay;
- The estimated duration of the delay and the estimated resulting cumulative delay in Contract completion;
- Except for 00180.50(e) and 00180.65 delays, whether or not the Contractor expects to request an adjustment of Contract Time due to the delay;
- Whether or not the Contractor expects to accelerate due to the delay; and
- Whether or not the Contractor expects to request additional compensation due to the delay. Except for 00180.50(e) and 00180.65 delays, failure to include this information will constitute waiver of the Contractor's right to later make such a request.
- If Contractor is delayed and has stopped Contract Item work for less than 60 minutes, neither additional Contract Time nor additional compensation will be considered.

**00180.65 Right-of-Way and Access Delays** - Right-of-Way and access delays will be taken into consideration in adjusting Contract Time, and in approving additional compensation if the performance of the Work is delayed because of the Agency's failure to make available to the Contractor:

- Necessary Rights-of-Way;
- Agency-owned or Agency-controlled Materials sources that are offered in the Contract for the Contractor's use; or
- Access to, or rights of occupancy of, buildings and other properties the Contractor is required to enter or to disturb according to Contract requirements.

If the ending date of an anticipated delay is stated in the Special Provisions, only the delay occurring after that date will be considered for adjusting Contract Time or providing additional compensation.

**00180.70 Suspension of Work:**

**(a) General** - The Engineer has authority to suspend the Work, or part of the Work, for any of the following causes:

- Failure of the Contractor to correct unsafe conditions;
- Failure of the Contractor to carry out any provision of the Contract;
- Failure of the Contractor to carry out orders issued by the Engineer, the Agency, or any regulatory authority;
- Existence of conditions unsuitable to proper or safe performance of the Work; or
- Any reason considered by the Agency to be in the public interest.

When Work has been suspended for any reason, the Contractor shall not resume Work without the Engineer's written authorization.

**(b) Contractor's Responsibilities during and after Suspension** - During periods of suspension of the Work, the Contractor shall continue to be responsible for protecting and repairing the Work according to 00170.80, and for ensuring that a single designated representative responsible for the Project remains available according to 00150.40(b).

When Work is resumed after suspension, unless otherwise specified in the Contract, the Contractor shall perform the following at no additional compensation:

- Replace or repair any Work, Materials, and Equipment to be incorporated into the Work that was lost or damaged because of the temporary use of the Project Site by the public; and
- Remove Materials, Equipment, and temporary construction necessitated by temporary maintenance during the suspension, as directed by the Engineer.

**(c) Compensation and Allowances for Suspension** - Compensation and allowance of additional Contract Time due to suspension of any portion of the Work will be authorized only for Agency-initiated suspensions for reasons other than the Contractor's failure or neglect. (refer to 00180.50(e), 00180.65, and 00195.40)

#### **00180.80 Adjustment of Contract Time:**

**(a) General** - Contract Time established for the Work will be subject to adjustment, either by increase or decrease, for causes beyond the control of the Contractor, according to the terms of this Subsection. After adjustment, the Contract Time will become, and be designated as, the "Adjusted Contract Time". Except as provided in 00180.65 and 00195.40, an adjustment of Contract Time shall be the Contractor's only remedy for any delay arising from causes beyond the control of the Contractor.

**(b) Contractor's Request Not Required** - The Engineer may increase or decrease the Contract Time or the Adjusted Contract Time if Change Orders or Extra Work orders issued actually increase or decrease the amount of time required to perform the Work. The Engineer may also increase Contract Time in the event of Right-of-Way and Access delays (see 00180.65), and those delays due to causes beyond the Contractor's control specified in 00180.50(e). The Engineer will promptly inform the Contractor of adjustments made to Contract Time according to this Subsection, and will include the reasons for adjustment.

If the Agency anticipates delay during performance of the Contract, and specifies its expected duration in the Special Provisions, the Engineer will only consider additional delay beyond the stipulated duration in determining whether to adjust Contract Time.

**(c) Contractor's Request Required** - In the event the Contractor believes that additional Contract Time is due, the Contractor shall submit to the Engineer a timely request for adjustment of Contract Time. The Engineer will not consider untimely requests. The Agency regards as timely only those requests for adjustment of Contract Time that:

- Accompany a proposed revised Project Work schedule submitted according to 00180.41, for comparison with the last revision of the Project Work schedule; or
- Are not otherwise deemed waived and are submitted within 15 Days after the date of Second Notification, if Second Notification has been issued.

The Engineer will not grant an adjustment of Contract Time for events that occurred prior to the date of the last revision of the Project Work schedule. The Engineer will not authorize, nor the Agency pay, acceleration costs incurred by the Contractor prior to its submittal of a request for adjustment of Contract Time to which the acceleration costs relate.

The Contractor's request for adjustment of Contract Time shall be submitted to the Engineer on a form provided by, or in a format acceptable to, the Engineer, and shall include a copy of the written notice required under 00180.60. The request shall include without limitation:

- Consent of the Contractor's Surety if the request totals more than 30 Calendar Days of additional Contract Time;
- Sufficient detail for the Engineer to evaluate the asserted justification for the amount of additional Contract Time requested;

- The cause of each delay for which additional Contract Time is requested, together with supporting analysis and data;
- Reference to the Contract provision allowing Contract Time adjustment for each cause of delay;
- The actual or expected duration of delay resulting from each cause of delay, expressed in Calendar Days; and
- A schedule analysis based on the current approved Project Work schedule for each cause of delay, indicating which activities are involved and their impact on Contract completion.

**(d) Basis for Adjustment of Contract Time** - In the adjustment of Contract Time, the Engineer will consider causes that include, but are not limited to:

- Failure of the Agency to submit the Contract and bond forms to the Contractor for execution within the time stated in 00130.50, or to submit the Notice to Proceed within the time stated in 00130.90;
- Errors, changes, or omissions in the Supplemental Drawings, quantities, or Specifications;
- Performance of Extra Work;
- Failure of the Agency or Entities acting for the Agency to act promptly in carrying out Contract duties and obligations;
- Acts or omissions of the Agency or Entities acting for the Agency that result in unreasonable delay referenced in 00195.40;
- Causes cited in 00180.50(e); and
- Right-of-way and access delays referenced in 00180.65.

The Engineer will not consider requests for adjustment of Contract Time based on any of the following:

- Contentions that insufficient Contract Time was originally specified in the Contract;
- Delays that do not affect the specified or Adjusted Contract Time;
- Delays that affect the Contractor's planned early completion, but that do not affect the specified or adjusted Contract Time;
- Shortage or inadequacy of Materials, Equipment or labor;
- Work stoppage required by the Engineer to determine the extent of Work defects
- Time for the Contractor to correct the Work defects from date of notification of the defects until the correction work is completed and has been approved by the Engineer.
- Late delivery of Materials and Equipment to be incorporated into the Work, except under those conditions referenced in 00180.50(e);
- Different area of Material source in 00160.40(a);
- Substitution of Equipment in 00180.31(c);
- Reasonably predictable weather conditions; or
- Other matters within the Contractor's control or Contract responsibility.

**(e) Consideration and Response by Agency** - The Engineer will only consider a Contractor's request for Contract Time adjustment submitted according to the requirements of 00180.80(c). The Engineer may elect not to consider claimed delays that do not affect the specified or adjusted Contract Time required to complete the Work.

The Engineer may adjust Contract Time for causes not specifically identified by the Contractor in its request.

The Engineer will review a properly submitted request for Contract Time adjustment, and within a reasonable time will advise the Contractor of the Engineer's findings. If the Contractor disagrees with the Engineer's findings, the Contractor may request review according to the procedure specified in 00199.40.

#### **00180.85 Failure to Complete on Time; Liquidated Damages:**

**(a) Time is of the Essence** - Time is of the essence in the Contractor's performance of the Contract. Delays in the Contractor's performance of the Work may inconvenience the traveling public, interfere with business and

commerce, and increase cost to the Agency. It is essential and in the public interest that the Contractor prosecute the Work vigorously to Contract completion.

The Agency does not waive any rights under the Contract by permitting the Contractor to continue to perform the Contract, or any part of it, after the Contract Time or adjusted Contract Time has expired.

**(b) Liquidated Damages** - The Agency will sustain damage if the Work is not completed within the specified Contract Time. However, in certain Agency projects it may be unduly burdensome and difficult to demonstrate the exact dollar value of such damages. The Agency will identify such projects in the **Special Provisions** related to them. In these projects, the Contractor agrees to pay to the Agency, not as a penalty but as liquidated damages, the amount specified in the **Special Provisions** for each Calendar Day the Contractor expends performing the Contract in excess of the Contract Time or adjusted Contract Time.

Payment by the Contractor of liquidated damages does not release the Contractor from its obligation to fully and timely perform the Contract according to its terms. Nor does acceptance of liquidated damages by the Agency constitute a waiver of the Agency's right to collect any additional damages it may sustain by reason of the Contractor's failure to fully perform the Contract according to its terms. The liquidated damages shall constitute payment in full only of damages incurred by the Agency due to the Contractor's failure to complete the Work on time.

If the Contract is terminated according to 00180.90(a), and if the Work has not been completed by other means on or before the expiration of Contract Time or adjusted Contract Time, liquidated damages will be assessed against the Contractor for the duration of time reasonably required to complete the Work.

#### **00180.90 Termination of Contract and Substituted Performance:**

**(a) Termination for Default** - Termination of the Contract for default may result if the Contractor:

- Fails to comply with the requirements for records;
- Violates any material provision of the Contract;
- Disregards applicable laws and regulations or the Engineer's instructions;
- Refuses or fails to supply enough Materials, Equipment or skilled workers for prosecution of the Work in compliance with the Contract;
- Fails to make prompt payment to Subcontractors;
- Makes an unauthorized general assignment for the benefit of the Contractor's creditors;
- Has a receiver appointed because of the Contractor's insolvency;
- Is adjudged bankrupt and the court consents to the Contract termination; or
- Otherwise fails or refuses to faithfully perform the Contract according to its terms and conditions.

If the Contract is terminated by the Agency, upon demand the Contractor and the Contractor's Surety shall provide the Engineer with immediate and peaceful possession of the Project Site, and of all Materials and Equipment to be incorporated into the Work, whether located on and off the Project Site, for which the Contractor received progress payments under 00195.50.

If the Contract is terminated for default, neither the Contractor nor its Surety shall be:

- Relieved of liability for damages or losses suffered by the Agency because of the Contractor's breach of Contract; or
- Entitled to receive any further progress payments until the Work is completed. However, progress payments for completed Work that remain due and owing at the time of Contract termination may be made according to the terms of 00195.50, except that the Engineer will be entitled to withhold sufficient funds to cover costs incurred by the Agency as a result of the termination. Final payment to the Contractor will be made according to the provisions of Section 00195.

If a termination under this provision is determined by a court of competent jurisdiction to be unjustified, the termination shall be deemed a termination for public convenience.

**(b) Substituted Performance** - According to the Agency's procedures, and upon the Engineer's recommendation that sufficient cause exists, the Agency, without prejudice to any of its other rights or remedies and after giving the Contractor and the Contractor's Surety 10 Calendar Days' written notice, may:

- Terminate the Contract;
- Substitute the Contractor with another Entity to complete the Contract;
- Take possession of the Project Site;
- Take possession of Materials on the Project Site;
- Take possession of Materials not on the Project Site, for which the Contractor received progress payments under 00195.50;
- Take possession of Equipment on the Project Site that is to be incorporated into the Work;
- Take possession of Equipment not on the Project Site that is to be incorporated into the Work, and for which the Contractor received progress payments under 00195.50; and
- Finish the Work by whatever method the Agency deems expedient.

If, within the 10 Calendar Day notice period provided above, the Contractor and/or its Surety corrects the basis for declaration of default to the satisfaction of the Engineer, or if the Contractor's Surety submits a proposal for correction that is acceptable to the Engineer, the Contract will not be terminated.

**(c) Termination for Public Convenience** - The Engineer may terminate the Contract for convenience in whole or in part whenever the Engineer determines that termination of the Contract is in the best interest of the public.

The Engineer will provide the Contractor and the Contractor's Surety 7 Calendar Days' written notice of termination for public convenience. After such notice, the Contractor and the Contractor's Surety shall provide the Engineer with immediate and peaceful possession of the Project Site, and of Materials and Equipment to be incorporated into the Work, whether located on and off the Project Site, for which the Contractor received progress payments under 00195.50.

If the Contract is terminated for public convenience, neither the Contractor nor its Surety shall be relieved of liability for damages or losses suffered by the Agency as a result of defective, unacceptable or unauthorized Work completed or performed.

Compensation for Work terminated by the Engineer under this provision will be determined according to the provisions of 00195.70(b).

## **00180.95 Project Closeout**

**(a) Description of Requirements** – Project Closeout is defined to include general requirements near the end of the Contract Time, in preparation for Substantial Completion, Final Completion, final payment, normal termination of Contract, occupancy by Agency and similar actions evidencing completion of the Work. Specific requirements for individual units of Work are specified in various technical specification sections.

### **(b) Prerequisites To Substantial Completion**

- (1)** Prior to requesting Engineer's inspection for certification of Substantial Completion for the entire work, complete the following and list known exceptions in request:
  - In progress payment request, coincide with or first following date claimed, show either 100% completion for portion of work claimed as "substantially complete", or list incomplete items, value of incompleteness, and reasons for being incomplete. Include supporting documentation for completion as indicated in these Contract Documents.
  - Submit specific warranties, workmanship/maintenance bonds, maintenance agreements, final certifications and similar documents.

- Obtain and submit releases enabling Agency's full and unrestricted use of the Work and access to services and utilities.
  - Deliver tools, spare parts, extra stocks of materials, and similar physical items to Agency.
  - Where applicable, make final change-over of locks and transmit keys to Agency and advise Agency's personnel of change-over in security provisions.
  - Complete start-up testing of systems, and instructions of Agency's operating/maintenance personnel. Discontinue (or change-over) and remove from Project site temporary facilities and services, along with construction tools and facilities, mock-ups, and similar elements.
  - Touch-up and otherwise repair and restore marred exposed finishes.
- (2) Upon receipt of Contractor's request, Engineer will either proceed with inspection or advise Contractor of prerequisites not fulfilled. Following initial inspection, Engineer will either prepare Certificate of Substantial Completion, or advise Contractor of Work which must be performed prior to issuance of certificate; a repeat inspection will be performed when requested and assured by the Contractor that Work has been substantially completed. Results of completed inspection will form initial "punch-list" requirements for Final Completion. If more than two visits are required to complete the final inspection for Substantial Completion then the Contractor shall pay the Agency for the Engineer's time, for all categories of labor required to complete the inspection for Substantial Completion at the Engineer's standard billing rates at the time of inspection. This time shall include time for travel and time to prepare inspection reports. Contractor shall also pay the Engineer's expenses at cost plus 10% and \$0.55 per mile for travel to and from the site.

**(c) Prerequisites To Final Completion**

- (1) Prior to requesting Engineer's final inspection for final payment and acceptance, complete the following and list known exceptions (if any) in request:
- Submit final payment request with final releases and supporting documentation which have not previously been submitted and accepted. Include certificates of insurance for products and completed operations where required.
  - Submit updated final statement, accounting for additional (final) changes to Contract Amount.
  - Submit certified copy of Engineer's final punch-list of itemized work to be completed or corrected, stating that each item has been completed or otherwise resolved for acceptance, endorsed and dated by Engineer.
  - Submit final meter readings for utilities, measured record of stored fuel, and similar data as of time of Substantial Completion or when Agency took possession of and responsibility for corresponding elements of the work.
  - Submit consent of surety.
  - Submit final liquidated damages settlement statement, acceptable to Agency.
  - Submit record drawings, maintenance manuals, and similar final record information.
- (2) Re-inspection Procedure: Upon receipt of Contractor's notice that the Work has been completed, including punch-list items resulting from earlier inspections, and accepting incomplete items delayed because of acceptable circumstances, Engineer will re-inspect the work. Upon completion of re-inspection, Engineer will either make recommendation for final payment and acceptance by the Agency or advise Contractor of work not completed or obligations not fulfilled as required for final payment. If necessary, procedure will be repeated. If more than two visits are required to complete the final

inspection for final payment then the Contractor shall pay the Agency for the Engineer's time, for all categories of labor required to complete the inspection for final acceptance at the Engineer's standard billing rates at the time of inspection. This time shall include time to travel and time to prepare inspection reports. Contractor shall also pay the Engineer's expenses at cost plus 10% and \$0.55 per mile for travel to and from the site.

**(d) Closeout Documents**

- (1) Submit following Closeout Submittals after receipt of Second Notification and at least seven (7) days prior to Application for Final Payment:
- Evidence of Compliance with Requirements of Governing Authorities.
  - Project Record Documents.
  - Operation and Maintenance Manuals.
  - Warranties and Bonds.
  - Keys and Keying Schedule.
  - Evidence of Payment and Release of Liens as outlined in Conditions of the Contract.
  - City of Warrenton Certificate of Compliance provided at the end of this Section

**Section 00190 - Measurement of Pay Quantities**

**Description**

**00190.00 Scope** - The Engineer will measure pay quantities for accepted Work according to the United States standard measure unless otherwise provided in the Contract. Unless otherwise specified in the Contract, the Engineer will round off all quantity computations using the following convention:

- The final significant digit will not be changed when the succeeding digit is less than 5.
- The final significant digit will be increased by one when the succeeding digit is 5 or greater.

The measurement provisions contained in the Specifications for each Pay Item will supplement or modify the above convention by:

- Imposing measurement limitations
- Describing measurement or computation procedures
- Giving conversion factors or adjustment conditions
- Providing for determination of reasonably accurate and representative Pay Item quantities

Measurements required or allowed to be made by the Contractor will be subject to the Engineer's verification. The Engineer's decision about measurement is final.

**00190.10 Measurement Guidelines** - Measurement of quantities will be made on the following bases, unless otherwise specified in the Contract:

- (a) Unit Basis** - Unit will be each, unless otherwise specified in the Contract and will be determined by actual count of units in place.

**(b) Length Basis** - Length will be feet or mile, unless otherwise specified in the Contract and will be determined by measuring the length at least to the nearest 0.1 foot or at least to the nearest 0.1 mile, as applicable, unless otherwise specified in the Contract. Measurements will be limited to the dimensions shown or specified, or as directed by the Engineer.

**(c) Area Basis** - Area will be square foot, square yard, or acre, unless otherwise specified in the Contract and will be determined by measuring the width and the length (or height) at least to the nearest 0.1 foot and computed at least to the nearest 0.1 square foot, nearest 0.1 square yard, or nearest 0.1 acre, as applicable, unless otherwise specified in the Contract.

**(d) Weight Basis** - Weight will be pound or ton, unless otherwise specified in the Contract and will be determined as follows:

**(1) Pound** - Pound weight will be determined by the net weight identified on the manufacturer's packaged labels, subject to periodic check weighing. Weight by pound will be measured at least to the nearest 1.0 pound unless otherwise specified in the Contract.

Provide a certificate with each shipment together with a certified copy of the weight of each delivery. If the check weight is less than the manufacturer weight by more than 0.4%, the discrepancy will be resolved by the Engineer.

**(2) Ton** - Ton weight will be determined on Contractor-provided scales as required under 00190.20 unless otherwise allowed by the Specifications. Weight by ton will be measured at least to the nearest 0.01 ton unless otherwise specified in the Contract.

If bituminous materials, portland cement, lime, and similar bulk Materials are shipped by truck or rail, the supplier's shipping invoice with net scale weights, or volumes converted to weights, may be used for Pay Item quantity determination in place of weights determined on the Contractor-provided vehicle scales.

Shipping invoice weights of the supplier's truck or transport shall be subject to periodic check weighing on the Contractor's vehicle scales, or other scales designated, according to 00190.20. If the check weight is less than the supplier weight by more than 0.4%, the discrepancy will be resolved by the Engineer.

No payment will be made:

- For quantities in excess of the supplier weight
- When Materials have been lost, wasted, or otherwise not incorporated into the Work
- For additional hauling costs resulting from the check weighing

**(e) Volume Basis** - Volume will be cubic yard truck measure or in-place measure, gallons, foot board measure (FBM), or thousand foot board measure (MFBM), unless otherwise specified in the Contract and will be measured at least to the nearest 0.1 cubic yard, nearest 1.0 gallon, nearest 0.1 FBM, or nearest 0.1 MFBM, as applicable, unless otherwise specified in the Contract.

Truck measure will be the measured and calculated maximum "water level" capacity of the vehicle. Quantities will be determined at the point of delivery, with no allowance for settlement of Material during transit. When required to facilitate measurement, the vehicle load shall be leveled at the point of delivery. Payment will not be made for Material in excess of the maximum "water level" capacity. Deductions will be made for loads below the maximum "water level" capacity.

When bituminous materials are measured by volume, the volume will be measured at 60 °F or will be corrected to the volume at 60 °F using the correction factors found in the MFTP (ODOT TM 321).

**(f) Time Basis** - Time will be hour, Day, or year, unless otherwise specified in the Contract, and will be measured to at least the nearest 0.5 hour, nearest 1.0 Day, or nearest 1.0 year, as applicable, unless otherwise specified in the Contract.

**(g) Standard Manufactured Items** - If standard manufactured items, such as fence, wire, plates, rolled shapes, pipe, conduit and other similar items are specified in the Contract by properties such as gauge, unit weight, or

section dimensions, the manufacturing tolerances established by the industry involved will be accepted unless more stringent tolerances are cited in the Contract.

**(h) Lump Sum Basis** - Lump sum, when used, means the Work described shall be completed and accepted without measurement unless changes are ordered in writing by the Engineer. If estimated quantities of the Work to be performed are listed in the Special Provisions, they provide only a basis for adjusting payment amounts. Estimated quantities are approximate only, and are made from a reasonable interpretation of the Contract Documents. Computations based on the details and dimensions shown on the Contract Documents are not guaranteed to equal estimated quantities.

If the Agency issues no Change Order, the Agency will make no pay adjustment for quantities based on the Contractor's computations that overrun or underrun the estimated quantities.

If the Agency issues Change Orders for changes in the Work, the Engineer will measure such changes according to the standards set by 00195.20 to determine adjustment of payment.

#### **00190.20 Contractor to Provide Vehicle Weigh Scales:**

**(a) General** - If the Specifications require measurement by weighing on vehicle weigh scales, the Contractor shall provide vehicle weigh scales and shall transport Materials to the scales. Subject to the Engineer's approval, weights may be determined by plant or hopper scales according to 00190.30.

Contractor-provided scales shall be furnished, installed and maintained by the Contractor or its supplier, or, subject to the Engineer's approval, may be commercial scales located in the vicinity of the Project.

Unless otherwise provided in the Contract, Pay Items to be measured by weight shall include all Contractor costs for providing, maintaining, inspecting, and testing scales; for furnishing appropriate weigh tickets; for self-printing scales; and for transporting Materials to the scales or to check weighing.

**(b) Requirements** - The scales shall conform to ORS 618, or the laws of the state in which they are located, and NIST Handbook 44, and shall be:

- Licensed by the Oregon Department of Agriculture, or by the analogous regulatory body for scales located outside the State;
- Technically suitable for weighing the Materials;
- Properly installed and maintained; and
- Accurate to the required tolerances.

The weight of any Materials weighed by anyone other than the Engineer will be subject to check weighing as the Engineer directs.

**(c) Approaches** - Vehicle scale approaches shall be:

- At each end of the scale platform;
- Straight and in line with the platform; and
- Long enough to accommodate combination vehicles longer than the scale platform so that they are level and allow release of brakes before weighing.

**(d) Inspections** - Contractor shall have all scales certified, that is inspected and their accuracy tested, by the Oregon Department of Agriculture, an analogous regulatory body for scales located outside the State, or a scale service company as follows:

- Before use if installed at a new site;
- 60 Calendar Days after initial inspection;
- Every 6 months thereafter; and
- When the Engineer directs additional inspections.

No Materials weighed on scales without current certifications according to this Subsection will be accepted. The Contractor shall provide a copy of all required certifications to the Engineer.

Testing by a scale service company within the State of Oregon shall comply with ORS 618.

If additional inspections directed by the Engineer confirm that the scale accuracy is within the required tolerances, the Agency will pay the cost for inspecting and testing the scales. If the scale accuracy is not within these tolerances, the Contractor shall pay the cost for inspecting and testing the scales.

**(e) Inspection Results** - If an inspection indicates the scales have been under-weighing (indicating less than the true weight), the Agency will make no additional payment to the Contractor for Materials previously weighed.

If an inspection indicates the scales have been over-weighing (indicating more than the true weight), the weights will be reduced for Materials received after the time the Engineer determines the overweighing began or, if that is not possible, after the last acceptable certification of the scales. The reduction will be the amount of error in excess of the 0.2% maintenance tolerance allowed in the Contract.

**(f) Contractor-Provided Weigh Technician** - The Contractor shall provide a technician to operate Contractor-provided vehicle weigh scales. The Agency may observe procedures and require check weighing according to the following:

**(1) Scale with Automatic Printer** - If the scales have an automatic weigh memo printer that does not require manual entry of gross weight information, the Agency may periodically have a representative at the scales to observe the weighing procedures. In addition, the Engineer may periodically check the weight for a load of Materials by directing the haul vehicle to reweigh on a different scale that has been inspected and certified according to 00190.20(b) and 00190.20(d).

If a different scale is not available within a 30 mile round trip from the regular haul route the Agency will allow check weighing on an approved alternate basis. Check weights within 0.4% of the Contractor-provided weight are acceptable.

The Engineer will resolve discrepancies found by check weighing. Agency employee costs will be paid by the Agency. The Contractor shall pay all other costs resulting from the check weighings, including without limitation the use of other scales.

If more than 50 tons per Day of all types of Materials are received from a scale, the Contractor shall make random check weighings at least every tenth Day on which more than 50 tons is received or at each interval that 10,000 tons has been weighed, whichever occurs first, or as directed by the Engineer. The Contractor shall make at least one check weighing on projects where more than 2,000 tons of all types of Materials are received from a scale. The Contractor shall provide the Engineer with the results of the check weighing.

**(2) Scale Without Automatic Printer** - If the scales require manual entry of gross weight information, the Agency may periodically have a representative weigh witness at the scales to observe the weighing procedures. The Contractor shall inform the Engineer of his intent to use a scale without an automatic printer at least 3 working Days before weighing begins or before the Contractor changes to a scale that does not have an automatic printer. The Contractor shall pay costs for the weigh witness. The hourly cost of the weigh witness will be as stated in the Special Provisions. In addition, the Engineer may periodically check the weight for a load of Materials by directing the haul vehicle to reweigh on a different scale that has been inspected and certified according to 00190.20(b) and 00190.20(d).

If a different scale is not available within a 30 mile round trip from the regular haul route the Agency will allow check weighing on an approved alternate basis. Check weights within 0.4% of the Contractor-provided weight are acceptable.

The Engineer will resolve discrepancies found by check weighing. Agency employee costs for check weighings will be paid by the Agency. The Contractor shall pay all other costs resulting from the check weighings, including without limitation the use of other scales.

If more than 50 tons per Day of all types of Materials are received from a scale, the Contractor shall make random check weighings at least every tenth day on which more than 50 tons is received or at each interval that 10,000 tons has been weighed, whichever occurs first, or as directed by the Engineer. The Contractor shall

make at least one check weighing on all projects where materials are received from a scale without an automatic printer. The Contractor shall provide the Engineer with the results of the check weighing.

**(3) Duties of Weigh Technician** - The Contractor's weigh technician shall:

- Determine twice a Day, or as otherwise directed by the Engineer, the empty haul weights (tare weights) of hauling vehicles, unless vehicles are tared before each load;
- Furnish daily a listing of the tare weights if 10 or more loads are hauled during that Day;
- Furnish a note listing the net weight for each consecutive ten loads with the following load;
- Furnish a daily listing of the net weights and total weight for each type of Material hauled during that Day; and
- Furnish a legible, serially numbered weigh memo for each load of Materials to the Agency's Materials receiver at the point of delivery, or as directed by the Engineer. The memo shall identify the Project, the Materials, the date, net weight (gross and tare as appropriate), and identification of vehicle, driver and weigh technician.

**(g) Agency-Provided Weigh Technician** - If the Contractor provides vehicle weigh scales without a weigh technician meeting the requirements of this Subsection, the Agency will provide a weigh technician at the Contractor's expense. The Contractor shall provide a weighhouse for the weigh technician according to Section 00205. The Agency's weigh technician will:

- Determine tare weights;
- Prepare weigh memos for each load;
- Compile the weigh records; and
- Not participate in the production of Materials or the loading of haul vehicles.

**00190.30 Plant Scales** - The Contractor, with the Engineer's written approval, may weigh plant-mixed Materials on scales that have either:

- An automatic weight batching and mixing control printer system; or
- A weigh hopper printer system.

Any additional costs resulting from the use of these scales shall be borne by the Contractor. Check weighing will be done according to 00190.20(f).

Except for 00190.20(c) regarding approaches, the Contractor's use of plant scales shall comply with all provisions of 00190.20.

The Engineer's approval for the Contractor's use of plant scales to determine pay weights will be rescinded if check weighing or scale inspections indicate the scales do not consistently determine weights within the tolerances allowed by state law.

## Section 00195 - Payment

### Description

#### 00195.00 Scope and Limit:

**(a) General** - The Agency will pay only for measured Pay Item quantities incorporated into the Work or performed according to the terms of the Contract. The Contractor understands and agrees that Pay Item quantities listed in the Schedule of Items do not govern payment.

Payment constitutes full compensation to the Contractor for furnishing all Materials, Equipment, labor, and Incidentals necessary to complete the Work; and for risk, loss, damage, and expense arising from the nature or prosecution of the Work or from the action of the elements, subject to the provisions of 00170.80. The Contractor shall include the costs of bonds and insurance for the Project in the unit price for each Pay Item of Work to be performed.

**(b) Essential or Incidental Materials or Work** - When the Specifications state that the unit price for a Pay Item is compensation for certain Materials or Work essential or Incidental to the Pay Item, the same Materials or Work will not be measured or paid under any other Pay Item.

### Provisions and Requirements

**00195.10 Payment For Changes in Materials Costs** - On certain projects, as identified in the **Special Provisions**, an escalation/de-escalation clause with respect to certain materials will be in effect during the life of the Contract.

**00195.13 Asphalt Cement Material Price Escalation/De-Escalation Clause** - Subsections 00195.13, 00195.13(a), 00195.13(b), 00195.13(c), and 00195.13(d) contain the price escalation/de-escalation clause relating to asphalt cement materials (as defined in 00195.13(d)).

**(a) Monthly Asphalt Cement Material Price (MACMP)** - The Monthly Asphalt Cement Material Price (MACMP) will be established by ODOT each month. For information regarding the calculation of the MACMP, and for the actual MACMP, go to the ODOT website at:

[http://www.oregon.gov/ODOT/HWY/ESTIMATING/asphalt\\_fuel.shtm](http://www.oregon.gov/ODOT/HWY/ESTIMATING/asphalt_fuel.shtm)

If the ODOT selected index ceases to be available for any reason, the Agency in its discretion will select and begin using a substitute price source or index to establish the MACMP each month. The MACMP will apply to all asphalt cement including but not limited to paving grade, polymer modified, and emulsified asphalts, and recycling agents. The Agency does not guarantee that asphalt cement will be available at the MACMP

**(b) Base Asphalt Cement Material Price (Base)** - The Base price for this Project is the MACMP published on the ODOT website for the month immediately preceding the bid opening date.

**(c) Monthly Asphalt Cement Adjustment Factor** - The Monthly Asphalt Cement Adjustment Factor will be determined each month as follows:

- If the MACMP is within  $\pm 5\%$  of the Base, there will be no adjustment.
- If the MACMP is more than 105% of the Base, then:

$$\text{Adjustment Factor (\%)} = ((\text{MACMP})/(\text{Base})) \times (100) - 5$$

- If the MACMP is less than 95% of the Base, then:

$$\text{Adjustment Factor (\%)} = ((\text{MACMP})/(\text{Base})) \times (100) + 5$$

**(d) Asphalt Cement Price Adjustment** - If specified in the Special Provisions, an asphalt cement escalation/de-escalation clause will be in effect during the life of the Contract. A price adjustment will be made for each pay item in the bid schedule containing asphalt cement. The price adjustment as calculated in 00195.13(c)

above will use the MACMP for the month the asphalt is incorporated into the Project. The price adjustment per a ton of HMAC incorporated that month will be the difference between the cost submitted by the Contractor in the bid schedule for "Asphalt Cement in HMAC Per Ton of HMAC Complete" and the adjusted cost found by multiplying the "Asphalt Cement in HMAC Per Ton Of HMAC Complete" by the Adjustment Factor. The Agency reserves all of its rights under the Contract, including, but not limited to, its rights for suspension of the Work under 00180.70 and its rights for termination of the Contract under 00180.90, and this escalation/de-escalation provision shall not limit those rights.

#### **00195.20 Changes to Plans or Character of Work:**

**(a) Insignificant Changed Work** - If the changes made under 00140.30 do not significantly change the character or unit cost of the Work to be performed under the Contract, the Agency will pay for such work at the Pay Item price.

If the Work involved in the change is measured on a lump sum basis and its character is not significantly changed, payment for the Changed Work will be determined:

- As described in the applicable Section of the Specifications;
- If not described there, on a theoretical unit price determined by dividing the Contractor's lump sum price by the estimated quantity of the Pay Item listed in the Special Provisions; or
- If neither of the above apply, the Engineer will make an equitable adjustment.

**(b) Significant Changed Work** - If the changes made under 00140.30 significantly alter the character, quantity, unit cost, or lump sum cost of the Work, the Agency will adjust the Contract. The Contractor shall not be entitled to compensation for any loss in profits resulting from elimination of, reduction of, or other change to, a part of the Work.

Any such adjustments may be less than, but will not be more than the amount justified by the Engineer on the basis of the established procedures set out in Section 00197 for determining rates for Extra Work, but those procedures shall account for the decrease or elimination of Work as well as for increases in the Work. This does not limit the application of Section 00199.

The term "Significant Changed Work" shall apply only to that circumstance in which the character of the Work, as changed, differs materially in kind, nature, or unit cost from that involved or included in the originally proposed construction.

For purposes of this Section, "Significant" is defined as:

- a) An increase or decrease of more than 25 percent of the total cost of the Work calculated from the original proposal quantities and the unit contract prices; or,
- b) An increase or decrease of more than 25 percent in the quantity of any one major contract item.

For condition b) above, a major item is defined as any item that amounts to 10 percent or more of the original total contract price.

**00195.30 Differing Site Conditions** - Upon written notification, as required in 00140.40, the Engineer will investigate the identified conditions. If the Engineer determines that the conditions are differing Project Site conditions under 00140.40 and cause an increase or decrease in the cost or time required to perform any Work under the Contract, an adjustment in the Contract Amount or Contract Time, excluding loss of anticipated profits, will be made, and the Contract modified accordingly, in writing. The Engineer will notify the Contractor as to whether or not an adjustment of the Contract is warranted.

No Contract adjustment which benefits the Contractor will be allowed unless the Contractor has provided the required written notice. Any such adjustments will be made according to 00195.20.

**00195.40 Unreasonable Delay by the Agency** - If the Contractor believes that performance of all or any portion of the Work is suspended, delayed, or interrupted for an unreasonable period of time in excess of that originally anticipated or customary in the construction industry, due to acts or omissions of the Agency, or persons acting for

the Agency, and that additional compensation, Contract Time, or both, are due the Contractor because of the suspension, delay or interruption, the Contractor shall immediately file a written notice of delay according to 00180.60. The Contractor shall then promptly submit a properly supported request for any additional compensation, Contract Time, or both, according to the applicable provisions in 00180.60 through 00180.80 and Section 00199.

The Engineer will promptly evaluate a properly submitted request for additional compensation. If the Engineer determines that the delay was unreasonable, and that the cost required for the Contractor to perform the Contract has increased as a result of the unreasonable suspension, delay or interruption, the Engineer will make an equitable adjustment, excluding profit, and modify the Contract in writing accordingly. The Engineer will notify the Contractor of the determination and whether an adjustment to the Contract is warranted.

Under this provision, no Contract adjustment will be allowed:

- Unless the Contractor has provided the written notice required by 00180.60;
- For costs incurred more than 10 Calendar Days before the Engineer receives the Contractor's properly submitted written request;
- For any portion of a delay that the Engineer deems to be a reasonable delay, or for which an adjustment is provided for or excluded under other terms of the Contract; or
- To the extent that performance would nevertheless have been suspended, delayed or interrupted by causes other than those described in this Subsection.

#### **00195.50 Progress Payments and Retained Amounts:**

- (a) Progress Payments** - The Agency's payment of progress payments, or determination of satisfactory completion of Pay Items or Work or release of retainage under 00195.50(d), shall not be construed as Final Acceptance or approval of any part of the Work, and shall not relieve the Contractor of responsibility for defective Materials or workmanship or for latent defects and warranty obligations.

The estimates upon which progress payments are based are not represented to be accurate estimates. All estimated quantities are subject to correction in the final estimate. If the Contractor uses these estimates as a basis for making payments to Subcontractors, the Contractor assumes all risk and bears any losses that result.

- (1) Progress Estimates** - At the same time each month, the Engineer will make an estimate of the amount and value of Pay Item Work completed. The amount of Work completed will be the sum of the estimated number of units completed for unit price Pay Items plus the estimated percentage completed of lump sum Pay Items.

The estimated value of the Work completed will then be determined by using the Contract unit price for unit price Pay Items, and by using one of the following methods to determine the value of the lump sum Pay Items:

- The "theoretical unit price", when the Special Provisions contain an estimated number of units;
- A Contractor-submitted, Engineer-approved Schedule of Values, when there is no theoretical unit price available; or
- Engineer's determination, when there is neither an available theoretical unit price, nor an approved, Contractor-submitted Schedule of Values.

The amounts to be allowed for lump sum Pay Items in progress payments will not exceed the reasonable value of the Work performed, as determined by the Engineer.

Incidentals such as formwork, falsework, shoring, and cribbing shall be included in the unit prices for the various Pay Items requiring their use, unless specified as a separate Pay Item. No payment will be made for Pay Items that include Incidentals until units or portions of such Pay Item Work are in place and completed. The costs of Incidentals will be paid in proportion to the percentage of Pay Item Work completed.

- (2) Value of Materials on Hand** - The Engineer will also make an estimate of the amount and value of acceptable Materials on hand, i.e., already delivered and stored according to 00195.60(a), to be incorporated into the Work.

- (3) Value of Work Accomplished** - The sum of the values in (1) and (2) above will be collectively referred to in this Subsection as the "value of Work accomplished", subject to (4) below.

**(4) Limitations on Value of Work Accomplished** - In determining the "value of Work accomplished", the Engineer's estimate will be based on the unit prices for the various Pay Items. Any amounts not included in progress payments due to substantial mathematical unbalancing of Pay Item prices will be included in the final payment issued according to 00195.90(b).

**(5) Reductions to Progress Payments** - With each progress payment, the Contractor will receive a Contract payment voucher and summary setting forth the value of Work accomplished reduced by the following:

- Amounts previously paid;
- Amounts deductible or owed to the Agency for any cause specified in the Contract;
- Additional amounts retained to protect the Agency's interests according to Subsection (e) below.

**(b) Retainage** - The amount to be retained from progress payments will be 5% of the value of Work accomplished, and will be retained in one of the forms specified in Subsection (c) below.

As provided in 00170.65(a) additional retainage of 25% of amounts earned will be withheld and released according to ORS 279C.845 when the Contractor fails to file the certified statements required in ORS 279C.845, FHWA Form 1273, and 00170.65.

**(c) Forms of Retainage** - Moneys retained by the Agency under ORS 279C.570(7) shall be retained in a fund by the Agency and paid to the Contractor in accordance with ORS 279C.570. Upon written request from the Contractor, other forms of acceptable retainage are specified below in Subsections (1) and (2). "Cash, Alternate A" is the Agency-preferred form of retainage. If the Agency incurs additional costs as a result of the Contractor's election to use a form of retainage other than Cash, Alternate A, the Agency may recover such costs from the Contractor by a reduction of the final payment.

**(1) Cash, Alternate A** - Retainage will be deducted from progress payments and held by the Agency until final payment is made according to 00195.90, unless otherwise specified in the Contract.

The Agency will deposit the cash retainage withheld in an interest-bearing account in a bank, trust company, or savings association for the benefit of the Agency, as provided by ORS 279C.560(5). Interest earned on the account shall accrue to the Contractor. Amounts retained and interest earned will be included in the final payment made according to 00195.90.

Any retainage withheld on Work performed by a Subcontractor will be released to the Contractor according to 00195.50(d).

**2) Bonds, Securities, and Other Instruments** - In accordance with ORS 279C.560, unless the Agency 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, the Agency will approve the Contractor's written request to deposit bonds, securities or other instruments with the Agency or in a custodial account or other account satisfactory to the Agency with an approved bank or trust company, to be held instead of cash retainage for the benefit of the Agency. In such event, the Agency 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 the Agency 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;
- 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 the Agency may require to protect its interests. When the Engineer determines that all requirements for the protection of the Agency's interest have been fulfilled, the bonds and securities deposited instead of cash retainage will be released to the Contractor.

**(d) Reduction of Retainage** - As the Work progresses, the amounts to be retained under (b) of this Subsection are subject to reduction in the Engineer's sole discretion. Retainage reductions will be considered only as follows:

- When the Work is 97.5% or more completed, the Engineer may, without application by the Contractor, reduce the retained amount to 100% of the value of the Work remaining.
- For a project funded by the FHWA, when a subcontractor has satisfactorily completed all of its Work, it may request release of retainage for that Work from the Contractor. The Contractor shall request reduction of retainage in the amount withheld for the subcontractor's Work after certifying to the Agency that the subcontractor's Work is complete, and that all contractual requirements pertaining to the subcontractor's Work have been satisfied. Within 60 Calendar Days of the end of the month in which the Agency receives the Contractor's certification regarding the subcontractor's Work, the Agency will either notify the Contractor of any deficiencies which require completion before release of retainage, or verify that the subcontractor's Work complies with the Contract and release all retainage for that Work with the next scheduled progress payment. Within 10 Calendar Days of receipt of retainage, the Contractor shall pay to the subcontractor all such retainage released except for latent defects or warranty.
- The Agency will only release retainage for satisfactorily completed portions of the Work represented by Pay Items in the Schedule of Items, or by Pay Items added by Change Order. Work not represented by a Pay Item, but which constitutes part of an uncompleted Pay Item, will not be regarded as satisfactorily completed Work for the purposes of this Subsection.

If retainage has been reduced or eliminated, the Agency reserves the right to protect its interests by retaining amounts from further progress payments at the rates provided in 00195.50(b).

**(e) Withholding Payments** - In addition to any other rights the Agency may have to withhold payments under other provisions of the Contract, the Engineer may withhold such amounts from progress payments or final payment as may reasonably protect the Agency's interests until the Contractor has:

- Complied with all orders issued by the Engineer according to the Specifications; and
- Satisfied all legal actions filed against the Agency, the Agency's governing body and its members, and Agency employees that the Contractor is obliged to defend. (see 00170.72)

Notwithstanding ORS 279C.555 or ORS 279C.570 or 00195.50(d), if a Contractor is required to file statements on the prevailing rate of wages, but fails to do so, the Agency will retain 25% of any amount earned as required in 00170.65.

**(f) Prompt Payment Policy** - Payments shall be made promptly according to ORS 279C.570.

#### **00195.60 Advance Allowance for Materials on Hand:**

**(a) General** - If the total value of Materials on hand is at least \$1,000 or the total value of a single class of Materials on hand is at least \$500, the Engineer may authorize an advance allowance for the Materials in the progress payments. The Agency will not make advance allowances on the Materials unless the following three conditions are satisfied:

**(1) Request for Advance Allowance** - If Materials on hand meet the requirement of (2) below, an advance allowance will be made if:

- A written request for advance allowance for Materials on hand has been received by the Engineer at least 5 Calendar Days before the pay period cutoff date; and
- The request is accompanied by written consent of the Contractor's Surety, if required by the Agency.

**(2) Stored or Stockpiled Conditions** - The Materials shall have been delivered and/or acceptably stored or stockpiled according to the Specifications and as follows:

- At the Project Site;

- On Agency-owned property;
- On property in the State of Oregon on which the property owner has authorized storage in writing. The written authorization must allow the Agency to enter upon the property and remove Materials for at least 6 months after completion of the Project. The Contractor shall furnish a copy of the written permission to the Agency; or
- On property outside the State of Oregon on which the property owner has authorized storage in writing, provided that such storage location is allowed by the Special Provisions or authorized in writing by the Engineer. The permit must allow the Agency to enter upon the property and remove Materials for at least 6 months after completion of the Project. The Contractor shall furnish a copy of the written permission to the Agency.

To be eligible for advance allowance, the Materials shall:

- Meet Specification requirements;
- Have the required Materials conformance and quality compliance documents on file with the Engineer (see Section 00165);
- Be in a form ready for incorporation into the Work; and
- Be clearly marked and identified as being specifically fabricated, or produced, and reserved for use on the Project.

**(3) Responsibility for Protection** - The Contractor has full control and responsibility for the protection of Materials on hand from the elements and against damage, loss, theft, or other impairment until the entire Project has been completed and accepted by the Agency.

If Materials are damaged, lost, stolen, or otherwise impaired while stored, the monetary value advanced for them, if any, will be deducted from the next progress payment.

If these conditions in 00195.60(a-1) through 00195.60(a-3) have been satisfied, the amount of advance allowance, less the retainage described in 00195.50, will be determined by one of the following methods as elected by the Engineer:

- Net cost to the Contractor of the Materials, f.o.b. the Project Site or other approved site; or
- Price (or portion of it attributable to the Materials), less the cost of incorporating the Materials into the Project, as estimated by the Engineer.

**(b) Proof of Payment** - The Contractor shall provide the Engineer with proof of payment to the Materials suppliers for purchased Materials within 30 Calendar Days of the date of the progress payment that includes the advance allowance.

If proof of payment is not provided, sums advanced will be deducted from future progress payments, and the Engineer will not approve further prepayment advance allowance requests.

**(c) Terminated Contract** - If the Contract is terminated, the Contractor shall provide the Agency immediate possession of all Materials for which advance allowances have been received, as provided above. If, for any reason, immediate possession of the Materials cannot be provided, the Contractor shall immediately refund to the Agency the total amount advanced for the Materials. The Agency may deduct any amount not so refunded from final payment.

**00195.70 Payment under Terminated Contract** - Payment for Work performed under a Contract that is terminated according to the provisions of 00180.90 will be determined under (a) or (b) of this Subsection.

**(a) Termination for Default** - Upon termination of the Contract for the Contractor's default, the Agency will make no further payment until the Project has been completed. The Agency will make progress payments to the party to whom the Contract is assigned, but may withhold an amount sufficient to cover anticipated Agency costs, as determined by the Engineer, to complete the Project.

Upon completion of the Project, the Engineer will determine the total amount that the defaulting Contractor would have been entitled to receive for the Work, under the terms of the Contract, had the Contractor completed the Work (the "cost of the Work").

If the cost of the Work, less the sum of all amounts previously paid to the Contractor, exceeds the expense incurred by the Agency in completing the Work, including without limitation expense for additional managerial and administrative services, the Agency will pay the excess to the Contractor, subject to the consent of the Contractor's Surety.

If the expense incurred by the Agency in completing the Work exceeds the Contract Amount, the Contractor or the Contractor's Surety shall pay to the Agency the amount of the excess expense.

The Engineer will determine the expense incurred by the Agency and the total amount of Agency damage resulting from the Contractor's default. That determination will be final as provided in 00150.00.

If a termination for default is determined by a court of competent jurisdiction to be unjustified, it shall be deemed a termination for public convenience, and payment to the Contractor will be made as provided in Subsection (b) below.

**(b) Termination for Public Convenience:**

**(1) General** - Full or partial termination of the Contract shall not relieve the Contractor of responsibility for completed or performed Work, or relieve the Contractor's Surety of the obligation for any just claims arising from the completed or performed Work.

**(2) Mobilization** - If mobilization is not a separate Pay Item, and payment is not otherwise provided for under the Contract, the Agency may pay the Contractor for mobilization expenses, including moving Equipment to and from the Project Site. If allowed, payment of mobilization expenses will be based on cost documentation submitted by the Contractor to the Engineer.

**(3) All Other Work** - The Agency shall pay the Contractor at the unit price for the number of Pay Item units of completed, accepted Work. For units of Pay Items partially completed, payment will be as mutually agreed, or, if not agreed, as the Engineer determines to be fair and equitable. No claim for loss of anticipated profits will be allowed. The Agency will purchase Materials left on hand according to 00195.80.

**00195.80 Allowance for Materials Left on Hand:**

**(a) Purchase of Unused Materials** - If Materials are delivered to the Project Site, or otherwise acceptably stored at the order of the Engineer, but not incorporated into the Work due to complete or partial elimination of Pay Items, changes in Plans, or termination of the Contract for public convenience according to 00180.90, and it is not commercially feasible for the Contractor to return them for credit or otherwise dispose of them on the open market; the Agency will purchase them according to the formula and conditions specified in Subsection (b) below.

**(b) Purchase Formula and Conditions:**

**(1) Formula** - The Agency will apply the following formula in determining the Contractor's allowance for Materials left on hand:

Contractor's Actual Cost, plus 5% Overhead Allowance, minus Advance Allowances under 00195.60, but no markup or profit.

**(2) Conditions** - The Agency will not purchase the Contractor's Materials left on hand unless the Contractor satisfies the following conditions:

- Requests the Agency's purchase of unused Materials;
- Shows acquisition of the Materials according to 00160.10;
- Shows that the Materials meet Specifications;
- Provides receipts, bills and other records of actual cost of Materials delivered to the designated delivery points; and

- Demonstrates to the satisfaction of the Engineer that the materials cannot be returned for credit or otherwise disposed of on the open market.

**00195.90 Final Payment:**

**(a) Final Estimate** - As soon as practicable after Final Inspection of the Project, as provided in 00150.90, the Engineer will prepare a final estimate of the quantities of the Pay Items completed. With this estimate of quantities as a base, the total amount due the Contractor will be determined according to the terms of the Contract including without limitation any amounts due for Extra Work performed.

**(b) Final Payment** - The amount of final payment will be the difference between the total amount due the Contractor and the sum of all payments previously made. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

After computation of the final amount due, and after the Engineer's issuance of Third Notification, final payment will be mailed to the Contractor's last known address as shown in the records of the Agency.

**(c) No Waiver of Right to Make Adjustment** - The fact that the Agency has made any measurement, estimate, determination or certification either before or after completion of the Project, Final Acceptance, Agency assumption of possession of the Project Site, determination of satisfactory completion of Pay Items or Work or release of retainage under 00195.50(d) or payment for any part of the Work, shall not prevent either party from:

- Showing the true amount and character of the Work;
- Showing that any measurement, estimate, determination or certification is incorrect;
- Recovering from the other party damages that may have been suffered because the other party failed to comply with the Contract.

**00195.95 Error in Final Quantities and Amounts:**

**(a) Request for Correction of Compensation** - If the Contractor believes the quantities and amounts detailed in the final Contract payment voucher, prepared by the Engineer according to 00195.90, to be incorrect, the Contractor shall submit an itemized statement to the Engineer detailing all proposed corrections.

This statement must be submitted to the Engineer within 90 Calendar Days from the date the voucher was mailed to the Contractor, according to 00195.90(b). Any request for compensation not submitted and supported by an itemized statement within the 90 Calendar Day period will not be paid by the Agency. This does not limit the application of Section 00199.

**(b) Acceptance or Rejection of Request:**

**(1) Consideration of Request** - The Engineer will consider and investigate the Contractor's request for correction of compensation submitted according to 00195.95(a), and will promptly advise the Contractor of acceptance or rejection of the request in full or in part.

**(2) Acceptance of Request** - If the Engineer accepts the Contractor's request(s) in full or in part, the Engineer will prepare a post-final Contract payment voucher, including all accepted corrections, and will forward it to the Contractor.

**(3) Rejection of Request** - If the Engineer rejects the request(s) in full, the Engineer will issue a written notice of rejection and mail it to the Contractor.

**(4) Contractor Objection to Revised Voucher or Notice of Rejection** - If the Contractor disagrees with the revised voucher or notice of rejection, the Contractor may seek review and resolution according to the procedure specified in 00199.40. If the Contractor fails to submit a request for 00199.40 review within 30 Calendar Days after the Engineer mails a post-final Contract payment voucher or notice of rejection, the Contractor waives all rights to a claim based on errors in quantities and amounts.

## Section 00196 - Payment for Extra Work

### Description

**00196.00 General** - Only work not included in the Contract as awarded but deemed by the Engineer to be necessary to complete the Project (see 00140.60) will be paid as Extra Work. Regardless of alterations and changes, any item of Work provided for in the Contract will not constitute Extra Work. Payment for alterations and changes to Work will be made according to 00195.20.

Compensation for Extra Work will be paid only for Work authorized in writing by the Engineer and performed as specified. Work performed before issuance of the Engineer's written authorization shall be at the Contractor's risk. Extra Work will be paid as determined by the Engineer, according to 00196.10 and 00196.20.

### Provisions and Requirements

**00196.10 Negotiated Price** - If the Engineer can reasonably determine a price estimate for Extra Work, the Engineer may then give written authorization to the Contractor to begin the Extra Work. As soon as practicable, but within 10 Calendar Days after that authorization, the Contractor shall respond in writing to the Engineer's Extra Work price estimate by submitting to the Engineer an Extra Work price quote. The price quote shall detail the following items related to the Extra Work:

- Types and amounts of Materials
- Hours of Equipment use and hours of labor
- Travel
- Overhead and profit
- Other costs associated with the proposed Extra Work

Pending approval of the price quote, the Engineer will maintain force account records of the Extra Work. As soon as practicable, but within 10 Calendar Days of receipt of a properly supported price quote, the Engineer will review the price quote and advise the Contractor if it is accepted or rejected. The Engineer will not accept a price quote that cannot be justified on a Force Account basis. If the Contractor's price is accepted, the Engineer will issue a Change Order, and the Extra Work will be paid at the accepted price.

**00196.20 Force Account** - If the Engineer and the Contractor cannot agree on a price for the Extra Work, the Engineer may issue a Force Account Work order requiring the Extra Work to be paid as Force Account Work. Force Account Work records and payment will be made according to Section 00197.

## Section 00197 - Payment for Force Account Work

**00197.00 Scope** - The Materials, Equipment and labor rates and procedures established in this Section apply only to Extra Work ordered by the Engineer to be performed as Force Account Work.

**00197.01 General** - Before ordering Force Account Work, the Engineer will discuss the proposed work with the Contractor, and will seek the Contractor's comments and advice concerning the formulation of Force Account Work specifications. The Engineer is not bound by the Contractor's comments and advice, and has final authority to:

- Determine and direct the Materials, Equipment and Labor to be used on the approved Force Account Work; and
- Determine the time of the Contractor's performance of the ordered Force Account Work.

Force account work performed by subcontractors will be measured and paid for on the same basis and in the same manner as force account work performed directly by the Contractor.

If the Engineer orders the performance of Extra Work as Force Account Work, the Engineer will record, on a daily basis, the Materials, Equipment and Labor used for the Force Account Work during that day. Engineer and the Contractor shall sign the record daily to indicate agreement on the Materials, Equipment and Labor used for the Force Account Work performed on that day.

The following shall be reflected on the daily record:

- Materials used in the Force Account Work as directed by the Engineer, except those furnished and paid under rental rates for use of Equipment;
- Equipment which the Engineer considers necessary to perform the Force Account Work. Equipment hours will be recorded to the nearest quarter hour;
- Labor costs, including that of Equipment operators and supervisors in direct charge of the specific operations while engaged in the Force Account Work; and
- The Engineer's and Contractor's signatures confirming its accuracy.

### 00197.10 Materials:

**(a) General** - The Contractor will be paid for Materials actually used in the Force Account Work as directed by the Engineer, except for those furnished and paid for under rental rates included with the use of Equipment. Payments will be at actual cost, including transportation costs to the specified location, from the supplier to the purchaser, whether the purchaser is the Contractor, a Subcontractor, or other forces. All costs are subject to the provisions of this Subsection.

**(b) Trade Discount** - If a commercial trade discount is offered or available to the purchaser, it shall be credited to the Agency, even though the discount may not have actually been taken. The Agency will not take any discounts for prompt or early payment, whether or not offered or taken.

**(c) Not Directly Purchased From Supplier** - If Materials cannot be obtained by direct purchase from and direct billing by the supplier, the cost shall be considered to be the price billed to the purchaser less commercial trade discounts, as determined by the Engineer, but not more than the purchaser paid for the Materials. No markup other than actual handling costs will be permitted.

**(d) Purchaser-Owned Source** - If Materials are obtained from a supply or source wholly or partly owned by the purchaser, the cost shall not exceed the price paid by the purchaser for similar Materials furnished from that source on Pay Items, or the current wholesale price for the Materials delivered to the Project Site, whichever is lower.

**00197.20 Equipment:**

**(a) General** - Equipment approved by the Engineer to perform the Force Account Work will be eligible for payment at the established rates only during the hours it is operated or on standby if so ordered by the Engineer. Equipment hours will be recorded on the daily record to the nearest quarter hour.

Except as modified by these provisions, Equipment use approved by the Engineer will be paid at the rental rates given in the most current edition of the Rental Rate Blue Books for Construction Equipment ("Blue Book"), Volumes 1, 2, and 3, published by Penton Media, Inc., and available from EquipmentWatch (phone 1-800-669-3282).

**(b) Equipment Description** - On the billing form for Equipment costs, the Contractor shall submit to the Engineer sufficient information for each piece of Equipment and its attachments to enable the Engineer to determine the proper rental rate from the Blue Book.

**(c) Rental Rates (without Operator):**

**(1) Rental Rate Formula** - Rental rates for Equipment will be paid on an hourly basis for Equipment and for attachments according to the following formula:

$$\text{Hourly Rate} = \frac{\text{Monthly Base Rate} \times \text{Rate Adjustment Factor}}{176 \text{ hours/month}} + \text{Hourly Operating Rate}$$

Some attachments are considered "standard Equipment" and are already included in the monthly base rate for the Equipment. That information can be obtained from EquipmentWatch.

**(2) Monthly Base Rate** - The monthly base rate used above for the machinery and for attachments represents the major costs of Equipment ownership, such as depreciation, interest, taxes, insurance, storage, and major repairs.

**(3) Rate Adjustment Factor** - The rate adjustment factor used above will be determined as per page iii of each section of the Blue Book.

**(4) Hourly Operating Rate** - The hourly operating rate used above for the machinery and for attachments represents the major costs of Equipment operations, such as fuel and oil, lubrications, field repairs, tires or ground engaging components, and expendable parts.

**(5) Limitations** - The Blue Book "Regional Adjustment Factor" shall not apply.

If multiple attachments are included with the rental Equipment, and are not considered "standard Equipment", only the attachment having the higher rental rate will be eligible for payment, provided the attachment has been approved by the Engineer as necessary to the Force Account Work.

Rental will not be allowed for small tools that have a daily rental rate of less than \$5, or for unlisted Equipment that has a fair market value of \$400 or less.

The above rates apply to approved Equipment in good working condition. Equipment not in good working condition, or larger than required to efficiently perform the work, may be rejected by the Engineer or accepted and paid for at reduced rates.

**(d) Moving Equipment** - If it is necessary to transport Equipment located beyond the Project Site exclusively for Force Account Work, the actual cost to transport the Equipment to, and return it from, its On-Site Work location will be allowed as an additional item of expense. However, the return cost will not exceed the original delivery cost. These costs will not be allowed for Equipment that is brought to the Project Site for Force Account Work if the Equipment is also used on Pay Item or related Work.

If transportation of such Equipment is by common carrier, payment will be made in the amount paid for the freight. No markups will be allowed on common carrier transportation costs. If the Equipment is hauled with the Contractor's own forces, transportation costs will include the rental rate of the hauling unit and the hauling unit operator's wage. If Equipment is transferred under its own power, the rental rate allowed for transportation time will be 75% of the appropriate hourly rate for the Equipment, without attachments, plus the Equipment operator's wage.

**(e) Standby Time** - If ordered by the Engineer, standby time will be paid at 40% of the hourly rental rate calculated according to this Subsection, excluding the hourly operating rate. Rates for standby time that are calculated at less than \$1 per hour will not be paid. Payment will be limited to not more than 8 hours in a 24-hour period or 40 hours in a 1 week period.

**(f) Blue Book Omissions** - If a rental rate has not been established in the Blue Book, the Contractor may:

- If approved by the Engineer, use the rate of the most similar model found in the Blue Book, considering such characteristics as manufacturer, capacity, horsepower, age and fuel type;
- Request EquipmentWatch to furnish a written response for a rental rate on the Equipment, which shall be presented to the Engineer for approval; or
- Request that the Engineer establish a rental rate.

**(g) Outside Rental Equipment** - If Contractor-owned or Subcontractor-owned Equipment is not available, and Equipment is rented from outside sources, payment will be based on the actual paid invoice. Approval of the Engineer to rent from outside sources must be obtained prior to renting the equipment.

If the invoice specifies that rental rate does not include fuel, lubricants, field repairs, and servicing, an amount equal to the Blue Book hourly operating cost may be added for those items that were excluded.

The Agency may reduce the payment when the invoice amount plus allowance is higher than the amount authorized under (c) through (f) of this Subsection.

The provisions of 00180.20(c) apply to owner-operated Equipment.

**00197.30 Labor** - The Contractor will be paid for all labor engaged directly on Force Account Work, including Equipment operators and supervisors in direct charge of the specific force account operations, as follows:

**(a) Wages** - The actual wages paid to laborers and supervisors, if those wages are paid at rates not more than those for comparable labor currently employed on the Project, or at the recognized, current, prevailing rates in the locality of the Project.

**(b) Required Contributions** - The actual cost of industrial accident insurance, unemployment compensation contributions, payroll transit district taxes, and social security for old age assistance contributions incurred or required under statutory law and these Specifications. The actual cost of industrial accident insurance is the National Council on Compensation Insurance (NCCI) rate for the assigned risk pool for the appropriate work class multiplied by the experience modification factor for the Contractor.

**(c) Required Benefits** - The actual amount paid to, or on behalf of, workers as per diem and travel allowances, health and welfare benefits, pension fund benefits, or other benefits when such other benefits are required by a collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the Project.

No overtime will be compensated unless authorized in advance of performing the work by the Engineer.

**00197.80 Percentage Allowances** - To the Contractor's actual costs incurred, as limited in this Section 00197, amounts equal to a percentage markup of such costs will be allowed and paid to the Contractor as follows:

Subsection	Percent
00197.10 Materials	17
00197.20 Equipment	17
00197.30 Labor	22

When a Subcontractor performs ordered Force Account Work, the Contractor will be allowed a supplemental markup of 8% on each Force Account Work order.

These allowances made to the Contractor will constitute complete compensation for bonds, insurance, overhead, general and administrative expense, profit, and all other Force Account Work costs that were incurred by the Contractor, or by other forces that the Contractor furnished. No other reimbursement, compensation, or payment will be made.

**00197.90 Billings** - Billings for Force Account Work by the Contractor shall be submitted for the Engineer's approval on forms provided by the Agency or approved by the Engineer. Billings for Materials (other than Incidental items out of the inventory of the Contractor or Subcontractors), rental Equipment from sources other than the Contractor or Subcontractors, and Special Services, shall be accompanied by copies of invoices for the goods and services. The invoices shall be fully itemized showing dates, quantities, unit prices, and complete descriptions of goods and services provided. Invoices for amounts of \$10 or less per invoice are not required, unless requested by the Engineer.

Costs included on the billings shall comply with 00197.01(a) and 00197.10 through 00197.40.

When a billing for Force Account Work has been paid at the Project level, no further corrections will be made because of further review if those corrections amount to less than \$10.

## Section 00199 - Disagreements, Protests, and Claims

### Description

**00199.00 General** - This Section details the process through which the parties agree to resolve any disagreement concerning additional compensation or concerning a combination of additional compensation and Contract Time. (See 00180.80 for disagreements and claims concerning additional Contract Time only, and 00195.95 for disagreements and claims concerning correction of final compensation.) The Agency will not consider direct disagreements, protests, or claims from subcontractors, Suppliers, or any other Entity not a party to the Contract.

### Provisions and Requirements

**00199.10 Procedure for Resolving Disagreements** - When disagreements occur concerning additional compensation or a combination of additional compensation and Contract Time, the Contractor shall first pursue resolution through the Engineer of all issues in the dispute, including without limitation the items to be included in the written notice in 00199.20. If the discussion fails to provide satisfactory resolution of the disagreement, the Contractor shall follow the protest procedures outlined in 00199.20. If the Engineer denies all or part of the Contractor's protest, and the Contractor desires to further pursue the issues, the Contractor shall submit a claim for processing according to 00199.30.

**00199.15 Inappropriate Protest or Claim** - It shall be presumed that the Contractor submits a protest or claim for additional compensation in good faith, based upon facts which reasonably support the Contractor's position and with full knowledge and understanding of the injury done to the Agency when notice of differing Project Site conditions or claims for additional compensation are not submitted in a timely manner as required under the Contract. Accordingly, the submission of a protest or claim without the concurrent submission of evidence that reasonably supports the protest or claim, or the submission of a protest or claim in an untimely manner will constitute a waiver of the protest or claim.

**00199.20 Protest Procedure** - If the Contractor disagrees with anything required in a Change Order or other written or oral order from the Engineer, including any direction, instruction, interpretation, or determination, or if the Contractor asserts a disagreement or dispute on any other basis, except 0195.95, that, in the Contractor's opinion, entitles or would entitle the Contractor to additional compensation or a combination of compensation and Contract Time, the Contractor shall do all of the following in order to pursue a protest and preserve its claim:

**(a) Oral Notice** - Give oral notice of protest to the Engineer and outline the areas of disagreement before starting or continuing the protested Work.

**(b) Written Confirmation of Oral Notice** – Not later than the end of the next business day following the day that oral notice of protest is given, deliver written documentation to the Engineer of the oral notice that includes the notice of protest and the areas of disagreement.

**(c) Written Notice** - File a proper written notice of protest with the Engineer within 7 Calendar Days after receiving the protested order. In the notice the Contractor shall:

- Describe the acts or omissions of the Agency or its agents that allegedly caused or may cause damage to the Contractor or to the Project, citing specific facts, persons, dates and Work involved;
- Describe the Contractor's proposed alternative to the Work ordered, if any, which will avoid damage to Contractor or to the Project;
- Describe the nature of the damages;
- Cite the specific Contract provision(s), if any, that support the protest;
- Include the estimated dollar cost, if any, of the protested Work, and furnish a list of estimated Materials, Equipment and labor for which the Contractor might request additional compensation; and
- If additional compensation is estimated to be due, include the estimated amount of additional time required, if any.

**FAILURE TO COMPLY WITH THIS NOTICE REQUIREMENT RENDERS THE NOTICE IMPROPER AND SHALL CONSTITUTE A WAIVER OF ANY CLAIM FOR ADDITIONAL COMPENSATION OR A COMBINATION OF ADDITIONAL COMPENSATION AND CONTRACT TIME FOR ANY PART OF THE PROTESTED WORK.**

**(d) Engineer's Record and Response** – The Engineer will file a copy of each written notice of protest in the Project records and will issue a written response to the protest within seven (7) work days of receipt of a timely filed written notice of protest. The Engineer has no responsibility to evaluate the protest unless the Contractor has timely filed a proper notice submitting all of the above information.

**(e) Final Documentation of Claim** - Within 60 Calendar Days following completion of the protested work, Contractor shall provide the Engineer with complete documentation of protested work, listing exact materials, equipment and labor used for the work and the dollar amount requested for each. If the claim is accepted, no additional compensation will be awarded based on documentation submitted after this deadline. If the claim is denied or if the Contractor is not satisfied with the decision by the Engineer, the amount claimed by the Contractor in any subsequent Step or proceeding may not exceed the dollar amount requested under this subsection.

**(f) Records** - Keep complete records of all costs and time incurred throughout the protested Work, and allow the Engineer access to those and other supporting records. Provide daily records of protested Work, on a weekly basis, on a schedule to be set by agreement with the Engineer.

**(g) Comparison of Records** - Provide the Engineer adequate facilities for keeping cost and time records of the protested Work. The Contractor and the Engineer will compare records and either bring them into agreement at the end of each day, or record and attempt to explain any differences.

**(h) Work to Proceed** - In spite of any protest, proceed promptly with the Work ordered by the Engineer.

**(i) Evaluation of Protest** - The Engineer has no responsibility for evaluating a protest that is not timely filed, or for which adequate supporting documentation has not been made available to the Engineer. Provided the procedures above are followed, the Engineer will promptly evaluate all protests, after the Contractor has fully complied with the requirements described in 00199.20(c), Written Notice. If the protest is denied, the Engineer will notify the Contractor in writing of the reasons for full or partial denial. If a protest is found to be valid, the Engineer will, within a reasonable time, make an equitable adjustment of the Contract. Adjustment of time will be evaluated according to 00180.80.

The Engineer has no responsibility for evaluating and may reject a protest that does not comply with 00199.20(b). If the protest is rejected, the Engineer will notify the Contractor in writing of the reasons for rejection.

**(j) Protest Evaluation by Third Party Neutral** - If the Engineer agrees that the Contractor has fully complied with the requirements described in 00199.20(b), and if the Engineer fully or partially denies, in writing, the Contractor's protest according to 00199.20(f), the Contractor may request that a mutually selected Third Party Neutral review the protest. Procedures for selecting, using, and paying for the cost of the Third Party Neutral will be specified by Change Order.

If the Contractor does not accept the Engineer's evaluation of the protest, or either the Contractor or Engineer disagrees with the resolution recommended by the Third Party Neutral, the Contractor may pursue a claim as described in 00199.30.

**00199.30 Claims Procedure:**

**(a) General** - If the Contractor believes that additional compensation is due, or a combination of additional compensation and Contract Time, and has pursued and exhausted all the procedures provided in 00199.10 and 00199.20 to resolve a disagreement and protest, the Contractor may file a claim.

The Agency's Contract is with the Contractor. There is no contractual relationship between the Agency and any subcontractors, Suppliers or any Entity other than the Contractor. It is the Contractor's responsibility to fully evaluate any claim before presenting it to the Agency. In addition, when a claim includes Work done or costs incurred by any subcontractors, Suppliers, or any Entity other than the Contractor, the Contractor remains solely responsible for presenting the claim to the Agency.

Claims that include Work done or costs incurred by subcontractors, Suppliers, or any Entity other than the Contractor will not be considered by the Agency unless the Contractor has:

- Completed and provided its own written evaluation of the claim;
- Verified by its own independent review and evaluation of the amount of compensation sought; and
- Certified the claim in accordance with 00199.30(b) (Part 10).

**(b) Claims Requirements** - At any time during the progress of the Work, but not later than 45 Calendar Days following the date of the Second Notification, the Contractor shall submit to the Engineer in writing, claims for additional compensation or a combination of additional compensation and Contract Time additional to that specified in the Contract. For a claim not submitted within the 45 day limit, that has not met the requirements of 00199.20, or is not filed as provided in 00199.30, the Contractor waives any claim for additional compensation or for additional compensation and Contract Time, and the Agency may reject the claim.

Written claims to the Engineer or the Agency by the Contractor shall be delivered to the Agency address shown in the Special Provisions, unless a different address is agreed to by the Engineer, and shall be delivered:

- By U.S. Postal Service first class mail or priority mail (which at the sender's option may include certified or registered mail return receipt requested); or
- By overnight delivery service of a private industry courier.

Claims will be considered as having been received by the Agency:

- At the time of actual receipt or 7 Calendar Days after the postmarked date when deposited for delivery by first class or priority mail, whichever is earlier; or
- At the time of actual receipt or 3 Calendar Days after deposit with a private industry courier for overnight delivery service, whichever is earlier.

The Agency reserves the right at any time and at any step in the claim decision or review process to request additional information, records or documentation related to the claim or the Contract either directly or through agents working toward resolution of the disputed or claimed events and issues.

Claims shall be made in writing, and shall include all information, records and documentation necessary for the Agency to properly and completely evaluate the claim.

To be considered, claims for additional compensation, or for additional compensation and Contract Time, shall be completed according to 00199.30 and shall be submitted with the required information and in the format below and labeled as required below for each claimed issue:

**(Part 1)** Summary (label page 1.1 through page 1.X) - In the summary, include a detailed, factual statement of the claim for additional compensation and Contract Time, if any, with necessary dates and locations of Work involved in the claim and the dates of when the event arose. Also include detailed facts supporting the Contractor's position relative to the Engineer's decision (see 00199.20(f));

**(Part 2)** Proof of notice (label page 2.1 through page 2.X) - Submit a copy of the written notice, with all attachments, that was given to the Agency. Include the date when that written notice and the date when oral notice was given:

**(Part 3)** Copies of the Contract Specifications that support the Contractor's claim (label page 3.1 through page 3.X);

**(Part 4)** Theory of entitlement supporting the claim (label page 4.1 through page 4.X) - Include a narrative of how or why the specific Contract Specifications support the claim and a statement of the reasons why such Specifications support the claim;

**(Part 5)** Itemized list of claimed amounts (label page 5.1 through page 5.X) - Claimed damages that resulted from the event with a narrative of the theories and records and documents used to arrive at the value of the damages;

**(Part 6)** Additional Contract Time requests (label page 6.1 through page 6.X) - If the claim is for a combination of additional compensation and Contract Time, submit a copy of the schedule that was in effect when the event occurred and a detailed narrative which explains how the event impacted Contract Time. In addition, if an Agency-caused delay is claimed:

- Include the specific days and dates under claim;
- Provide detailed facts about the specific acts or omissions of the Agency that allegedly caused the delay, and the specific reasons why the resulting delay was unreasonable; and
- Provide a schedule evaluation that accurately describes the impacts of the claimed delay.
- Also see 00180.80 for additional requirements regarding claims for Contract Time and causes that are eligible and ineligible for consideration;

**(Part 7)** Copies of actual expense records (label page 7.1 through page 7.X) - Include documents that contain the detailed records and which support and total to the exact amount of additional compensation sought. Include the information and calculations necessary to support that amount. That amount may be calculated on the basis of Section 00197, if applicable, or may be calculated using direct and indirect costs presented in the following categories:

- Direct Materials;
- Direct Equipment. The rate claimed for each piece of Equipment shall not exceed the actual cost. In the absence of actual Equipment costs, the Equipment rates shall not exceed 75 percent of those calculated under the provisions of 00197.20. For each piece of Equipment, the Contractor shall include a detailed description of the Equipment and attachments, specific days and dates of use or standby, and specific hours of use or standby;
- Direct labor;
- Job overhead;
- General and administrative overhead; and
- Other categories as specified by the Contractor or the Agency;

**(Part 8)** Supporting records and documents (label page 8.1 through page 8.X) - Include copies of, or excerpts from the following:

- Any documents that support the claim, such as manuals standard to the industry and used by the Contractor; and
- Any daily reports or diaries related to the event, photographs or media that help explain the issue or event (optional), or all other information the Contractor chooses to provide (optional);

**(Part 9)** Certification (label page 9.1 through 9.X) - A certified statement, signed by a person authorized to execute Change Orders, by the Contractor, subcontractor, Supplier, or Entity, originating the claim, as to the validity of facts and costs with the following certification:

*Under penalty of law for perjury or falsification, the undersigned, (Name), (Title), (Company) certifies that this claim for additional compensation for Work on the Contract is a true statement of the actual costs incurred (in the amount of \$\_\_\_\_\_, exclusive of interest) and is fully documented and supported under the Contract between the parties.*

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

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**(Part 10)** Contractor evaluation of a lower tier claim (label page 10.1 through 10.X) - If the claim includes Work done or costs incurred by any subcontractors, Suppliers, or any Entity other than the Contractor, the following are required:

- Data required by the other Subsections of 00199.30(b);

- Copies of the Contractor's, subcontractor's, Supplier's and Entity's, at all tiers above the level of which the claim originates, separate evaluation of entitlement;
- Copies of the Contractor's, subcontractor's, Supplier's and Entity's, at all tiers above the level of which the claim originates, independent verification and evaluation of the amount of damages sought; and
- A person authorized to execute Change Orders on behalf of the Contractor, subcontractor, Supplier and Entity, at all tiers above the level of which the claim originates, must sign a statement with the following certification:

*Under penalty of law for perjury or falsification, the undersigned, (Name) (Title), (Company) certifies that this claim originating from the subcontractor, Supplier or Entity (Company) for additional compensation for Work on the Contract is a reasonable statement, independently verified, of the costs incurred (in the amount of \$\_\_\_\_\_, exclusive of interest) and is fully documented and supported under the Contract between the parties.*

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

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_

Notary Public

My commission expires \_\_\_\_\_.

If the Engineer determines that additional information, records or documentation is needed to allow proper evaluation of the claim submittal, the Engineer will request the information, records or documentation. The Contractor shall submit to the Engineer within 14 Calendar Days, or as otherwise agreed by the parties, the required additional information, records and documentation.

If the Engineer determines that the claim submittal with the additional information, records and documentation submitted is incomplete and not accepted as a claim, the Engineer will notify the Contractor in writing and the submittal will be rejected and will not be considered under 00199.40.

**(c) Records Requirements** - The Contractor shall comply with 00170.07.

**(d) Compliance Required** - Full compliance by the Contractor with the provisions of this Section is a condition precedent to the commencement of any lawsuit by the Contractor to enforce any claim.

**00199.40 Claim Decision; Review; Exhaustion of Administrative Remedies** - The Agency intends to resolve all claims at the lowest possible administrative level. The Engineer will also determine whether multiple claims should be advanced separately or together.

If the Engineer denies the claim for additional compensation or a combination of additional compensation and Contract Time, in full or in part, according to 00199.40(a), the Contractor may request review of the denial. The disputed claim for additional compensation or a combination of additional compensation and Contract Time may then be resolved, in full or in part, at any of the progressive steps of claim review procedure as specified in (b) through (c) of this Subsection.

If the Engineer has denied a claim, in full or in part, for Contract Time only according to 00180.80, or has denied a claim, in full or in part, for correction of final compensation according to 00195.95, those disputed claims may then be resolved, in full or in part, at either of the two progressive steps of claim review procedure as specified in (b) through (c) of this Subsection.

A person authorized by the Contractor to execute Change Orders on behalf of the Contractor must be present and attend all claim hearings. For all claims, all of the actions and review under each step of the review process shall occur before the review can be advanced to the next higher step.

If, at any step in the claim decision or review process, the Contractor fails to promptly submit requested information or documentation that the Agency deems necessary to analyze the claim, the Contractor is deemed to have waived its right to further review, and the claim will not be considered properly filed and preserved.

**(a) Decision by the Engineer** - The Engineer will, as soon as practicable, consider, investigate, and evaluate a Contractor's claim for additional compensation, or for a combination of additional compensation and Contract Time, if submitted as required by 00199.30.

Once the Engineer determines the Agency is in receipt of a properly submitted claim, the Engineer will arrange a meeting, within 21 Calendar Days or as otherwise agreed by the parties, with the Contractor in order to present the claim for formal review and discussion.

If the Engineer determines that the Contractor must furnish additional information, records or documentation to allow proper evaluation of the claim, the Engineer will schedule a second meeting, to be held within 14 Calendar Days or as otherwise agreed by the parties, at which the Contractor shall present the requested information, records and documentation.

The Engineer will provide a written decision to the Contractor within 30 Calendar Days of the last Engineer-level meeting.

If the Contractor does not accept the Engineer's decision, the Contractor may, within 10 Calendar Days of receipt of the written decision, request in writing that the Engineer arrange a review at Step 1 (see (b) below).

**(b) Step 1: Public Works Director Level Review** - The Contractor shall request that the Engineer arrange a meeting with the Public Works Director or the Public Works Director's designee, as determined by the Public Works Director, in order to present the denied or partially denied claim for formal review and discussion. The meeting will take place within 21 Calendar Days of the Agency's receipt of the request, or as otherwise agreed by the parties.

If the Public Works Director (or designee) determines that the Contractor must furnish additional information, records or documentation to allow proper evaluation of the claim, the Public Works Director (or designee) will schedule a second meeting, to be held within 14 Calendar Days, or as otherwise agreed by the parties, at which the Contractor shall present the requested information, records and documentation.

The Public Works Director (or designee) will provide a written decision to the Contractor within 30 Calendar Days of the last meeting with the Public Works Director (or designee).

The claim is subject to 00199.60, if not all of the records requested by the Public Works Director (or designee) were furnished. If applicable, advancement of the claim is subject to the provisions of 00199.60 regarding waiver and dismissal of the claim or portions of the claim.

If the Contractor does not accept the decision, the Contractor may, within 180 Calendar Days from the date of receipt of the Public Works Director (or designee) written decision or within 90 Calendar Days of the date of Second Notification, whichever is later, initiate Step 2 as set forth in subsection (c) below.

**(c) Step 2: Arbitration and Litigation** - The Contractor must follow each step in order, and exhaust all available administrative remedies before resort to arbitration and litigation. Litigation of a claim that cannot be resolved in Step 1 shall be initiated by filing a complaint in the Circuit Court for the State of Oregon in the county where the Agency's main office is located that contains a stipulation to arbitration under ORS 36.410. The claim and all cross and counter-claims filed in response to the complaint shall be submitted to the Court Arbitration Program set forth in ORS 36.400 to 36.425, Chapter 13 of the Oregon Uniform Trial Court Rules and the Circuit Court supplemental local rules concerning arbitration. Either party may seek, and shall be entitled to, an order directing the other party to submit to arbitration as provided herein and to judgment for its costs, expenses and attorney fees in obtaining and enforcing the order.

In no event shall this Subsection be construed as a waiver by the Agency or by the State of Oregon on any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

**(d) Payment of Costs, Expenses and Attorney's Fees** - The prevailing party shall be entitled to an award for reasonable costs and expenses incurred after the initiation of Step 2, including costs and expenses incurred for arbitration, trial de novo and on appeal. Costs and Expenses shall include, but shall not be limited to, reasonable attorney fees and expenses, arbitrator fees and expenses, and costs of discovery.

As used in this subsection 00199.40(d), "prevailing party" for an arbitration award means (1) a Contractor who has received an arbitration award, exclusive of interest, costs and expenses, that is more than the dollar amount claimed by the Contractor in its Final Documentation of Claim under 00199.20(d) or (2) the Agency if there is no arbitration award to the Contractor or if the arbitration award to the Contractor, exclusive of interest, costs and expenses, is less than the dollar amount of the award in the Step 1 decision. For all other arbitration awards, there shall not be a "prevailing party."

The award of costs and expenses after trial de novo shall be made as provided for in ORS 36.425. The award of costs and expenses after appeal from a judgment entered after trial de novo shall be to the prevailing party designated as such by the appeals court.

The Contractor shall comply with 00170.00.

**00199.50 Mediation** - Notwithstanding the formal claims procedure specified above, the parties may enter into nonbinding mediation by mutual agreement at any time, in which case the parties may also agree to suspend the time requirements in Section 00199 pending the outcome of the mediation process. The rules, time and place for mediation, as well as selection of the mediator, shall be established by mutual agreement. Costs shall be divided equally between the Contractor and the Agency. Either party may terminate mediation at any time upon 5 Calendar Days notice to the other, after which the time requirements of Section 00199 shall be automatically reinstated and shall resume from the point at which the time requirements were suspended.

**00199.60 Review of Determination Regarding Records** - If not all of the records requested by the Agency under 00199.40(c) Step 2 were provided, then the Agency will determine:

- If the records are of the type described in 00170.07; and
- If the records have not been maintained or the records, or access to the records, has not been provided to the Agency as required by 00170.07 and this Section; and
- If the records are material and necessary for proper evaluation of part or all of the claim; and
- The portions of the claim for which the records are material and necessary for proper evaluation.

If the Agency makes the foregoing determinations, then subject to the review process described below, all portions of the claim for which the Agency determined the records are material and necessary for proper evaluation are immediately waived and irrevocably dismissed.

Even if the records have not been maintained or the records, or access to the records, have not been provided to the Agency in a given instance, the Agency may determine that sufficient records have been provided for the Agency to properly evaluate the claim in that instance. If the Agency makes this determination, the claim or portions of the claim will not be waived or dismissed under this provision.

If the Contractor does not accept the Agency written determination that the records are material and necessary for proper evaluation of part or all of the claim, and the portions of the claim for which the records are material and necessary, the Contractor may, within 14 Calendar Days of receipt of the Agency determination, request, in writing, a review of such determination by the Public Works Director (or designee). If the Contractor does not request a review of the Agency determination, the Agency determination shall then become the Agency's final determination as of the expiration of the time limit to request review.

If the Contractor requests the review, the Public Works Director (or designee) will schedule a review meeting within 14 Calendar Days, or as otherwise agreed by the parties, of when the Public Works Director (or designee) receives the written review request. The Agency and the Contractor will each have an opportunity to explain their respective positions at the review meeting in a manner determined by the Public Works Director (or designee).

Within 10 Calendar Days of the review meeting, the Public Works Director (or designee) will issue a written proposed finding of whether the records not maintained or not provided to the Agency, or for which access was not provided to the Agency, are material and necessary for proper evaluation of part or all of the claim. If the Public Works Director (or designee) makes that finding, then the Public Works Director (or designee) will also make a proposed written finding as to what portions of the claim the records are material and necessary and, therefore, waived and irrevocably dismissed.

Even if the records have not been maintained or the records, or access to the records, have not been provided to the Agency in a given instance, the Public Works Director (or designee) may determine that sufficient records have been provided for the Agency to properly evaluate the claim in that instance. If the Public Works Director (or designee) makes this determination, then the claim or portions of the claim will not be waived or dismissed under this provision.

The Public Works Director's (or designee) findings will be submitted to the Contractor. The Public Works Director's (or designee) findings are the Agency's final determination.

If the Agency's final determination is that the records are material and necessary for proper evaluation of part or all of the claim, then the claim or that portion of the claim for which the records are material and necessary is waived and irrevocably dismissed, unless the Contractor provides the records, or access to the records, to the Agency within 5 Calendar Days of the Agency's final determination. If the Contractor provides the records, or access to the records, within this time limit, the Agency will schedule a meeting with the Contractor within 14 Calendar Days or as otherwise agreed by the parties, to discuss the records.

The Agency's final determination that records are material and necessary for proper evaluation of part or all of the claim, and the Agency's final determination of the portions of the claim for which the records are material and necessary, shall be final and binding.

If the entire claim is waived and irrevocably dismissed pursuant to the Agency's final determination there will be no further decision by the Agency on the claim or further review of the claim under 00199.40 and the claim will not be eligible for mediation under 00199.50. If only portions of the claim are waived and irrevocably dismissed pursuant to the Agency's final determination, the Agency will provide a written decision to the Contractor regarding the remaining portions of the claim within 30 Calendar Days of the final Step 2 meeting, or the Agency's final determination regarding the records, whichever is later. There will be no further decision by the Agency on or further review under 00199.40 of the portions of the claim waived and irrevocably dismissed pursuant to Agency's final determination and those portions will not be eligible for mediation under 00199.50.

## **SPECIAL PROVISIONS**

## SPECIAL PROVISIONS

### PART 00100 – GENERAL CONDITIONS

#### Section 00120 – Bidding Requirements and Procedures

**00120.01 Receipt of Bids; Opening** - Add the following:

Quotes must be submitted to Greg Shafer, Public Works Director at [gshafer@ci.warrenton.or.us](mailto:gshafer@ci.warrenton.or.us) (confirmation of receipt is required) or hand-delivered to 225 S Main Ave. Warrenton, OR 97146, no later than 2:00 PM local time on September 26, 2023.

**00120.02 Prequalification of Bidders** – Add the following:

Will Not Be Required

**00120.04 Pre-Bid Meeting** – Add the following:

No pre-bid meeting will be held.

You are welcome to contact Collin Stelzig to discuss the project at (503) 440-2286 or [richard.stelzig.engineering@gmail.com](mailto:richard.stelzig.engineering@gmail.com)

Statements made by a CITY OF WARRENTON representative at the pre-bid meeting are not binding on CITY OF WARRENTON unless confirmed by written addendum.

#### Section 00150 – Control of Work

**00150.30 Deliver of Notices** – Contractor written notice to Engineer or Agency shall be delivered to:

Twyla Vittetoe  
Engineering Technician  
City of Warrenton  
225 S Main Ave. Warrenton, OR 97146  
503-861-0912

**00150.50 Cooperation with Utilities** - This subsection is supplemented with the following:

The Contractor is required to coordinate construction activities with the gas and power company and notify those companies immediately if conflicts are encountered.

#### Section 00160 – Source of Materials

**00160.20(a) Buy America** – Federal highway funds are not involved on the project.

#### Section 00165 – Quality of Materials

**00165.03 Testing by Agency** - The Agency may retain the services of a testing laboratory to conduct field testing on the compaction of subgrade, engineered fill, aggregate base, pipe bedding and trench backfill. Areas failing to meet the density requirements shall be re-compacted by the Contractor immediately and tested again until passing. Areas showing failing compaction results shall receive further attention without undue delay. Further attention may involve additional compaction efforts, other compaction methods, removal and recompaction of material or removal and replacement of material as required to obtain passing results.

Any subsequent settlement of any backfilled area during the Correction Period shall be considered to be the result of improper compaction and shall be promptly corrected by the Contractor.

The Contractor shall conduct source-review tests of Aggregates for submittal to the Agency.

The Contractor shall conduct pavement compaction testing in accordance with specifications and provide results to the Agency for review and acceptance.

**00165.04 Costs of Testing** – Delete the second and third sentences of the first paragraph and add the following:

The Agency may retain the services of a testing laboratory at its own cost.

Areas failing to meet the density requirements shall be re-compacted by the Contractor immediately at no additional cost to Agency

No additional compensation will be made to the Contractor for down-time incurred as a result of testing or waiting for test results.

All additional Agency testing costs as a result of failing tests shall be borne entirely by the Contractor. All associated costs arising from any necessary additional work due to failing compaction test results, including removal and replacement of material, shall be borne by the Contractor.

Any subsequent settlement of any backfilled area during the Correction Period shall be considered to be the result of improper compaction and shall be promptly corrected by the Contractor at no cost to the Agency.

### **Section 00170 – Legal Relations and Responsibilities**

**00170.03 Furnishing Rights of Way and Permits** - The Agency will apply and pay for the City of Warrenton Grading/Erosion Control Permit. The Permit shall be picked up by and be in the Contractor's name. Prior to construction, the Contractor shall obtain from the City of Warrenton a Right-of-Way Permit. Permit fees shall be waived by the City. The contractor will be require to apply and receive appropriate permits from ODOT

**00170.10(a) Commercial Automobile Liability** – Combined single limit per occurrence shall be not less than \$1,000,000.

**00170.65(b)(1) Minimum Wage Rates** – BOLI Prevailing Wage Rates title page is included at the end of these Special Provisions. BOLI Prevailing Wage Rates are based on the date this project was first advertised.

BOLI Prevailing Wage Rates: Effective June 1, 2023

**00170.70(a) Commercial General Liability** – Combined single limit per occurrence shall not be less than \$1,000,000. Annual aggregate limit shall not be less than \$2,000,000.

**00170.70(c) Additional Insured** - The liability insurance coverages of 00170.70(a) shall include: Agency, the Agency's governing body, board, or Commission and its members, and the Agency's officers and employees as Additional Insureds, but only with respect to the Contractor's activities to be performed under the Contract. When federal transportation funding is involved, the liability coverages of 00170.70(a) shall also include the State of Oregon, the Oregon Transportation Commission and the Oregon Department of Transportation and their respective officers, members and employees as additional insureds, but only with respect to the Contractor's activities to be performed under the Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The liability coverages of 00170.70(a) that are permitted by the Agency to be obtained by an appropriate subcontractor shall include all of the foregoing as Additional Insureds and shall also include Contractor and its officers and employees as Additional Insureds.

### **Section 00180 – Prosecution and Progress**

**00180.20(a) General** – The Contractor's own organization shall perform work amounting to at least 50% of the original Contract Amount.

**00180.40(a) In General** – Add the following to subsection:

Work hours shall be 7:00 a.m. to 6:00 p.m. unless otherwise approved by the Engineer.

**00180.41 Project Work Schedules** – A Type "A" Schedule shall be required for the Project.

**00180.41(a) Type "A" Schedule** – A Type "A" Schedule is required for this Project.

**00180.85(b) Liquidated Damages** – The amount of liquidated damages shall be \$350 per Calendar Day.

### **Section 00190 – Measurement of Pay Quantities**

**00190.00 Scope** – This section is supplemented with Section 00190 – Measurement of Pay Quantities included after the Bid Schedule in the Bid Form section of the Contract Documents.

### **Section 00199 – Disagreements, Protests, and Claims**

**00199.30(b) Claims Requirements** – Contractor written claims to Engineer or Agency shall be delivered to:

Twyla Vittetoe  
Engineering Technician  
City of Warrenton  
225 S Main Ave. Warrenton, OR 97146  
503-861-0912

## PART 00200 – TEMPORARY FEATURES AND APPURTENANCES

### Section 00205 - Field Laboratory, Weighhouse, Etc.

Delete section in its entirety.

### Section 00210 Mobilization

**00210.00 Scope** – Add the following to the subsection:

- Obtaining required bonds, insurance, permits, and licenses.
- Preparing and submitting shop drawings, “As-Built” drawings and other submittals.
- Removing equipment and extra materials from site upon completion of Work.
- All other work not identified in a separate bid item.

### Section 00220 – Accommodations for Public Traffic

**00220.02 Public Safety and Mobility** - In the eighth “bulletized” item, delete the words “as shown on the Plans”.

**00220.03(a) Over-Dimensional Vehicle Restrictions** - Delete subsection in its entirety.

**00220.40(d) Adjacent to Excavations** - In the first “bulletized” item, delete the words “as shown on the standard drawings”.

Unless otherwise authorized in writing by the Engineer, the Contractor shall maintain two lanes of traffic on all streets adjacent to street affected by construction at all times.

Unless otherwise authorized in writing by the Engineer, the Contractor shall maintain two lanes of traffic on all streets affected by construction between the hours of 6:00 pm - 7:00 am

Detours and closures will not be allowed.

**00220.70 Opening Sections to Traffic** - In the second paragraph, delete the phrase “except watering ordered to protect the work or to alleviate dust will be paid as provided in Section 00340”.

### Section 00225 – Work Zone Traffic Control

**00225.00 Scope** - Delete the phrase “according to the standard drawings, the traffic control plan (TCP) for the Project, these Specifications, or as directed” and replace with the phrase “traffic control plan (TCP) for the Project submitted by the Contractor and accepted by the Agency, these Specifications, or as directed”.

**00225.05 Contractor Traffic Control Plan** - Delete the subsection in its entirety and replace with the following:

The Contractor shall submit a proposed TCP prepared by an engineer currently licensed in Oregon for the Agency’s review and acceptance at least 14 days prior to start of any construction. The proposed TCP shall address all operational aspects of the Contractor’s work, and shall include provisions for areas used by the Contractor for staging and storage of materials and equipment. The proposed TCP shall include order and duration of the TCP, all TCMS, TCDs, lane and street closures, and detours. If additional modifications are proposed by the Contractor to the Contractor’s TCP as accepted by the Agency, submit modifications prepared by an engineer currently licensed in Oregon at least 7 days before beginning the construction activities that require the TCP changes.

The following parameters shall apply to the Contractor’s Traffic Control Plan:

- Constraints, restrictions and coordination requirements as per 00220(e)(1), 00220(e)(2)(b) and 00220.40(f).
- Traffic control shall be designed to move traffic past the area smoothly, with proper and adequate advance signing.
- Wherever the existing roadway surface is disturbed by construction, and except where temporary paving is required, the Contractor shall regularly grade and maintain a smooth gravel surface for vehicular traffic traveling through and within the project area until the project is complete. Gravel will be swept from adjacent asphalt at the end of each working day.
- Access for Emergency vehicles shall be accommodated at all times.
- The Contractor shall have the responsibility of coordinating the needs of the abutting residents and businesses for parking and access.
- The Contractor shall coordinate its schedule of Work, operations and traffic control with the following organizations and agencies as applicable:

Warrenton School Buses	503-325-4550
Sunset Empire Transit	503-861-7433
Warrenton Police	503-861-2235
Recology Warrenton Regional Office	503-861-0578

- The Contractor shall retain a Traffic Control Supervisor for the project, with responsibility and authority to continuously monitor and direct traffic control operations at all times on the project. The Traffic Control Supervisor shall have specific training in temporary traffic control for construction. The Contractor shall provide the Traffic Control Supervisor's name and phone number and training credential documentation to the Agency at the pre-construction conference. The Traffic Control Supervisor shall not be changed by the Contractor without prior written notification to the Agency and providing the same information for the new Traffic Control Supervisor and receiving Agency acceptance of the change.

**00225.90(a) Method "B" - Lump Sum Basis** – Delete subsection and replace with the following:

Work zone traffic control will be paid for at the Contract lump sum amount for the item "Temporary Work Zone Traffic Control, Complete".

Payment will be payment in full for all work covered under this Section.

### **Section 00280 – Erosion and Sediment Control:**

**00280.00 Scope** – Add the following to the subsection:

An Oregon NPDES 1200-C Permit is not required for this project. Erosion control measures are included in the contract documents. The Contractor shall be responsible for full implementation of the erosion control measures and shall take proper actions to prevent contaminants, including sediment, from entering the storm drain system or otherwise being conveyed to Waters of the State. Take immediate corrective action if directed by the Agency or Engineer, or if the Contractor observes contaminants, including sediment entering the storm drain system.

(a) Notify the Agency of the need to prepare additional erosion control measures, whenever there is a change in construction activities or operations that may affect the discharge of significant quantities or pollutants to surface waters, ground waters, storm drainage systems. The erosion control measures shall be amended if they do not effectively achieved the objective of reducing pollutants in stormwater discharges.

**00280.04 Erosion and Sediment Control Plan on Agency Controlled Lands** - In the last sentence of the first paragraph, delete “before” and replace with “after”.

**00280.05 Erosion and Sediment Control Plan on Non-Agency Controlled Lands** - In the last sentence of the first paragraph, delete “before” and replace with “after”.

**00280.30 Erosion and Sediment Control Manager** - Add the following to the first sentence:

ESCM shall assume the duties as included in this subsection as well as those identified for the Permittee’s Site Inspector as per the ESCP in the Supplemental Drawings including inspection frequency and reporting.

In the second paragraph, delete “10 days before” and replace with “at”.

### **Section 00290 – Environmental Protection**

**00290.20(b) Fuel Storage** – Delete the second sentence of the second paragraph.

**00290.30(b) Pollution Control Plan:** In the first paragraph, delete the phrase “for approval 10 calendar days before the preconstruction conference”.

Delete the last paragraph which begins “A Pollution Control Plan Contractor Packet...”

**00290.32 Noise Control** – Delete the first “bullet” and replace with the following:

The Contractor shall comply with all requirements regarding noise control, as in accordance with Chapter 5, Offenses, in the Warrenton Code.

**PART 00300 – ROADWORK**

**PART 00400 – DRAINAGE AND SEWERS**

**Section 00405 – Trench Excavation, Bedding, and Backfill**

**00405.02 Definitions**

**Pipe Bedding:** Add the following:

The total bedding depth shall be a minimum of 6 inches below the bottom outside surface of the barrel of the pipe for the full width of the trench.

**Pipe Zone:** Delete “8 inches” and replace with “12 inches”.

**Trench Excavation:** Add the following:

Trench excavation and backfill shall include potholing for determination of existing utilities where shown on the Supplemental Drawings.

Trench excavation shall be classified as common excavation/with the exception of rock excavation.

**Trench Backfill:** Add the following:

Imported Trench Backfill shall be imported crushed aggregate materials free from wood waste, organic material, and other extraneous or objectionable materials.

**Lateral Restraint Shoring System:** Add the following:

Lateral Restraint Shoring System is defined as a shoring system with full face braced shields tightly against the trench sidewalls throughout trench excavation and pipe installation to maintain lateral stability.

**00405.11 Trench Foundation** - Delete the four “bulleted” items and replace with the following: 2-1/2”-0 base aggregate in conformance with 02630.10.

**00405.12 Bedding** – Add the following to subsection:

Pipe Bedding material shall be ¾” – 0 base aggregate material in conformance with 02630.10.

**00405.13 Pipe Zone Material** – Add the following to subsection:

Pipe Zone Material shall be ¾” – 0 base aggregate material in conformance with 02630.10.

**00405.14 Trench Backfill** - Add the following to subsection:

Trench Backfill shall be Class B Backfill.

**00405.16 Pipe Zone Locate Wire** – Add this subsection:

The Contractor shall install 12 gauge located directly over pipe centerline and on top of the pipe zone material (no more than 8” above the pipe crown) for all non-ferrous pipe. Wire color in conformance with 00445.11(e). Run wires into valve, cleanout and meter boxes, manholes and other structures to a point accessible from the cover. Locate wires to not hinder access into manholes. All tracer wire splices shall be with a “Protrace TW” connector or approved equal.

**00405.30 Quality Control Personnel** – Delete subsection in its entirety.

**00405.41(c) Trench Width** – Delete third and fourth sentences of subsection.

**00405.41(f) Trench Excavation, Trench Protection** - This section is supplemented with the following:

The Contractor shall be responsible for providing Trench Protection as follows:

1. The Contractor is solely responsible to design, install and maintain shoring, sheeting, bracing and sloping necessary to support the sides of the excavation and to prevent any movement that may trigger landslides, damage adjacent structures and facilities, endanger life and health, or pose a threat to the environment. Conform to the requirements of applicable governmental regulations and agencies.
2. All sheeting, bracing, shoring and trench shields shall be designed or certified by a currently registered Oregon professional engineer and meet the requirements of all applicable local, state, and federal safety codes. The designer shall comply with all applicable codes, ordinances and statutes, and bear sole responsibility for any and all penalties imposed for noncompliance.
3. Do not install sheeting and shoring using vibratory methods.
4. Make and maintain all excavations in a safe manner.
5. Carefully reconsolidate the bedding and side support outside a trench shield prior to placing backfill.
6. Leave in place those portions of sheeting extending below the crown elevation of the pipe, unless the bedding and side support can be reconsolidated to the satisfaction of the Engineer.
7. Where removal of sheeting would result in damage to adjacent utilities or other property, the Engineer may order all or a portion of sheeting to be cut off and left in place.
8. Do not use horizontal strutting below the barrel of a pipe.
9. Do not use the pipe as support for trench bracing.
10. Contractor shall restore all existing facilities damaged, destroyed, or altered by soil movements resulting from temporary shoring movements or nonperformance, at Contractor's own expense.
12. Detrimental Movements or Settlements: Work shall be stopped immediately and the causes of detrimental movements be ascertained if:
  - (a) Damage is noted on adjacent structures.
  - (b) Total settlements of an adjacent structure are noted to be 1/4-inch or larger.
  - (c) Total horizontal movements of an adjacent structure are noted to be 1/4-inch or larger.
  - (d) Shoring systems horizontal movements are noted to be 1/4-inch or larger.
  - (e) Total ground settlements, when measured at settlement measurement points, are noted to be 1/2-inch or larger.
  - (f) There is a trend or a rate of change of any settlement or movement that indicates the maximum movements given above will be exceeded.
  - (g) Work is directed to stop by the Engineer due to other detrimental effects or factors.
13. The causes of the detrimental movements or excessive settlements must be identified by the Contractor. Corrective measures must be proposed to and approved by the Engineer before further Work.

**00405.43 Dewatering** - This section is supplemented as follows:

Dewatering equipment shall be provided to remove and dispose of all surface water and groundwater entering excavations, trenches, or other parts of the work.

1. The Contractor is solely responsible to design, furnish, install, maintain, and operate all necessary dewatering wells, sump/pumps and other devices for dewatering all excavations. The Contractor's plan for the dewatering system shall be submitted for review.
2. At all times have on the project sufficient dewatering devices for immediate use, including standby pumps in case other pumps become inoperable.
3. Provide a sufficient number of dewatering devices so as to hold the groundwater level at an elevation of not less than 1 foot below the lowest elevation of the pipe or other material to be placed. When groundwater is encountered, the Contractor shall assess the situation and develop a plan to accommodate dewatering. The Contractor shall be solely responsible for control of groundwater through dewatering and trench excavation control Plan. All costs for pumping, piping, settling and discharging of trench groundwater shall be considered incidental to the work for groundwater control pumping of up to 250 gpm. If conditions are such that additional pumps are required to remove water in

excess of 250 gpm, the Contractor shall use the number and size of additional pumps, as required, to maintain a water-free trench.

If pumping in excess of 250 gpm is required, a change order will be negotiated to provide compensation to the Contractor shall be per 1-04.4 of the Standard Specifications.

4. The dewatering operation shall be continuous, so that the excavated areas shall be kept free from water during subgrade preparation, while pipes are installed, and until backfill has been placed to the extent that no damage from hydrostatic pressure, flotation, or other cause will result.
5. Continue dewatering during backfilling operations such that the groundwater is at least 1 foot below the level of the compaction effort at all times. No compaction of saturated materials will be allowed.
6. If pumping is required on a 24 hour basis, requiring engine drives, then engines shall be equipped in a manner to keep noise to a minimum.
7. Dewatering devices must be adequately filtered to prevent the removal of fines from the soil.
8. Settle and/or filter all dewatering system collected flow through Contractor provided settling tanks and systems in order to meet Water Quality Standards; Beneficial Uses, Policies, and Criteria for Oregon (OAR 340-041-0036) prior to discharging.
9. Dispose of water in such a manner as to cause no injury or nuisance to public or private property, or be a menace to the public health.
10. The Contractor shall be responsible for any damage to existing structures, pavement, utilities, or of the new works caused by Contractor's dewatering activities or failure of any part of the Contractor's dewatering activities.

The Contractor shall be responsible for furnishing temporary drainage facilities to convey and dispose of surface water falling on or passing over the site.

**00405.44 Trench Foundation** - Delete the third sentence of the second paragraph and replace with the following: Place the trench foundation material in no more than 12-inch layers and compact according to 00330.43.

**00405.45 Pipe Bedding** - Add the following paragraph to subsection:

The Contractor shall place subsequent lifts of not more than 6-inches in thickness up to one foot above the top of the pipe, bringing lifts up together on both sides of the pipe.

Bedding material shall be compacted to 95% of the Standard Proctor maximum dry density (ASTM D698, AASHTO T-99). For the case that bedding material is not density testable, procedures in accordance with 00405.46(c) (2) shall be followed. In this case, the bedding materials should be compacted using suitable compaction equipment until non-yielding.

Bedding disturbed by pipe movement, by removal of shoring, or by movement of a trench box or shield shall be recompact prior to backfill. Special care shall be taken to provide adequate bedding support at wye or tee connections, at Fernco connections and adjacent to other structures so as to avoid bending or shearing stresses at these critical points. The Contractor shall prevent pipe movement either horizontally or vertically during placement and compaction of pipe bedding material.

**00405.46(a) General** - Delete "Test for density according to 00330.43"

**00405.46(b) Pipe Zone** - Add the following to the subsection:

Pipe zone material shall be compacted to 95% of the Standard Proctor maximum dry density (ASTM D698, AASHTO T-99).

**00405.46(c)(1) General** - This subsection is modified as follows:

Delete second paragraph. Excavated material shall not be used for backfill material.

**00405.46(c)(2) Class A, B, C, or D Backfill** – Delete the second paragraph of the subsection and add the following:

Within rights of way and paved surfaces, trench backfill shall be compacted to 98% of the Standard Proctor maximum dry density within two feet of final pavement subgrade elevation and to 95% of the Standard Proctor maximum dry density below two feet of final pavement subgrade elevation. Water jetting is not acceptable as a method of compaction.

EAST HARBOR AND HERON FORCE MAIN PROJECT

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In-place compaction tests will be made by the Agency. Contractor shall remove and recompact material that does not meet specified requirements. The Agency will charge the Contractor for the time and expenses to re-test non-compliant trench backfill.

For materials where a compaction curve cannot be developed in accordance with ASTM D698 or AASHTO T-99, compaction and field verification procedures for non-testable soils in ODOT Section 00330.43(c) should be followed. Deflection testing is not required.

When the backfilling is complete, the Contractor shall finish the surface area as specified. In paved areas, the Contractor shall maintain the surface of the trench backfill level with the existing grade, until final pavement replacement is completed and accepted by the Agency.

Add the following at the end of the subsection:

When crossing below an existing natural gas pipeline main or service of any size, the Contractor shall provide and install sand drainage material conforming to 00360.10 to provide a 12-inch envelope in all directions around the existing gas piping.

**00405.48(c) Pavement, Curb and Sidewalk**

Add the following to the first paragraph, after the second sentence:

Saw cut to nearest joint, panel or as indicated in the Supplemental Drawings.

In second paragraph, delete "6 inches" and replace with "12 inches" and add the following:

The Contractor is responsible for any damage to the sawcut trench edges between the time of excavation and paving. Trenches excavated for paving may not be left open for more than one day without steel plates or backfilling.

**SECTION 00411 – PIPE BURSTING AND SLIP LINING**

**DELETE THIS SECTION IN ITS ENTIRETY AND REPLACE WITH:**

**SECTION 00411 – SLIP LINING**

**Description**

**00411.00 Scope**

Delete the subsection in its entirety and replace with the following

This Work consists of furnishing and installing high density polyethylene (HDPE) pipe in gravity and pressure sewer pipe by the pipe bursting and slip lining methods.

**Materials**

**00411.10(c) Dimension Ratio**

Delete the phrase “ minimum dimension ratio (DR) of 17.” and replace with the phrase “ minimum dimension ratio (DR) of 11.”

**Construction**

**00411.43(b) Manholes**

Delete the phrase “slip-on sanded adaptors” and replace with the phrase “O-Ring waterestop”

**Payment**

**00411.90 Payment**– Delete subsection and replace with the following:

PIPE BURSTING AND SLIP LINING will be paid for at the Contract lump sum amount for the item " Replace existing 4" PVC forcemain with 6" HDPE".

Payment will be payment in full for all work covered under this Section.

**00411.13 Concrete**

Concrete for the concrete collars, patching the cored hole in existing structure FR-1801-CS and for reconstruction of manhole inverts, benches, flow channels in existing structures FR-1801-CS, FR-1799-D, FR-1800-SD and 18-553-SD and the diversion wall/baffle in existing structure FR-1799-D shall be commercial grade concrete in accordance with Section 00440.

**00411.14 Grout**

Grout shall be Hey'di Powder X System mix for grouting pipe connections to existing structures and for grouting within manhole structures.

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**00411.16           Aggregate Backfill**

12-inches of 2-1/2"-0 base aggregate meeting the requirements of subsection 02630.10 shall be installed in the bottom of the pipe insertion pit excavation as shown on the Plans.

The pipe installation pit excavation shall be backfilled with 1" - 0 Trench Backfill, Class B as specified in subsection 00405.14. The backfill material shall be installed and compacted in maximum 12-inch lifts. Compaction shall be to 95% of the modified Proctor maximum dry density in accordance with ASTM D 1557.

**Equipment**

**00411.22           Pipe Bursting & Slip Lining Equipment**

Use a reversible pneumatic hammer, pulling winch, and equipment for attaching the new HDPE pipe to the reversible pneumatic hammer approved by the pipe manufacturer and the Engineer.

**00411.23           HDPE Pipe Fusion & Bending Equipment**

Use fusion welding and bending equipment approved by the pipe manufacturer. Utilize fusion welding equipment capable of attaining appropriate fusion temperature, alignment, and pressure per manufacturer requirements.

**Labor**

**00411.33           Fusion Welding Personnel Experience**

HDPE pipe fusion welding shall be performed by personnel certified by the pipe manufacturer or supplier and who have a minimum of 2 years' experience in fusion welding 16-inch or larger diameter HDPE pipe. Personnel experience, copies of current certifications, and verifiable references shall be documented in the Contractor's Fusion Welding and Weld Testing Work Plan submittal. This information shall be submitted to Agency for review and approval a minimum of 8 weeks prior to the scheduled start of field work.

**Construction**

**00411.40           General**

Protect existing and new facilities including utilities, road pavement, and private property from damage by forces generated by the slip lining equipment. All existing facilities damaged as a result of the slip lining operation shall be the responsibility of the Contractor.

Use only those tools designed and approved by the pipe manufacturer or supplier and the Engineer, for assembly of pipe and fittings and ensure proper installation. The heater plate shall be equipped with suitable thermometers or pyrometers to measure the temperature of plate surfaces and to assure uniform heating. A data logger is required to document each pipe fuse and the records must be submitted to the Engineer after each fuse.

Post-TV inspect the installed pipe after existing services have been reconnected and manhole reconnection and sealing procedure work has been completed. An original copy of the post television inspection video tape shall be provided to the Engineer for final approval.

**00411.40(a) Preparation**

All work shall be performed as specified herein and supervised by personnel experienced in the installation of pipe by slip lining. Insertion and receiving pits shall be located as shown on the Plans. Restore at Contractor's expense those pit areas where new manholes are not being installed. This includes providing a new manhole if an existing manhole is removed or damaged.

Upon commencement, pipe insertion shall be continuous and without interruption from one manhole to another, except as approved by the Engineer. Upon completion of the insertion and installation of the new pipe, expedite the reconnection of lateral service connections so as to minimize any inconvenience to customers.

If existing manholes are used as pits, remove all inverts and benches and channels to permit access for installation equipment as appropriate. When installing through an existing manhole, enlarge the entrance and exit openings if necessary to accommodate the maximum OD size of the pneumatic reversible hammer or other related equipment components.

#### **00411.40(b) HDPE Pipe Handling and Storage**

Exercise special care during the unloading, handling, and storage of all new HDPE pipe to ensure that the pipe is not cut, gouged, scored, or otherwise damaged. Any pipe segment, which has cuts in the pipe wall exceeding 10 percent of the wall thickness, shall be cut out and removed from the site at the Contractor's expense. The pipe shall be stored so that it is not unduly deformed axially or circumferentially to hinder pipe installation. After the unloading of pipe material at the project site and before installation, inspect all pipes to verify their condition with the Engineer. Submit a pipe condition inspection report for review and approval prior to installation.

HDPE pipe, without an ultraviolet inhibitor, shall be protected against the outside elements.

#### **00411.42 Sanitary Sewer Bypass Pumping**

Contractor shall provide and operate a bypass pumping system consisting of furnishing, installing, and maintaining all power, primary and standby pumps, appurtenances, and bypass piping to successfully bypass sanitary sewer flow from existing manhole Pump Station to existing manhole per a submitted Sanitary Sewer Bypass Pumping Work Plan for acceptable completion of the new HDPE pipe installation. The bypass system shall be capable of pumping a minimum of 300 gallons per minute. If additional bypassing capacity becomes necessary, compensation shall be per Section 00196.

Bypass pumping shall be done in such a manner as not to damage private or public property, or create a nuisance or public menace. Pumped flow shall be contained in an enclosed hose or pipe that is adequately protected from traffic, and shall be redirected into the sanitary sewer system at existing manhole. The Contractor shall be liable for all cleanup, damages, and resultant fines in the event of a spill. After the work is completed, flow shall be returned to the sanitary sewer system and all temporary equipment removed.

When pumping is in operation, all engines shall be equipped in a manner to keep the pump noise from exceeding a maximum noise level of 80 decibels at 30 feet distance.

Do not shut down operation of the sanitary sewer bypass system, on holidays, on weekends, or during work stoppage without written permission from the Agency or Engineer.

System maintenance shall include, but not be limited to, 24-hour 7-day per week supervision by personnel skilled in the operation, maintenance, and replacement of system components; standby and spare equipment of the same capacity; and other work as required to maintain bypass system operations. Sanitary sewer bypass pumping shall be a continuous operation; interruption due to outages or any other reasons shall not be permitted. The Contractor shall be responsible for repair and replacement at no cost to the Agency for damages to accepted Work in the excavation area and for damages to any other area caused by its failure to maintain and operate the system as specified above.

#### **00411.45 Fusion Welding of HDPE Pipe**

Sections of HDPE pipe shall be joined by fusion welding to create a continuous length of pipe on the jobsite above ground. The HDPE pipe shall be butt-fused to provide leak proof welded joints and the longest continuous length of pipe possible for the job site prior to performing the pipe installation operation.

Threaded or solvent-cement joints and connections are not permitted. Pipe fusing is to be performed by personnel trained in the use of butt-fusion equipment and following the pipe manufacturer's recommended procedures. Fusion equipment used in the joining procedure shall be capable of meeting all conditions recommended by the pipe manufacturer, including, but not limited to, fusion temperature, alignment and fusion pressure. Electrofusion may be used for field closures as necessary when appropriate fusion equipment cannot be utilized in a trench type environment and when approved by the Engineer.

Butt fusion shall conform to ASTM F 2620 and pipe manufacturer's criteria for the type of joining. The fused joint shall be watertight and shall have tensile strength equal to or greater than that of the adjacent pipe.

Any section of the pipe with a gash, blister, abrasion, nick, scar or other deleterious fault greater in depth than ten percent (10%) of the minimum wall thickness, shall not be used and must be removed from the site. However, a defective area of the pipe may be cut out and the joint fused in accordance with the procedures stated herein. In addition, any section of pipe having other defects such as concentrated ridges, discoloration, excessive spot roughness, pitting, variable wall thickness or any other defect resulting from manufacturing or handling as determined by the Inspector shall be discarded and not used.

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Remove fusion beads greater than 1/16-inches in thickness on the outside of the pipe using an approved cutting device. Leave the inside surface of the pipe free of cuts, gouges, and/or scratches.

**0411.46 Pipe Installation**

Pipe installation shall be performed in such a manner that the new HDPE pipe is not damaged during installation. Pipe rollers and cribbing shall be used to loft and protect the pipe upon insertion where applicable. Bending of the pipe shall be in accordance with manufacturer recommendations. At no time shall the pipe be allowed to drag or slide along the ground surface.

The Contractor shall be responsible for determining how to install the pulling cable between the pipe insertion pit and the receiving manhole structure.

The installation setup shall evenly distribute the tensile forces applied to the new HDPE pipe during the pulling operation. The outside diameter (OD) of the pneumatic reversible hammer or any other component that is ahead of the new pipe shall be equal to or less than the OD of the HDPE pipe being installed. No bolts or other components of the pipe pulling assembly shall protrude beyond the OD of the HDPE pipe being installed.

**00411.47 Removing Pipe within Existing Structures and Structure Connections**

After completing installation of new HDPE pipe, allow the pipe to stabilize for a minimum of 12 hours before making final connections.

Utilize concrete and grout to construct new smooth, depression free flow channel(s) to the spring line elevation of the new HDPE pipe within each existing structure.

Grout fill the annular space between new HDPE pipe and the existing manhole structure. The grout fill shall be

**00411.49 Backfill and Compaction**

The pipe insertion pit and excavations at existing structures shall be backfilled with 1"-0 Trench Backfill as specified in subsection 00411.16. Backfill material shall be placed and compacted in maximum lifts of 12-inches. The backfill material shall be installed and compacted in maximum 12-inch lifts. Compaction shall be to 95% of the modified Proctor maximum density in accordance with ASTM D 1557.

**Finishing and Cleanup**

**00411.71 General Cleanup**

**00411.71(a) Flushing**

Prior to final acceptance and final inspection, the Contractor shall remove accumulated construction debris, rocks, gravel, sand, silt, and other foreign material from the pipe and associated structures, and shall then flush and clean the entire length of the pipe and all associated structure flow channels.

**Section 00440 – Commercial Grade Concrete**

**00440.14(a) General** - In last sentence, delete "a QCT" and replace with "Agency".

**00440.30 Quality Control Personnel** - Delete this subsection in its entirety.

### **Section 00442 – Controlled Low Strength Materials**

**00442.00** Scope - Controlled Low Strength Material shall be used to plug abandoned pipe and for the construction of trench dams.

### **Section 00470 – Manholes, Catch Basins and Inlets**

**00470.10** **Materials** – Grout shall be Hey'di Powder X System mix for grouting inside of manholes and catch basin structures.

### **Section 00490 – Work on Existing Sewers and Structures**

**00490.40** **General** – Add the following to subsection:

Contractor shall be solely responsible for safety during the performance of the Work. No one shall enter into any sewer segment, or structure, where hazardous conditions may exist until such time as the source of these conditions is identified and eliminated by the Contractor and/or Agency. The Contractor shall perform all tests that may be required to identify and assess unsafe conditions and shall perform all work in accordance with the latest OSHA confined space entry regulations. Contractor will coordinate its work with local fire, police and emergency rescue units so they are aware of his working conditions. Access for cleaning purposes shall be via existing manhole openings.

**00490.43** **Abandoning Pipe in Place** - Abandoned pipes shall be filled with controlled low-strength material in accordance with Section 00442 and capped.

### **Section 00495 – Trench Resurfacing**

**00495.10** **Materials** - Permanent trench surfacing materials in existing paved areas shall be Asphalt Concrete Pavement (ACP) to in accordance with Section 00744.

## **PART 00700 – WEARING SURFACES**

### **Section 00744 – Asphalt Concrete Pavement**

**00744.12(a) Mix Type** - Mix Type shall conform to 1/2" ACP.

**00744.13 Job Mix Formula Requirements** - JMF shall conform to Level 3.

**00744.16 Sampling and Testing** - Agency will provide sampling and testing including type and frequency of tests.

**00744.42 Tack Coat** - Delete the last sentence of the first paragraph and replace with the following:

Tack coat asphalt shall be approved by the Engineer prior to application. Hot tack is required prior to all applications of asphalt concrete pavement.

**00744.43(c) Placing** - In last paragraph of subsection, delete the third sentence and replace with the following:

Where 4-inches of ACP is required for trench pavement patching or street section, place in two separate 2-inch lifts.

**00744.49 Compaction** - Agency may conduct compaction testing including determination of testing frequency.

### **Section 00748 – Asphalt Concrete Pavement Repair**

**00748.10 Materials** - Add the following to subsection:

Aggregate base shall consist of both leveling rock and base rock as shown on the Supplemental Drawings.

Leveling rock and base rock shall conform to Section 02630.10 for 3/4"-0 and 1-1/2"-0, respectively.

Asphaltic Concrete Pavement shall conform to Section 00744 as modified by these Special Provisions.

Emulsified Asphalt Concrete shall not be allowed.

## **PART 00800 – PERMANENT TRAFFIC SAFETY AND GUIDANCE DEVICES**

### **Section 00850 – Common Provisions for Pavement Markings**

**00850.50 General** – Add the following to subsection:

Temporary pavement markings shall be maintained in serviceable condition throughout the project until permanent pavement markings are installed. Temporary pavement markings that are damaged shall be repaired or replaced by the Contractor immediately at no additional cost to Agency.

**00850.75 Manufacturer's Warranty** – In the first sentence, delete “on Agency supplied warranty forms”. Delete the last sentence.

### **Section 00867 – Transverse Pavement Markings – Legends and Bars**

**00867.45 Installation** - Type B-HS: Preformed, Fused Thermoplastic Film High Skid material shall apply to this project.

**PART 01000 – RIGHT OF WAY DEVELOPMENT AND CONTROL**

**Section 01040 - Planting**

**01040.00 Scope** - All planting, including sod lawn installation, shall be completed by a professional/licensed landscape company.

**01040.48(c) Method “C” (Sod Lawn and Seeded Lawn Areas)** – All lawn replacement shall be in accordance with Method “C” for sod lawn.

**01040.55(k) Site Specific Restoration** – Add this subsection:

At any point of connections to private storm drain catch basins, storm drain lines, water or sewer services, or other facilities, restore the site of connection to existing conditions or better. Lawn sod shall be used for all grass restoration.

# CITY OF WARRENTON E HARBOR AND HERON FORCE MAIN REPLACEMENT PROJECT

## UTILITY PROVIDERS

**ELECTRICITY**  
PACIFIC POWER  
ATTN: MARILYN BROCKEY  
2340 SE DOLPHIN AVENUE  
WARRENTON, OR 97146  
(503) 861-6005  
(503) 861-6020 (FAX)

**CABLE TELEVISION/INTERNET**  
CHARTER SPECTRUM COMMUNICATIONS  
ATTN: VINNY BILLECI  
419 GATEWAY AVENUE  
ASTORIA, OR 97103  
(503) 338-7710  
(503) 298-0129 (CELL)

**GAS**  
NW NATURAL GAS  
ATTN: RICH GIRARD  
220 NW 2ND AVE  
PORTLAND, OR 97209  
(503) 226-4211 EXT. 2980  
(503) 281-6169 (CELL)

**TELECOMMUNICATIONS**  
LUMEN  
ATTN: SCOTT BROOKSHIRE  
481 INDUSTRY STREET  
ASTORIA, OR 97103  
(360) 216-5970

**CITY OF WARRENTON**  
WATER, SEWER & STORM  
ATTN: JAMES MCCARTHY,  
PUBLIC WORKS OPERATIONS MANAGER  
45 SW 2ND STREET  
PO BOX 250  
(503) 861-0912  
(504) 298-3005 (CELL)

**ONE CALL CENTER**  
1-800-332-2344 OR 81

## GENERAL NOTES

- ATTENTION CONTRACTORS: OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE CENTER. (NOTE: THE TELEPHONE NUMBER FOR THE OREGON UTILITY NOTIFICATION CENTER IS (503) 232-1897 OR 1-800-332-2344. AT LEAST TWO (2) BUSINESS DAYS PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE OREGON UTILITY NOTIFICATION CENTER OF THE DATE AND LOCATION OF THE PROPOSED CONSTRUCTION, AND THE TYPE OF WORK TO BE PERFORMED.
- ALL EXISTING FACILITIES TO BE MAINTAINED IN-PLACE BY THE CONTRACTOR UNLESS OTHERWISE SHOWN OR DIRECTED. CONTRACTOR TO LEAVE EXISTING FACILITIES IN AN EQUAL OR BETTER THAN ORIGINAL CONDITION AND TO THE SATISFACTION OF THE CITY.
- IN ACCORDANCE WITH O.R.S.290.140, IF THE CONTRACTOR FINDS IT NECESSARY TO INTERFERE WITH OR PAVE OVER ANY ESTABLISHED PUBLIC LAND SURVEY CORNER OR ITS ACCESSORIES, WITHIN THE PROJECT LIMITS, THE CONTRACTOR SHALL NOTIFY THE COUNTY SURVEYOR PRIOR TO DOING SO.
- IN ACCORDANCE WITH O.R.S.290.150, CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACING ALL SURVEY MONUMENTS DISTURBED OR DESTROYED DURING CONSTRUCTION. REPLACING THE SURVEY MONUMENTS SHALL BE DONE BY A REGISTERED LAND SURVEYOR AT THE EXPENSE OF THE CONTRACTOR.
- EXISTING UTILITY LOCATIONS SHOWN ARE APPROXIMATE ONLY. CONTACT UTILITY COMPANIES FOR PREMARKING. POTHOLE ALL UTILITY CROSSINGS BEFORE CONSTRUCTION TO PREVENT GRADE AND ALIGNMENT CONFLICTS.
- TECHNICAL SPECIFICATIONS FOR CONSTRUCTION ARE TO FOLLOW THE PROJECT SPECIFICATIONS IN 2018 EDITION OF THE OREGON STANDARD SPECIFICATIONS FOR CONSTRUCTION (ODOT/APWA) AND CITY OF WARRENTON SPECIAL PROVISIONS.
- UPON COMPLETION OF CONSTRUCTION OF THE PROJECT, CONTRACTOR TO SUBMIT RECORD DRAWINGS TO THE CITY OF WARRENTON PRIOR TO FINAL PAYMENT.

### ROADWORK/SITWORK

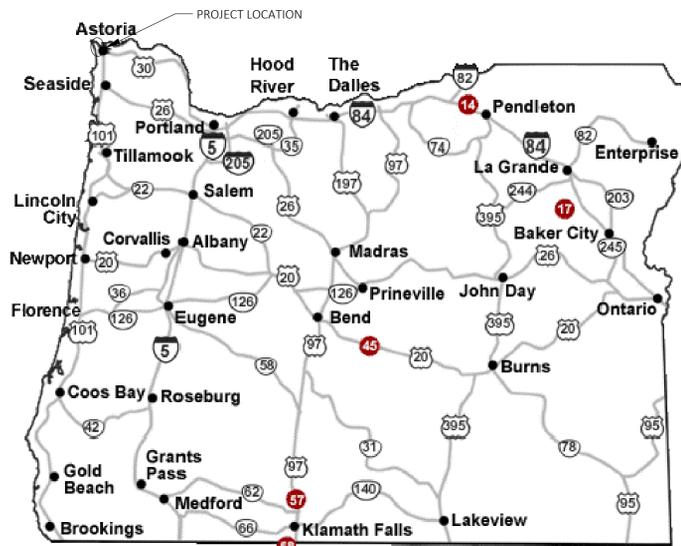
- CONTRACTOR SHALL RESTORE ALL SURFACES TO MATCH EXISTING AND ADJACENT GRADES.

### SIGNAGE

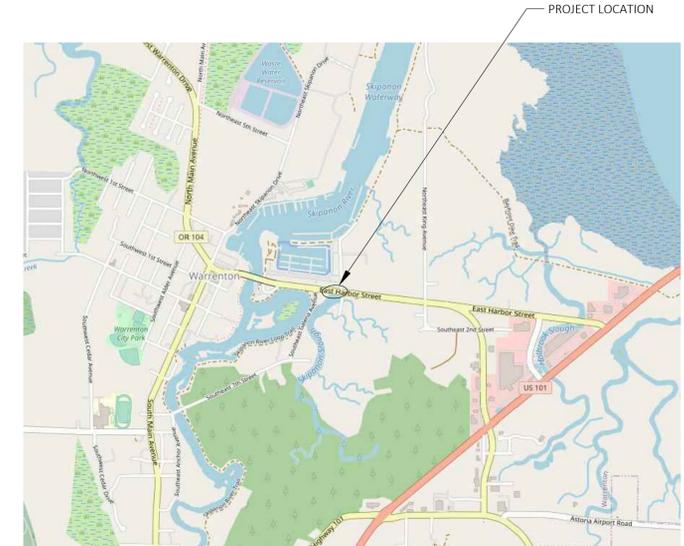
- CONTRACTOR SHALL ERECT AND MAINTAIN BARRICADES, WARNING SIGNS, TRAFFIC CONES PER ODOT REQUIREMENTS. ACCESS TO EXISTING DRIVEWAYS AND BUSINESSES TO BE MAINTAINED AT ALL TIMES.

### UTILITIES

- FOR CLARITY, OVERHEAD UTILITIES ARE NOT SHOWN.



VICINITY MAP  
NOT TO SCALE



LOCATION MAP  
NOT TO SCALE

## ELEVATION DATUM

ALL ELEVATION SHOWN HEREON ARE BASED ON NGVD 88

## BASEMAP

- THE TOPOGRAPHIC BASEMAP WAS PREPARED USING WARRENTON AERIAL IMAGERY, LIDAR DATA, EXISTING UTILITY MAPS, AND MARKED UTILITY LOCATES.
- CONTRACTOR IS REQUIRED TO CALL 1-800-332-2344 (OREGON UTILITY NOTIFICATION CENTER) PRIOR TO ANY EXCAVATION.
- CONTRACTOR SHALL POT-HOLE ALL UTILITY CROSSINGS BEFORE CONSTRUCTION TO REDUCE GRADE AND ALIGNMENT CONFLICTS DURING CONSTRUCTION.

## LEGEND

EXISTING		NEW	
---	EXISTING TAX LOT LINES	- - - -	SAWCUT
---	EXISTING ROADWAY CENTERLINE	— FM	EXISTING FORCEMAIN TO BE REPLACED
---	EXISTING ROAD FOG LINE		
////	EXISTING EDGE OF PAVEMENT		
////	EXISTING EDGE OF GRAVEL		
COM	EXISTING COMMUNICATION LINES		
GAS	EXISTING GAS LINE		
SS	EXISTING SANITARY SEWER LINE		
CS	EXISTING COMBINED SEWER LINE		
SD	EXISTING STORM DRAIN LINE		
2"W	EXISTING WATER LINE (W/SIZE)		
WS WS	EXISTING WATER SERVICE LINE		
⊕	EXISTING SANITARY SEWER MANHOLE		
⊕	EXISTING CATCH BASIN		
⊕	EXISTING UTILITY POLE		
⊕	EXISTING WATER METER		

ATTENTION: OREGON LAW REQUIRES THE CONTRACTOR TO FOLLOW THE RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. THE CONTRACTOR MAY OBTAIN COPIES OF THE RULES BY CALLING THE UTILITY NOTIFICATION CENTER. (NOTE: THE TELEPHONE NUMBER FOR THE OREGON UTILITY NOTIFICATION CENTER IS 503-246-6699.)

## SHEET INDEX

- G-1 COVER SHEET, GENERAL NOTES, VICINITY AND LOCATION MAP
- G-2 PROJECT NOTES
- C-1 SEWER ALIGNMENT AND PROFILE
- C-2 CONSTRUCTION DETAILS
- C-3 PORTION OF ORIGINAL AS-BUILT DRAWINGS

ODOT STANDARD DRAWINGS  
RD300

## REVISIONS

DATE	MARK	DATE	DESCRIPTION
MAY 1, 2023	RCS	8/21/23	CITY COMMENTS
	RCS		
	RCS		

E HARBOR AND HERON FORCE MAIN PROJ.  
COVER SHEET, GENERAL NOTES  
VICINITY AND LOCATION MAP

CITY OF WARRENTON

RICHARD COLLIN STELZIG, PE

RICHARD.STELZIG.ENGINEERING@GMAIL.COM

503-440-2286

DRAWING NUMBER  
**G-1**

BID DRAWINGS

FILE NAME: E Harbor Heron Force Main 08 21 23.dwg



**CITY OF WARRENTON GENERAL NOTES:**

- NO PERSON SHALL DO WORK AFFECTING THE PUBLIC RIGHT-OF-WAY WITHOUT FIRST OBTAINING A PERMIT FROM THE PUBLIC WORKS DEPARTMENT. WORK AFFECTING THE RIGHT-OF-WAY INCLUDES, BUT IS NOT LIMITED TO, CONSTRUCTION, RECONSTRUCTION, GRADING, OILING, REPAIR, OPENING OR EXCAVATION OF A SIDEWALK, STREET, CURB, DRIVEWAY, CULVERT OR DITCH IN A PUBLIC RIGHT-OF-WAY, BUT DOES NOT INCLUDE THE CONSTRUCTION OF IMPROVEMENTS PERFORMED UNDER CITY CONTRACT.
- CONSTRUCTION SHALL CONFORM TO THE OREGON SPECIFICATIONS AND STANDARD DRAWINGS FOR CONSTRUCTION AND AS REVISED BY THE CITY OF WARRENTON. ANY CONDITION NOT DESCRIBED IN THE PERMIT SHALL BE PER SUBMITTED PLANS AND TO ALL APPLICABLE REQUIREMENTS OF APWA, AWWA, DEQ, EPA, DSL, AND ODOT CONSTRUCTION STANDARDS.
- IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ALL UTILITY LOCATIONS PRIOR TO CONSTRUCTION AND ARRANGE FOR THE RELOCATION OF ANY IN CONFLICT WITH THE PROPOSED CONSTRUCTION, THE LOCATIONS, DEPTH, AND DESCRIPTION OF EXISTING UTILITIES SHOWN WERE COMPILED FROM AVAILABLE RECORDS AND/OR FIELD SURVEYS. THE CITY OR UTILITY COMPANIES DO NOT GUARANTEE THE ACCURACY OF THE COMPLETENESS OF SUCH RECORDS. ADDITIONAL UTILITIES MAY EXIST WITHIN THE WORK AREA.
- OREGON LAW REQUIRES THAT THE RULES ADOPTED BY OREGON UTILITY NOTIFICATION CENTER BE FOLLOWED. THOSE RULES ARE SET FORTH IN OAR 952-001-0090. THE CONTRACTOR IS RESPONSIBLE TO CALL 1-800-332-2344 FOR LOCATES PRIOR TO EXCAVATION. ANY DAMAGE TO CITY OR PRIVATE SERVICES SHALL BE REPAIRED BY THE CONTRACTOR WITH OWN REPAIR MATERIALS.
- THE CONTRACTOR SHALL MAKE PROVISIONS TO KEEP ALL EXISTING UTILITIES (INCLUDING NON-LOCATABLE) IN SERVICE AND PROTECT THEM DURING CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR THE IMMEDIATE NOTIFICATION OF DAMAGE TO UTILITIES AND THE REPAIR OR REPLACEMENT OF DAMAGED UTILITIES USING MATERIALS AND METHODS APPROVED BY THE UTILITY OWNER. NO SERVICE INTERRUPTIONS SHALL BE PERMITTED WITHOUT PRIOR WRITTEN AGREEMENT WITH THE UTILITY OWNER/PROVIDER.
- THE CONTRACTOR SHALL POTHOLE AND VERIFY LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL TAKE ALL NECESSARY FIELD MEASUREMENTS AND OTHERWISE VERIFY ALL DIMENSIONS AND EXISTING CONSTRUCTION CONDITIONS INDICATED AND OR SHOWN ON THE PLANS. SHOULD ANY ERROR OR INCONSISTENCY EXIST, THE CONTRACTOR SHALL NOT PROCEED WITH THE WORK AFFECTED UNTIL REPORTED TO THE DESIGN ENGINEER FOR CLARIFICATION OR CORRECTION. ALL PROJECT ELEMENTS SHALL BE CONSTRUCTED PER APPROVED PROJECT DRAWINGS; SPECIFICATIONS; FEDERAL, STATE AND LOCAL PERMITS; AND PRECONSTRUCTION MEETING NOTES.
- THE CONTRACTOR SHALL KEEP AN APPROVED SET OF PLANS ON THE PROJECT SITE AT ALL TIMES.
- ALL DSL, DEQ, ODOT, AND OHA PERMITS AND REGULATIONS WILL BE THE RESPONSIBILITY OF THE DEVELOPER.
- PROJECT INSPECTION ON PRIVATE PROJECTS IS THE RESPONSIBILITY OF THE DEVELOPER. THE CITY WARRANTON REQUIRES THE DESIGN ENGINEER TO MONITOR CONSTRUCTION STANDARDS AND WORKMANSHIP.
- PROJECT PLANS SHALL ALWAYS HAVE AN ENGINEER-OF-RECORD PERFORMING THE FUNCTION OF DESIGN ENGINEER. IF THE DESIGN ENGINEER IS CHANGED DURING THE COURSE OF THE WORK, THE CITY SHALL BE NOTIFIED IN WRITING AND THE WORK SHALL BE STOPPED UNTIL THE REPLACEMENT ENGINEER HAS AGREED TO ACCEPT THE RESPONSIBILITIES OF THE DESIGN ENGINEER. THE NEW DESIGN ENGINEER SHALL PROVIDE WRITTEN NOTICE OF ACCEPTING PROJECT RESPONSIBILITY TO THE CITY WITHIN 72 HOURS OF ACCEPTING THE POSITION AS DESIGN ENGINEER.
- INFRASTRUCTURE THROUGH NEIGHBORING PROPERTY IS ALLOWED ONLY WHEN RECORDED ACCESS EASEMENTS ARE GRANTED BY OWNERS. RECORDED EASEMENTS SHALL BE SUBMITTED TO PUBLIC WORKS PRIOR TO THE START OF THE WARRANTY PERIOD.
- SUBDIVISION PROJECTS ARE REQUIRED TO HAVE UTILITY LOCATION PLAN.
- ALL PUBLIC, PRIVATE AND FRANCHISE UTILITIES SHALL BE IN PLACE PRIOR TO PROJECT FINAL APPROVAL AND ACCEPTANCE, E.G. ALL STREET LIGHTS MUST BE IN AND OPERATIONAL.
- ALL SURVEY MONUMENTS ON THE PROJECT'S SITE OR THAT MAY BE SUBJECT TO DISTURBANCE WITHIN THE CONSTRUCTION AREA, OR THE CONSTRUCTION OF ANY OFF-SITE IMPROVEMENTS SHALL BE ADEQUATELY REFERENCED AND PROTECTED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY. IF THE SURVEY MONUMENTS ARE DISTURBED, MOVED, RELOCATED, OR DESTROYED AS A RESULT OF ANY CONSTRUCTION, THE CONTRACTOR SHALL, AT THEIR COST, RETAIN THE SERVICES OF A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON TO RESTORE THE MONUMENT TO ITS ORIGINAL CONDITION AND FILE THE NECESSARY SURVEYS AS REQUIRED BY OREGON STATE LAW.
- GRADING AND FILL/EXCAVATION PERMITS OR PRIVATE SERVICE PLUMBING PERMITS SHALL BE REQUIRED WHEN WORK IS PERFORMED ON PRIVATE PROPERTY. OWNER, ENGINEER, OR CONTRACTOR MUST CONTACT THE CITY OF WARRENTON PLANNING AND BUILDING DEPARTMENT, PRIOR TO CONSTRUCTION.
- THE CONTRACTOR IS REQUIRED TO METER CONSTRUCTION WATER THROUGH A CITY HYDRANT WATER METER. WATER USED DURING CONSTRUCTION FOR DUST CONTROL OR OTHER PROCEDURES SHALL BE WITH A PERMIT AND FEE. CERTAIN HYDRANTS ARE AVAILABLE, PERMITS FOR CONNECTION AND FLOW ARE REQUIRED FROM THE PUBLIC WORKS DEPARTMENT, AND BACKFLOW DEVICES SHALL BE PRESENT.
- ALL EXISTING STREETS AND SIDEWALKS TO BE CLEANED AND OR PROTECTED DAILY. CITY HAS THE RIGHT TO ENFORCE CLEANING AND SAFETY ISSUES. THE CONTRACTOR CAN BE FINED OR CHARGED FOR PUBLIC WORKS TIME AND MATERIAL. TRENCH EXCAVATION ON EXISTING ROADWAYS NEED TO BE COLD PATCHED AND KEPT SMOOTH WITH EXISTING ASPHALT AT END OF EACH DAY.
- CONTRACTOR SHALL ERECT AND MAINTAIN TEMPORARY TRAFFIC CONTROL PER THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (MUTCD), PART 6, AND DEVIATIONS TO THE MUTCD AS ADOPTED AND MODIFIED BY ODOT. SHOULD WORK BE IN AN EXISTING PUBLIC RIGHT OF WAY THAT IS OPEN TO TRAFFIC, THE CONTRACTOR SHALL SUBMIT A TRAFFIC CONTROL PLAN WITH ROW PERMIT TO APPROPRIATE CITY, COUNTY, AND STATE PERSONNEL FOR APPROVAL. APPROVALS SHALL BE OBTAINED PRIOR TO START OF WORK. ANY INSPECTION BY THE CITY, COUNTY, STATE, FEDERAL AGENCY OR DESIGN ENGINEER SHALL NOT, IN ANY WAY, RELIEVE THE CONTRACTOR FROM ANY OBLIGATION TO PERFORM THE WORK IN COMPLIANCE WITH THE APPLICABLE CODES, REGULATIONS, CITY STANDARDS AND PROJECT CONTRACT DOCUMENTS.
- TRACER WIRE INSTALLATION SHALL BE PERFORMED IN SUCH A MANNER THAT ALLOWS PROPER ACCESS FOR CONNECTION OF LINE TRACING EQUIPMENT, PROPER LOCATING OF WIRE WITHOUT LOSS OR DETERIORATION OF LOW FREQUENCY SIGNAL, AND WITHOUT DISTORTION OF SIGNAL CAUSED BY MORE THAN ONE WIRE BEING INSTALLED IN CLOSE PROXIMITY TO ONE ANOTHER.
- TRACER WIRE SYSTEMS MUST BE INSTALLED AS A SINGLE CONTINUOUS WIRE, EXCEPT WHERE USING APPROVED CONNECTORS. NO LOOPING OR COILING OF WIRE IS ALLOWED. ONE FOOT OF EXCESS/SLACK WIRE IS REQUIRED IN ALL TRACER WIRE ACCESS POINTS AFTER MEETING FINAL ELEVATION.
- ALL NEW TRACER WIRE INSTALLATIONS SHALL BE LOCATED USING TYPICAL LOW FREQUENCY (512 HZ) LINE TRACING EQUIPMENT, WITNESSED BY THE DESIGN ENGINEER OR PUBLIC WORKS DEPARTMENT, PRIOR TO ACCEPTANCE OF OWNERSHIP. THIS VERIFICATION SHALL BE PERFORMED UPON COMPLETION OF ROUGH GRADING AND AGAIN PRIOR TO FINAL ACCEPTANCE OF THE PROJECT.
- UPON COMPLETION OF CONSTRUCTION, THE CONTRACTOR SHALL SUBMIT "REDLINE DRAWINGS" TO DESIGN ENGINEER FOR PREPARATION OF RECORD DRAWINGS. "REDLINE DRAWINGS" DOCUMENT ALL DEVIATIONS AND REVISIONS TO THE APPROVED PLANS; THEY ALSO RECORD A DESCRIPTION OF CONSTRUCTION MATERIALS ACTUALLY USED (PIPE MATERIAL, ETC.). FROM THE INFORMATION CONTAINED ON THESE REDLINE DRAWINGS, AS WELL AS ANY NOTES RECORDED BY THE DESIGN ENGINEER, THE DESIGN ENGINEER SHALL PREPARE AND SUBMIT RECORD DRAWINGS TO PUBLIC WORKS ENGINEERING DEVELOPMENT SERVICES. RECORD DRAWINGS ARE REQUIRED FOR ANY PUBLIC IMPROVEMENTS. CITY ACCEPTANCE OF ANY PUBLIC IMPROVEMENTS ARE TIED TO THE SUBMITTAL OF THESE RECORD DRAWINGS. CAD GENERATED PLANS SHALL ALSO HAVE ELECTRONIC RECORD DRAWINGS SUBMITTED TO THE CITY IN COMPLIANCE WITH THE DIGITAL MAPPING REQUIREMENTS. COMPLY WITH SECTION 2.11 AS-BUILT DOCUMENTS OF THE CITY OF WARRENTON ENGINEERING DESIGN STANDARDS.

**CITY OF WARRENTON STREET NOTES**

- STANDARD MONOLITHICALLY POURED 6" CURB AND 18" GUTTER SECTION SHALL BE CONSTRUCTED. SUB-GRADE AASHOSHIK COMPACTION TESTS COMPLETED EVERY ONE-HUNDRED FEET WITH TEST REPORTS GIVEN TO PUBLIC WORKS.
- THE FULL STREET SECTION SHALL HAVE A MINIMUM OF 4" ASPHALT CONCRETE IN TWO 2" LIFTS. THE TOP LAYER SHALL BE 12.5 MM (1/2") DENSE MIX FOR THE SURFACE WEARING COURSE WITH THE LOWER LIFT EITHER 19 MM (3/4") DENSE HOT MIX ASPHALT CONCRETE (HMAC) OR 12.5 MM (1/2") DENSE MIX.
- ROADWAY STRUCTURE OF TWELVE INCHES OF 1" OR ¾" - 0" INCH COMPACTED BASE ROCK. AN ADDITIONAL 12" LAYER OF 3" COBBLE SUB-BASE WITH GEOTEXTILE LAYER MAY BE USED DURING WET WEATHER OR WINTER CONSTRUCTION PERIODS.
- ALL CUTS IN ASPHALT PAVING, PORTLAND CEMENT PAVING, CONCRETE CURBS, GUTTERS AND SIDEWALKS SHALL BE SAW CUT AT LEAST THREE INCHES DEEP UNLESS EXCEPTED AS A CONDITION OF THE PERMIT.
- TRENCH COMPACTION OF 1" OR ¾" - 0" BACKFILL IN PUBLIC UTILITIES. STREET SAW CUT AND RESTORATION ARE REQUIRED. TACK COATING AND SAND SEALING OF EDGES OF PAVEMENT CUT IS REQUIRED.
- MAILBOX UNITS MOUNTED IN SIDEWALK SHALL HAVE A SWEEP PROVIDED BEHIND THE OBSTRUCTION SO THAT 4 FEET OF CLEAR PASSING DISTANCE IS MAINTAINED. LOCATION TO BE COORDINATED WITH THE UNITED STATES POST SERVICE OFFICE FOR WARRENTON.
- NEW ADA RAMP(S) WITH TRUNCATED DOMES TEXTURE PATTERN IS REQUIRED ON ALL STREET CORNERS. THE CONTRACTOR SHALL PROVIDE THE PATTERN PANELS FOR THE RAMPS. DAMAGE TO ADA RAMPS OR SIDEWALKS DURING CONSTRUCTION OR BUILDING CONSTRUCTION SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO REPAIR.
- ALL STREET NAME SIGNS SHALL BE INSTALLED BY CONTRACTOR TO APWA, MUTCD AND CITY STANDARDS. SIGNS POLES MOUNTED IN GRADE, CURBS OR SIDEWALKS HAVE V-LOCK ANCHORS.
- ALL STREET MARKINGS SUCH AS STOP BARS OR CROSSWALKS ETC., SHALL BE INSTALLED BY CONTRACTOR FOLLOWING THE MOST CURRENT ADDITION OF THE MUTCD AND BE MADE OF THERMOPLASTIC MATERIAL PER APWA STANDARDS.
- STREETLIGHT POLES AND LUMINARIES SHALL BE INSTALLED PRIOR TO FINAL APPROVAL.
- SIDEWALK PORTIONS TO BE (RE)CONSTRUCTED FOR FULL FRONTAGE OR WHERE BROKEN AND MISSING. TWO INCHES OF COMPACTED ¾"-0" BASE ROCK UNDER CONCRETE, WITH ¾" FIBER BOARD EXPANSION JOINT AT ENDS, DUMPTY TOOL CONSTRUCTION JOINTS EVERY 5 FEET ALSO MATCHING SCORE MARKS IN ANY EXISTING ADJACENT CURB AND GUTTER. AN 8-INCH THICKNESS IN COMMERCIAL (6" RESIDENTIAL) DRIVEWAY APRONS IS REQUIRED. ALL SIDEWALK WIDTHS ARE DETERMINED BY THE STREET CLASSIFICATION. THE SIDEWALK SHALL BE A MINIMUM OF FOUR INCHES THICK AND SIX INCHES THICK AT THE DRIVEWAYS. EACH LOT SHALL HAVE A DRIVEWAY APPROACH WITH THREE-FOOT CURB TRANSITIONS WITH SIDEWALK SWEEP AROUND THE BACK OF THE ACCESS PER THE ATTACHED PLAN SET.
- NEWLY CONSTRUCTED CURBS SHALL BE STAMPED WITH THE CAPITAL LETTER "D" FOR STORM, "S" FOR SANITARY, AND "W" FOR WATER AT THE LOCATION OF EACH UNDERGROUND SERVICE CROSSING. LETTERS SHALL BE THREE (3) INCHES IN HEIGHT AND EMBOSSED A MINIMUM OF ONE-QUARTER (1/4) INCH DEEP.

**CITY OF WARRENTON STREET LIGHTING NOTES:**

- STREET LIGHTS TO BE FIBERGLASS POLES (PROVIDED BY PP & L) WITH LED 6,200 LUMEN RATING (MINIMUM) LAMPS AND INSTALLED ON FOUNDATIONS PER PACIFIC POWER & LIGHT REQUIREMENTS.
- ALL STREET LIGHTS TO HAVE INDIVIDUAL PULL BOX (J-BOX), (PROVIDED BY THE UTILITY COMPANY), INSTALLED WITHIN 2 TO 4' FROM THE BASE OF THE POLE.
- ALL STREET LIGHTS TO BE 2' FROM BACK OF CURB WHERE RECESSED OR NO SIDEWALK EXISTS, OR 2' BACK OF SIDEWALK TO THE FACE OF POLE UNLESS OTHERWISE APPROVED BY CITY.
- ALL STREET LIGHT CONDUITS TO BE 2-1/2" PVC SCHEDULE 40.

**CITY OF WARRENTON SEWER PLAN NOTES:**

- THE INTERIOR OF THE MANHOLE BASE SHALL BE FORMED SO THE EFFLUENT ENTERS THE FLOW SMOOTHLY WITH THE SHELF SLOPE NO MORE THAN 1:12. GROUTING SHALL BE SMOOTH WITH NO PROTRUDING SHARP EDGES. GROUTING AROUND PIPE INTRUSIONS INCLUDING SERVICE LATERALS TO BE SMOOTH WITH FLOW CHANNELS TO PREVENT UNCONTROLLED DROPS.
- MANHOLE, BASE, AND CONE OR FLAT-TOP LIDS SHALL HAVE ONLY MAINLINE TRACER WIRE EXTENDED INTO EACH MANHOLE AND SECURED UNDER THE MANHOLE LID FOR EASY ACCESS.
- NEW 4" ASTM D3034 PVC LATERAL TO CONNECTION ON PUBLIC MAINLINE WITH 4" SANITARY TEE-WYE. CONNECTION IS TO BE INSPECTED BY PUBLIC WORKS AND BUILDING DIVISION.
- THE SEWER LATERALS SHALL BE INSTALLED ENTERING THE SEWER MAIN LINE FROM THE UPPER QUADRANT OF THE PIPE. ANY SEWER LATERAL ENTERING THE PIPE AT THE SPRING LINE MUST HAVE A TEE-WYE SWEEP FITTING INSTALLED. ALL LATERAL CONNECTION(S) ARE TO BE INSPECTED BY PUBLIC WORKS AND BUILDING DEPARTMENTS BEFORE BACKFILLING.
- NEWLY CONSTRUCTED CURBS OR REPLACED CURBS SHALL BE STAMPED WITH THE CAPITOL LETTER "S" AT THE LOCATION EACH SANITARY LATERAL CROSSING. LETTERS SHALL BE THREE (3) INCHES IN HEIGHT AND EMBOSSED A MINIMUM OF ONE-QUARTER (1/4) INCH DEEP.
- CONSTRUCT SERVICE SADDLES AT LEAST 24" FROM MANHOLE WALL OR ADJACENT SERVICE.
- CONSTRUCT SERVICE LATERAL WITHIN 5' OF THE CENTER OF THE PROPERTY SERVED.
- EACH LATERAL SHALL BE MARKED WITH A GREEN 2"x 4" BURIED AT THE END OF THE PIPE WITH THE GREEN TRACER WIRE SECURED ABOVE GRADE TO THE 2"x4". THE LATERAL SHALL BE PLUGGED WITH A WATER TIGHT PLUG. WHEN CONNECTING NEW LINES TO EXISTING MANHOLES, THE MANHOLE WALL MUST BE CORE DRILLED CLEANLY, SEALED WITH LINK-SEAL® AND GROUTED OR SEALED WITH A KOR-N-SEAL® BOOT TO PREVENT GROUNDWATER INFLOW AND INFILTRATION. USE OF SAW CUT AND KNOCK OUT BY HAMMER IS PROHIBITED.
- CONTRACTOR IS RESPONSIBLE FOR VACUUM, MANDREL AND TELEVISION TESTING AND INSPECTION REQUIREMENTS. SEE SECTION 4.8 OF THE CITY OF WARRENTON ENGINEERING DESIGN STANDARDS FOR REQUIRED TESTING.
- CONTRACTOR SHALL KEEP DOWNSTREAM SANITARY SEWER PIPES AND MANHOLES CLEAN OF CONSTRUCTION DEBRIS. NOTIFICATION TO CLEAN THE SYSTEM MAY BE GIVEN BY THE CITY AT ANY TIME. THE CONTRACTOR IS RESPONSIBLE FOR ALL CLEANING WHICH MAY INCLUDE MANHOLES DOWNSTREAM OF THE PROJECT SCOPE OF WORK.
- ALL MANHOLES LOCATED IN UNIMPROVED EASEMENTS AND RIGHT OF WAYS SHALL BE PROVIDED WITH TAMPER PROOF LIDS, BE INSTALLED TWO FEET (2') ABOVE EXISTING GRADE AND MARKED WITH A GREEN CARSONITE® MARKER POST, LABELED "SEWER".
- CONTRACTOR SHALL SUBMIT ACCURATE AS-BUILT STATIONS FOR ALL CONNECTIONS OF SEWER LATERALS AND NOTE THE DISTANCE FROM UPSTREAM MANHOLES. THIS INFORMATION WILL BE PROVIDED ON THE AS-BUILT DOCUMENTS BEFORE SUBMITTAL.

**CITY OF WARRENTON STORMWATER PLAN NOTES:**

- INSTALLATION OF CURB INLETS, FIELD INLETS AND MANHOLES ARE TO CONFORM TO CITY STANDARDS. CONNECTION TO EXISTING PUBLIC SYSTEMS FROM PRIVATE CATCHMENTS SHALL BE AT OR HAVE INSTALLED CURB CATCH BASINS OR AREA INLETS WITHIN THE PUBLIC RIGHT-OF-WAY.
- CONSTRUCTION OF INLET / OUTLET HEADWALL STRUCTURES, RIPRAP BANK STABILIZATION, BIO-FILTER SWALE AND ENERGY DISSIPATION FEATURES.
- INSTALLATION OF STORM WATER DETENTION, FLOW AND POLLUTION CONTROL WATER QUALITY FEATURES PER APPROVED PLANS. BELOW GROUND CULVERTS, BOX, MH OR WET/DRY BASIN ETC.
- CONSTRUCTION OF DRAINAGE DITCH TO APPROVED SLOPE & GRADE, VEGETATION ON SIDE SLOPES FOR EROSION CONTROL.
- ROOF AND GARAGE RUNOFF DRAINAGE SHALL DRAIN TO APPROVED DRAINWAYS. APPROVED DRAINWAYS INCLUDE PUBLIC CURB AND GUTTER STREET SYSTEMS, PIPE SYSTEMS, OR ROADSIDE DITCHES. DRAINAGE GRATES ACROSS A PUBLIC SIDEWALK ARE PROHIBITED.
- EACH LOT MAY HAVE 2 EACH 3" SCHEDULE 40 PVC WEEP HOLES INSTALLED ON EACH SIDE OF THE DRIVEWAY THROUGH THE CURB OR ACCOMMODATE RUNOFF THROUGH EASEMENT TO COLLECTION POINT WITH SPECIAL APPROVAL FROM THE PUBLIC WORKS DEPARTMENT.
- CONTRACTOR IS RESPONSIBLE FOR, MANDREL AND TELEVISION TESTING AND INSPECTION REQUIREMENTS - SEE GENERAL SECTION.
- STORM WATER DETENTION MAY BE REQUIRED. ENGINEERED HYDROLOGY STUDIES ARE REQUIRED PRIOR TO PERMITTING.

**CITY OF WARRENTON EROSION CONTROL PLAN NOTES:**

- ALL SITES SHALL SUBMIT AN EROSION CONTROL PLAN FOR REVIEW, REGARDLESS OF SIZE. NEW DEVELOPMENTS IMPACTING AREAS OF 10,000 SQUARE FEET OR GREATER MUST OBTAIN AN EROSION CONTROL PERMIT.
- EROSION CONTROL PLAN SHALL INCLUDE:
  - THE METHODS AND/OR FACILITIES TO BE USED TO PREVENT EROSION AND POLLUTION CREATED FROM THE DEVELOPMENT BOTH DURING AND AFTER CONSTRUCTION.
  - LIMITS OF CLEARING BY FLAGGING BOUNDARIES IN THE FIELD BEFORE STARTING SITE GRADING OR CONSTRUCTION. STAGING AREAS SHALL BE INCLUDED.
  - AN ANALYSIS OF SOURCE CONTROLS, SUCH AS DETENTION AND STORAGE DURING CONSTRUCTION AS AN ALTERNATIVE METHOD TO CONTROL EROSION FROM STORM WATER RUNOFF.
  - A DRAINAGE PLAN DURING CONSTRUCTION.
  - SHOW EXISTING CONTOURS AS WELL AS ALL SENSITIVE AREAS, CREEKS, STREAMS, WETLANDS, AND OPEN AREAS.
  - A DESCRIPTION OF HISTORIC LOCALIZED FLOODING PROBLEMS RESULTING FROM SURFACE WATER RUNOFF, FEMA OR FLOODING PROBLEMS KNOWN TO THE COMMUNITY OR THE CITY.
  - EROSION CONTROL PLAN SHALL INCLUDE A SCHEDULE FOR IMPLEMENTATION OF EROSION MEASURES. THE SCHEDULE SHALL INCLUDE:
    - MEASURES TO COVER BARE SOIL WITHIN 14 DAYS FOLLOWING FINAL GRADING.
    - IMPLEMENTATION OF WET WEATHER MEASURES BETWEEN OCTOBER 1ST AND APRIL 30TH, UNLESS OTHERWISE APPROVED BY THE CITY.
    - ON SITES WHERE VEGETATION AND GROUND COVER HAVE BEEN REMOVED, CITY APPROVED GROUND COVER SHALL BE RE-ESTABLISHED BY SEEDING AND MULCHING ON OR BEFORE SEPTEMBER 1ST WITH THE GROUND COVER ESTABLISHED BY OCTOBER 15TH. AS AN ALTERNATIVE TO SEEDING AND MULCHING, OR IF GROUND COVER IS NOT ESTABLISHED BY OCTOBER 15TH, THE OPEN AREAS SHALL BE PROTECTED THROUGH THE WET SEASON WITH STRAW MULCH, EROSION BLANKETS, OR OTHER APPROVED METHODS, WHERE APPROPRIATE, WITH LONG TERM MAINTENANCE PLAN.
  - WATER CONTAINING SEDIMENT SHALL NOT BE DISCHARGED INTO THE SURFACE WATER MANAGEMENT SYSTEM, WETLANDS OR STREAMS WITHOUT FIRST PASSING THROUGH AN APPROVED SEDIMENT FILTERING FACILITY OR DEVICE. DISCHARGE FROM TEMPORARY SEDIMENTATION PONDS OR DETENTION FACILITIES USED FOR SEDIMENTATION DURING CONSTRUCTION SHALL BE CONSTRUCTED TO CITY STANDARDS TO PROVIDE ADEQUATE SEDIMENT FILTRATION.
- A SITE-SPECIFIC PLAN PREPARED BY A REGISTERED PROFESSIONAL ENGINEER SHALL BE REQUIRED AND ADDITIONAL EROSION CONTROL MEASURES MAY BE REQUIRED FOR SITES HAVING ONE OR MORE OF THE FOLLOWING CHARACTERISTICS:
  - SITES GREATER THAN FIVE (5) ACRES DISTURBED;
  - SITES WITH SLOPES GREATER THAN 15 PERCENT ON ANY PORTION OF THE SITE;
  - SITES WITH HIGHLY ERODIBLE SOILS;
  - SITES ADJACENT TO SENSITIVE AREAS;
  - SITES WHERE GRADING AND CLEARING ACTIVITIES ARE LIKELY BETWEEN OCTOBER 1ST AND APRIL 30TH
- ADDITIONAL EROSION CONTROL MEASURES MAY INCLUDE ONE OR MORE OF THE FOLLOWING:
  - LIMITED AREA CLEARED AT ANY ONE TIME;
  - ADDITIONAL DRAINAGE REQUIREMENTS DURING CONSTRUCTION;
  - FILTERING OR TREATMENT OF RUNOFF;
  - ADDITIONAL WATER QUALITY;
  - ADDITIONAL EROSION CONTROL TO COVER PORTIONS OF THE SITE;
  - MAINTAINING A VEGETATED BUFFER STRIP BETWEEN SITE AND SENSITIVE AREA;
  - ADDITIONAL FACILITIES TO REDUCE VOLUME AND VELOCITY OF WATER RUNOFF;
  - IF THERE ARE NO WORKABLE ALTERNATIVES, LIMIT CLEARING AND GRADING IN SOME AREAS BETWEEN OCTOBER 1ST AND APRIL 30TH.
- ALL DISTURBED LAND AREAS THAT SHALL REMAIN UNWORKED FOR 14 DAYS OR MORE SHALL BE PHYSICALLY COVERED IN THE WET WEATHER SEASON
- SITE CLEANUP AND DEBRIS REMOVAL. CONTRACTOR TO REMOVE EXCESSIVE SOIL AND DEBRIS DEPOSITED ONTO STREETS OR INTO THE CITY STORM DRAINAGE SYSTEM. STREET CLEANUP ON STREETS EVERY DAY AND UPON COMPLETION OF WORK OR AS REQUIRED BY THE CITY.
- DUST CONTROL ON STREETS ACCESSIBLE AND USED BY RESIDENTS IS REQUIRED.
- MINIMUM EROSION CONTROL MEASURES SHALL INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING. SEDIMENT FENCES ALONG THE DOWNGRADE SLOPE OF THE PROJECT PERIMETER. FILTER BAGS AT CATCH BASIN INLETS. STREET CLEANING OF DEBRIS OR MATERIAL DROPPED IN TRANSIT. INSTALLATION OF WATER QUALITY EROSION CONTROL BMP'S PER PROJECT PLANS.

**CITY OF WARRENTON WATER PLAN NOTES:**

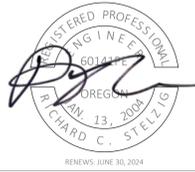
- ONLY CITY OF WARRENTON PERSONNEL MAY OPERATE PUBLIC WATER VALVES ON CITY WATER MAINS. REQUESTS SHALL BE MADE 3 BUSINESS DAYS IN ADVANCE TO PUBLIC WORKS OFFICE: 503 861-0912.
- CONTRACTOR IS RESPONSIBLE TO FLUSH, CLEAN, DISINFECT AND PRESSURE TEST WATER LINES PER AWWA STANDARDS. TESTING IS TO BE PERFORMED BY THE CONTRACTOR AND WITNESSED BY CITY PERSONNEL. TEST SAMPLES TO BE TRANSPORTED TO A LAB APPROVED BY THE CITY. CITY AND DESIGN ENGINEER SHALL RECEIVE COPIES OF TEST REPORTS.
- FIRE HYDRANTS SHALL BE MUELLER SUPER CENTURION 250 MODEL A-423 OR AN APPROVED EQUAL WITH A RECIRCULATION OIL LUBRICATION SYSTEM. FIRE HYDRANT CONNECTIONS TO THE MAINLINE SHALL REQUIRE A PHOTO OF TEE AND ISOLATION VALVE PRIOR TO BACKFILL, AND SHALL BE SUBMITTED WITH FINAL DOCUMENTS.
- HYDRANTS ADJACENT TO PAVED STREETS SHALL BE MARKED USING BLUE STIMSONITE® TWO SIDED MARKERS (2-WAY BLUE 88AB) TO BE ATTACHED TO THE ROAD SURFACE WITH THERMOSET 2 PART EPOXY (EP-308 HARDENER PART B+EP308 EPOXY RESIN PART A). MARKERS SHALL BE PLACED RIGHT OF CENTERLINE IN THE LANE CLOSEST TO THE HYDRANT. IF THE HYDRANT IS LOCATED ON A CORNER, MARKERS MUST BE ON BOTH STREETS.
- CONTRACTOR SHALL PERFORM A FLOW TEST FOR EACH HYDRANT AND VERIFY HYDRANT OPENING EASE AND LUBRICANT. CONTRACTOR SHALL PAINT FIRE HYDRANTS TO CITY STANDARD.
- AIR RELEASE AND VALVE ASSEMBLIES SHALL BE AUTOMATIC ONLY.
- ALL WATER VALVES SHALL HAVE VC212 VALVE BOX SELF-CENTERING GUIDES OR EQUAL.
- VALVE BOXES SHALL BE MODEL 910 VANCOVER STYLE W/MANUFACTURED CAST NOTCHES ALIGNED WITH DIRECTION OF MAIN AND TRAFFIC RATED LID, LABELED "W" OR "WATER" OR EQUAL.
- ALL VALVES SHALL BE OPERATED TO VERIFY VALVE WRENCH TOOL CLEARANCE PRIOR TO FINAL PAVING.
- ALL VALVE BOXES NOT SET IN ASPHALT SHALL HAVE A MINIMUM OF 18" X 18" X 3" THICK CONCRETE PAD WITH VALVE BOX CENTERED.
- RESIDENTIAL SERVICE LINES SHALL HAVE FORD F500-4-NL BRASS ONE-INCH (1") CORPORATION STOP, ONE-INCH (1") MUNICIPEX® WATER SERVICE LINE WITH COMPRESSION FITTINGS, AND A 1"x3/4" LOCKABLE ANGLE STOP USING FORD GRIP RING FITTINGS. ALL SERVICE FITTINGS SHALL BE BRASS, MALE X MALE, IRON PIPE SIZE, AND IRON PIPE THREAD. IF 1"x1" ANGLE STOPS ARE INSTALLED, 1"x3/4" ADAPTERS SHALL BE INCLUDED. METER BOXES SHALL BE ARMORCAST® STRAIGHT WALL POLYMER CONCRETE RPM A6000485 (12X20X12) WITH ARMORCAST® ONE-PIECE 20K TRAFFIC-RATED LID.
- CONSTRUCT SERVICE SADDLES AT LEAST 24" FROM MAINLINE END OR AN ADJACENT SERVICE.
- COMMERCIAL PROPERTIES MAKING CONNECTIONS TO THE CITY INFRASTRUCTURE SHALL PROVIDE AND INSTALL MASTER METER ALLEGRO UNDER-THE-GLASS (UTG) OR MASTER METER OCTAVE WATER METERS. THE CITY OF WARRENTON HAS A FCC APPROVED RADIO FREQUENCY IDENTIFICATION THAT IS PROGRAMED INTO THESE METERS, THE DEVELOPER/CONTRACTOR MUST CONTACT THE CITY AND RECEIVE THE REQUIRED FREQUENCY FOR ORDERING. METER BOXES SHALL BE ARMORCAST STRAIGHT WALL POLYMER CONCRETE WITH ONE-PIECE 20K TRAFFIC RATED LIDS.
- CUSTOMER YARD VALVES (SHUT-OFFS) BEHIND THE METER SHALL BE INSTALLED BY THE DEVELOPER ON THE PROPOSED WATER SERVICE AND ARE REQUIRED TO BE IN PLACE PRIOR TO THE ACTIVATION OF THE WATER METER.

REVISIONS

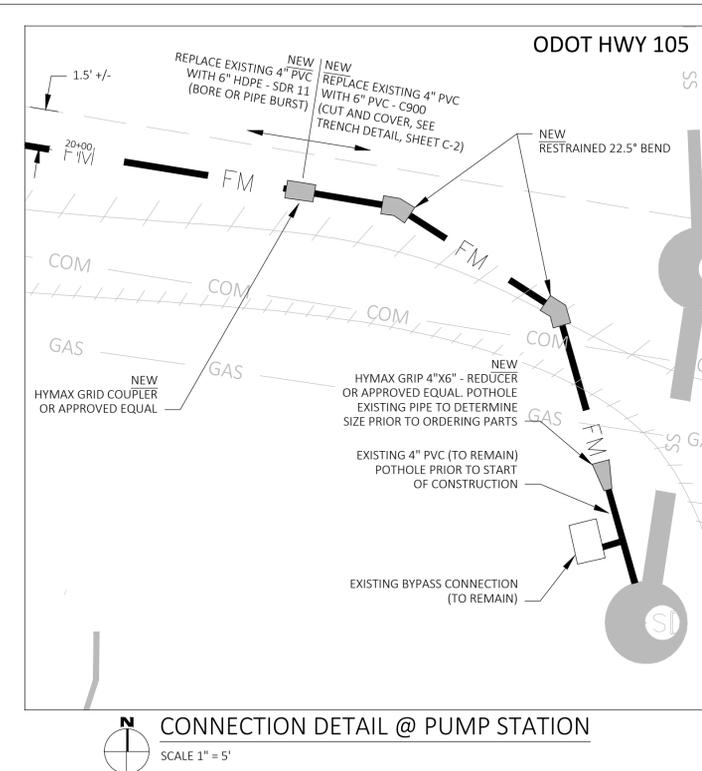
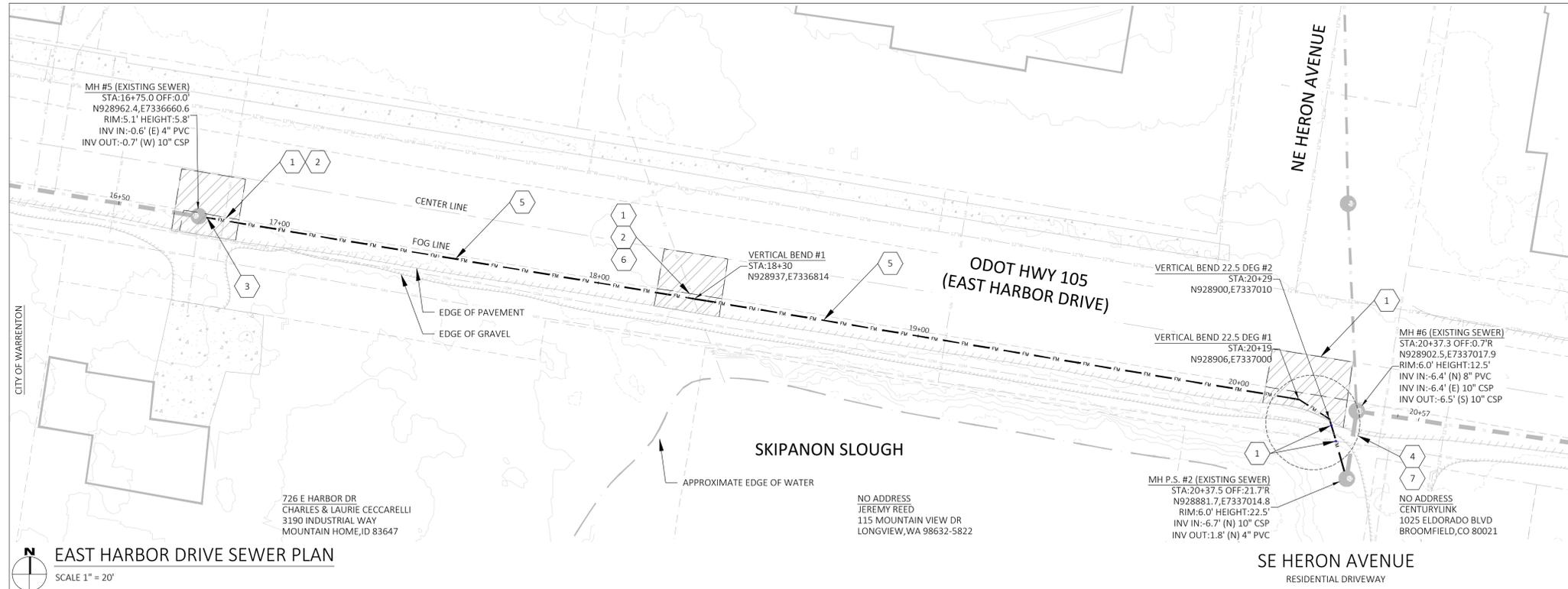
DATE:	MARK	DATE	DESCRIPTION
MAY 1, 2023	RCS	8/21/23	CITY COMMENTS
DESIGNED BY	RCS		
DRAWN BY	RCS		
CHECKED BY	RCS		

**E HARBOR AND HERON FORCE MAIN PROJ. PROJECT NOTES**

<i>CITY OF WARRENTON</i>		DRAWING NUMBER <b>G-2</b>
RICHARD COLLIN STELZIG, PE		
RICHARD.STELZIG.ENGINEERING@GMAIL.COM		503-440-2286



**BID DRAWINGS**



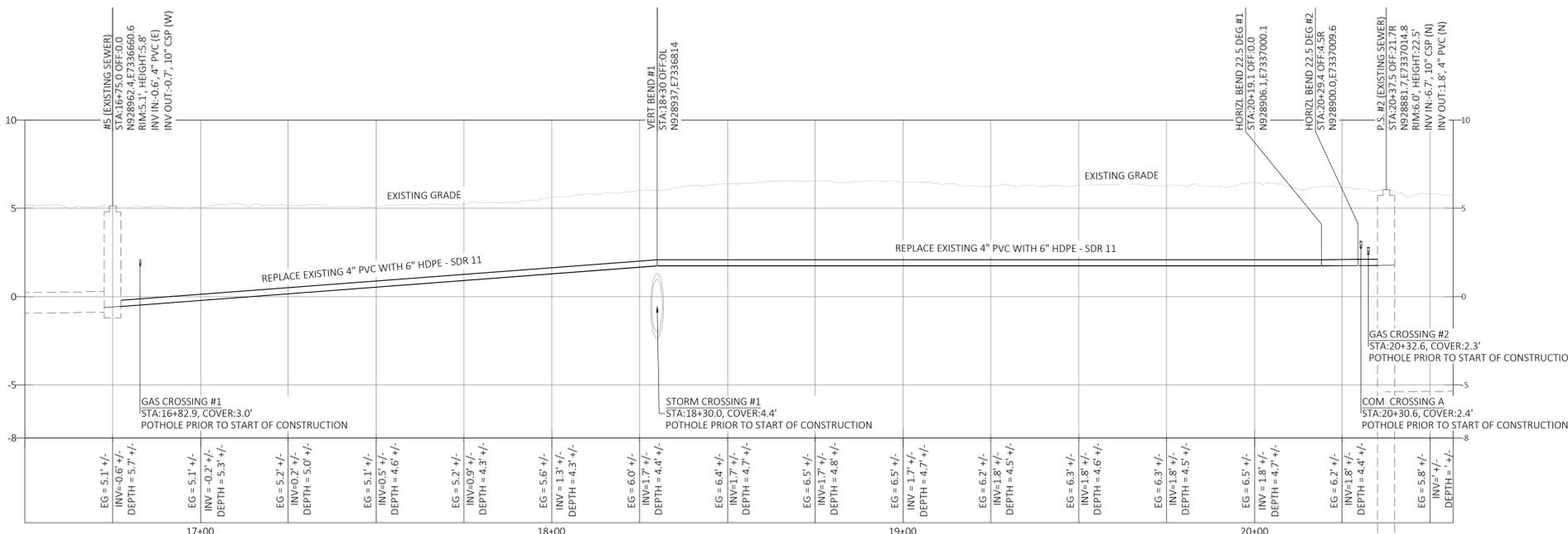
**KEYNOTES:**

- POTHOLE EXISTING UTILITY TO DETERMINE SIZE, MATERIAL, LOCATION, AND DEPTH, REPORT INFORMATION TO CITY AND ENGINEER IMMEDIATELY.
- SAW CUT, REMOVE, AND PATCH EXISTING ASPHALT PER ODOT STANDARD DETAIL (SEE DETAIL 1, SHEET C-2). REPAIR WILL EXTEND TO CENTERLINE OF FOG LINE DEPENDING ON IMPACT TO ASPHALT.
- CONNECTION TO EXISTING MANHOLE (SEE DETAIL 1, SHEET C-2)
- SEE CONNECTION DETAIL THIS SHEET
- REPLACE EXISTING 4" PVC PIPE WITH 6" HDPE - SDR 11. PIPE BURSTING IS RECOMMENDED BUT IS NOT REQUIRED.
- CONTRACTOR SHALL VISUALLY MONITOR CROSSING DURING CONSTRUCTION TO PREVENT DAMAGE TO EXISTING UTILITY AND NEW FORCE MAIN.
- PIPE ABANDONED IN ODOT ROW SHALL BE CLEARED OF ALL MATERIAL INSIDE OF PIPE AND CAPPED A MINIMUM OF 2' ONE BOTH ENDS.

**ODOT PERMIT NOTE:**  
ALL UTILITY CONNECTIONS ORIGINATING IN ODOT'S RIGHT OF WAY REQUIRE SEPARATE PERMITS FROM ODOT. NO UTILITY CONNECTIONS ARE COVERED UNDER AN ACCESS PERMIT SUCH AS BUT NOT LIMITED TO GAS, POWER COMMUNICATION, WATER, ETC. THE APPLICATION NEEDS TO BE IN THE NAME OF THE UTILITY FACILITY OWNER, SUCH AS, POWER IN THE POWER COMPANY NAME SIGNED BY THE POWER COMPANY NO ELECTRONIC SIGNATURES, HOWEVER, THE PERMIT APPLICATION MAY BE SUBMITTED BY A REPRESENTATIVE OF THE APPLICANT SUCH AS A CONTRACTOR PROVIDED IT IS ISSUED TO THE OWNER OF THE UTILITY AND SIGNED BY THE OWNER OF THE UTILITY - OAR 734-055-0015. AN APPLICATION AND PERMIT TO OCCUPY OR PERFORM OPERATIONS UPON A STATE HIGHWAY CAN BE FOUND ON OUR WEB SITE AT [HTTPS://WWW.OREGON.GOV/ODOT/MAINTENANCE/PAGES/PERMITS.ASPX](https://www.oregon.gov/odot/maintenance/pages/permits.aspx), OR CALL THE LOCAL DISTRICT OFFICE AT 503-325-7222 AND ASK FOR THE PERMITS DEPARTMENT.

**CONSTRUCTION NOTES:**

- CONTRACTOR SHALL POTHOLE ALL UTILITY CONNECTION AND CROSSING LOCATIONS. NOTIFY CITY IMMEDIATELY IF EXISTING UTILITIES ARE ENCOUNTERED IN CONFLICT WITH PROPOSED ALIGNMENT, PROFILE, OR WITH LESS THAN 12" VERTICAL CLEARANCE AT CROSSING WITH NEW SEWER FORCE MAIN.
- CONTRACTOR TO COORDINATE SCHEDULES WITH CITY FOR ADJUSTMENTS TO THE WATER MAIN AND WATER SERVICES.
- COORDINATE INSPECTION WITH CITY A MINIMUM 48 HOURS IN ADVANCE OF POTHOLING AND CONSTRUCTING MH-FL-365-CS-B.
- NO EXCAVATION SHALL BE LEFT OPEN OVERNIGHT. SECURITY OF MATERIALS AND SITE ARE THE RESPONSIBILITY OF THE CONTRACTOR.
- CONTRACTOR SHALL APPLY FOR AND RECEIVE AN ODOT RIGHT OF WAY PERMIT PRIOR TO START OF CONSTRUCTION.
- IF DURING CONSTRUCTION THE CONTRACTOR IMPACTS ASPHALT BEYOND THE EXISTING FOGLINE, THEY WILL BE REQUIRED TO PATCH ASPHALT TO THE EXISTING CENTERLINE (SEE DETAIL 1, SHEET C-2).



**EAST HARBOR DRIVE SEWER PROFILE**  
SCALES: HORIZONTAL: 1" = 20' VERTICAL: 1" = 4'



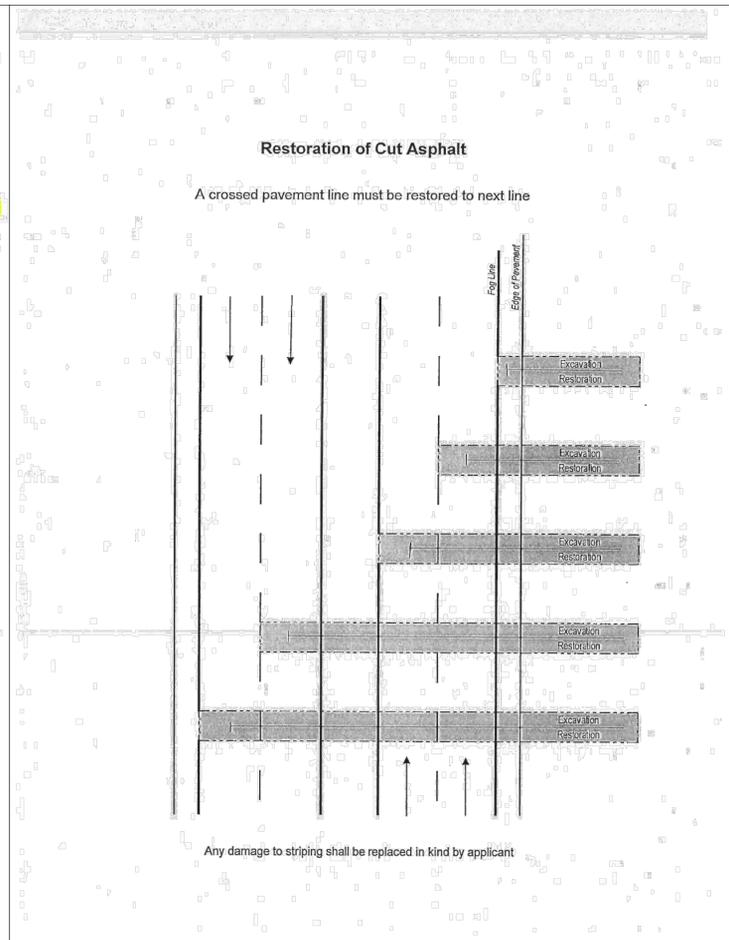
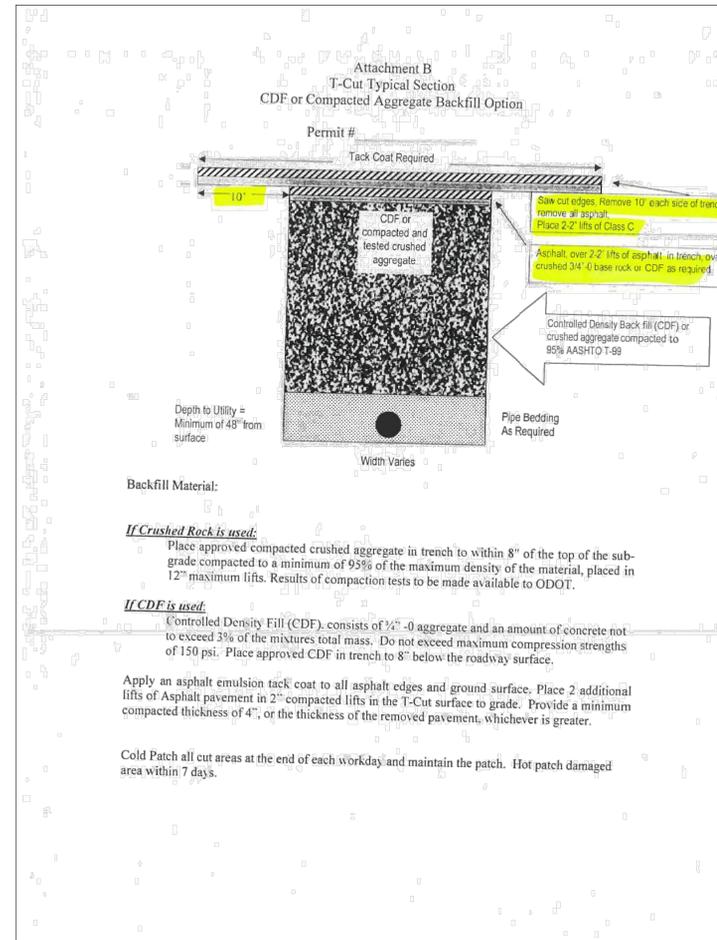
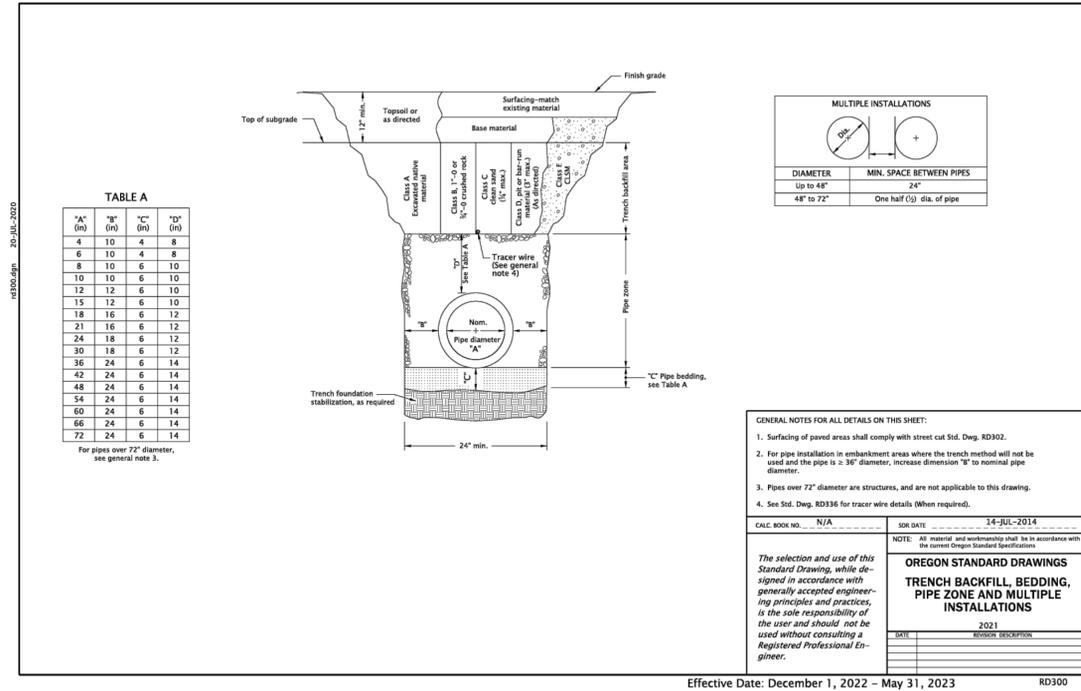
**BID DRAWINGS**

REVISIONS			
DATE	MARK	DATE	DESCRIPTION
MAY 1, 2023	RCS	8/21/23	CITY COMMENTS
DESIGNED BY	RCS		
DRAWN BY	RCS		
CHECKED BY	RCS		

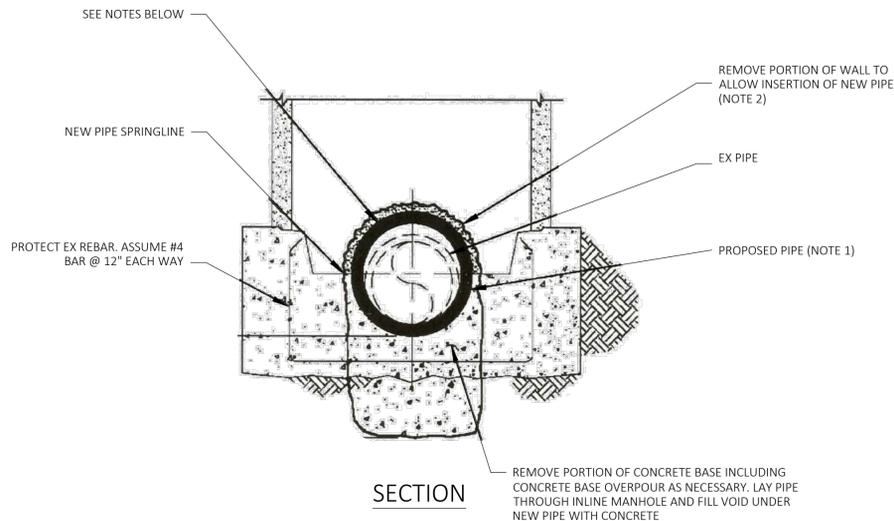
**E HARBOR AND HERON FORCE MAIN PROJ. SEWER ALIGNMENT AND PROFILE**

**CITY OF WARRENTON**  
RICHARD COLLIN STELZIG, PE  
RICHARD.STELZIG.ENGINEERING@GMAIL.COM 503-440-2286

DRAWING NUMBER  
**C-1**



1 ODOT T-CUT TYPICAL SECTION AND NOTES  
C-2 SCALE: NTS



- NOTES:**
- INSTALL O-RING WATERSTOP AROUND NEW PIPE AND CENTER WITHIN EXISTING MANHOLE WALL.
  - FILL ANNULAR SPACE BETWEEN NEW PIPE AND EXISTING MANHOLE WALL WITH NON-PERMEABLE, NON-SHRINK GROUT. ROUGHEN EXISTING CONCRETE SURFACE TO FULL AMPLITUDE OF 1/4" AND APPLY A BONDING AGENT PRIOR TO PLACING NON-SHRINK GROUT.
  - 10" MINIMUM OF EXISTING CONCRETE BASE TO REMAIN INTACT UNDER NEW PIPE OR CHIP OUT EXISTING CONCRETE BASE AS NEEDED TO INSTALL NEW CONCRETE WITH A 10" MINIMUM THICKNESS UNDER NEW PIPE.

2 MANHOLE BASE MODIFICATION FOR PIPELINE REPLACEMENT  
C-2 SCALE: NTS

REVISIONS			
DATE	MARK	DATE	DESCRIPTION
MAY 1, 2023	RCS	8/21/23	CITY COMMENTS
DESIGNED BY	RCS		
DRAWN BY	RCS		
CHECKED BY	RCS		

**E HARBOR AND HERON FORCE MAIN PROJ.  
CONSTRUCTION DETAILS**

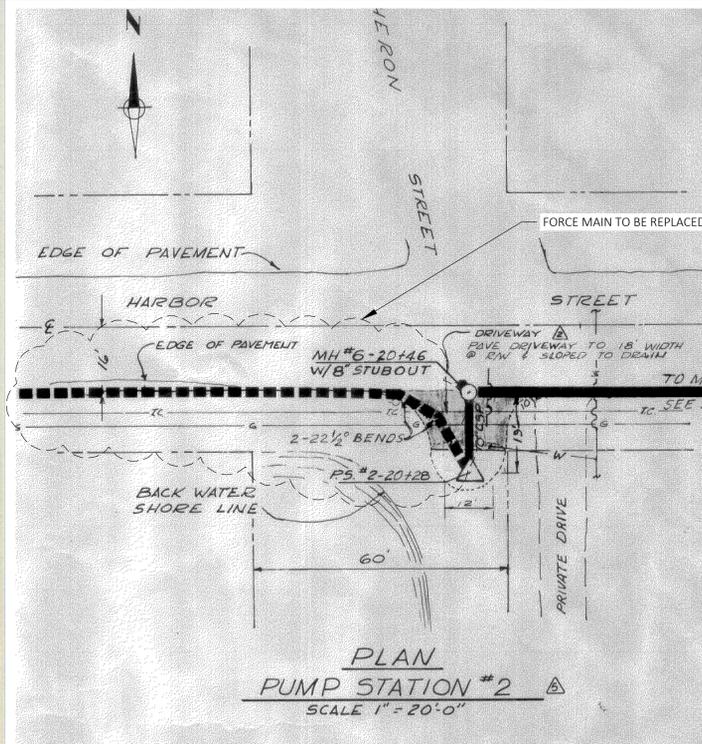
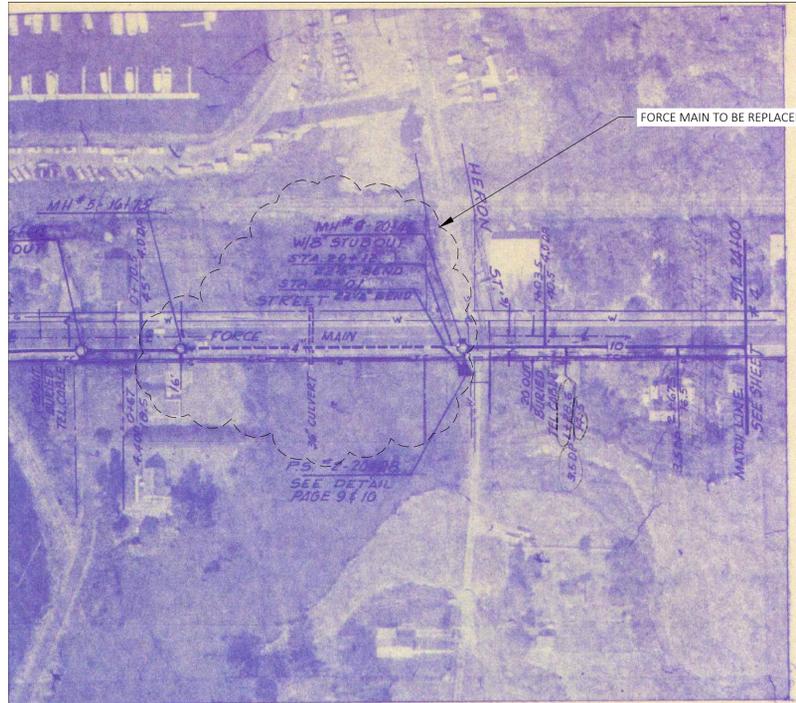
CITY OF WARRENTON  
RICHARD COLLIN STELZIG, PE  
RICHARD.STELZIG.ENGINEERING@GMAIL.COM 503-440-2286

DRAWING NUMBER  
**C-2**

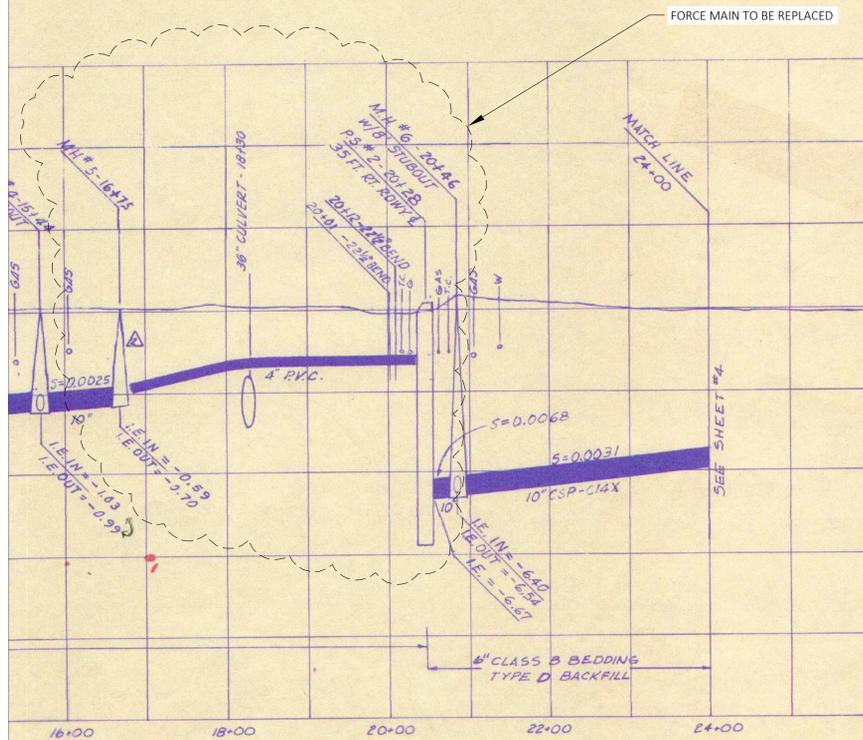
**BID DRAWINGS**

FILE NAME: E Harbor Heron Force Main 08 21 23.dwg





2 AS-BUILT PS SITE PLAN  
SCALE: NTS



SEWAGE LIFT STATION NUMBER (LOCATION)	#1 8+39	#2 20+28	#3 46+36	#4 68+51
A INLET SIZE INCHES	10"	10"	12"	10"
B INLET ELEVATION	MH -3.85 SD -2.96	-6.67	+6.80	-10.38
C DISCHARGE SIZE INCHES	6" PVC	4" PVC	4" PVC	4" PVC
D DISCHARGE ELEVATION	+3.87	+2.25	+3.78	+2.06
E GROUND ELEVATION	+5.20	+4.20	+5.40	+4.10
F TOP WET WELL ELEVATION	+2.37	+0.53	+2.28	+0.56
G BASE ELEVATION	-8.09	-9.90	-9.02	-13.56
H ALARM LEVEL	+0.87	-3.05	-1.52	-6.64
I TURN-ON LEVEL 2-PUMPS	+0.37	-4.05	-2.52	-7.64
J TURN-ON LEVEL 1-PUMP	-4.83	-6.83	-5.62	-10.80
K TURN-OFF LEVEL	-6.09	-8.40	-7.52	-11.61
L FLOW-GPM	217	294	220	221
TDH - FT.	25	26	28	28
SUCTION LIFT-FT	12	12	13	15

PUMP STATION DATA

3 AS-BUILT PS DATA  
SCALE: NTS

PORT OF ASTORIA  
ASTORIA, OREGON

EAST WARRENTON INTERCEPTOR SEWER  
PLAN & PROFILE 0+00-24+00

3/11  
FILE 1042  
3373

E. J. W. DRAWN: B. D. F. CHECKED: APPROVED: SCALE: AS NOTED DATE: MARCH '74

1 AS-BUILT PLAN AND PROFILE  
SCALE: NTS

BID DRAWINGS

FILE NAME: E Harbor Heron Force Main 08 21 23.dwg



REVISIONS			
DATE	MARK	DATE	DESCRIPTION
MAY 1, 2023			
	RCS	8/21/23	CITY COMMENTS
	RCS		
	RCS		

E HARBOR AND HERON FORCE MAIN PROJ.  
PORTION OF ORIGINAL AS-BUILT DRAWINGS  
PLAN, PROFILE, AND DETAILS

CITY OF WARRENTON  
RICHARD COLLIN STELZIG, PE  
RICHARD.STELZIG.ENGINEERING@GMAIL.COM 503-440-2286

DRAWING NUMBER  
**G-1**



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: September 12, 2023  
SUBJ: Police Association Collective Bargaining Agreement

### SUMMARY

The authorized bargaining team has reached a tentative agreement on the attached Agreement Between the City of Warrenton and Warrenton Public Safety Association Employees, "The Association." The financial considerations were previously discussed with the Commission. In Summary we have reached an agreement of first year COLA 5.5%, 2<sup>nd</sup> and third year COLAS at 2-4% based on CPI-U West Class B/C annual average of the calendar year prior. We have also agreed to add Juneteenth as a holiday as well as some slight increases to certification pay, longevity pay, and some other accruals and compensation. Overall, I believe these have been reasonable requests that show how much we value our Police employees and the work they do for the City of Warrenton.

### RECOMMENDATION/SUGGESTED MOTION

I move to approve the Agreement between the City of Warrenton and the Warrenton Public Safety Association, and authorize the mayor and city manager to sign the agreement.

### ALTERNATIVE

None recommended.

### FISCAL IMPACT

Fiscal impact will be included in the 2024-2025 proposed budget.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

AGREEMENT

BETWEEN

CITY OF WARRENTON, OREGON  
AND  
WARRENTON PUBLIC SAFETY ASSOCIATION

July 1, 2023 through June 30, 2026

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## ARTICLE 1 - RECOGNITION AND ASSOCIATION SECURITY

**1.1 Unit Description.** The City recognizes the Association as the sole and exclusive bargaining agent for the purpose of establishing salaries, wages, hours and other conditions of employment, as required by state statute, for all regular police department officers and the police clerk. The bargaining unit excludes the Police Chief, sergeants, police reserves and part-time employees, except for part-time employees who work more than one thousand forty (1040) hours in twelve (12) months shall be included in the unit provided they thereafter average twenty (20) hours or more per week during each three (3) months.

**1.2 Check Off.** The City agrees to deduct the Association membership dues once each month from the pay of those employees who individually request, in writing, that such deductions be made. The amounts to be deducted shall be certified to the City by the treasurer of the Association and shall be remitted, together with an itemized statement, to the treasurer of the Association, by the 10th of the succeeding month, after such deductions are made. The Association agrees to indemnify, defend and hold harmless the City against any claims made and against any suit instituted against the City as a result of any action taken pursuant to the provisions in this article.

**1.3 Association Activity.** Employees' work performance shall not be interfered with due to Association business or Association activity. However, the City will allow one designated Association representative reasonable time to engage in the following Association activities during work hours without loss of compensation or benefits:

- a. Investigate and process grievances and other work-place-related complaints.
- b. Attend investigatory meetings, hearing, and other due process proceedings involving Association employees.
- c. Participate in or prepare for proceedings under PECBA that arise from a dispute involving a collective bargaining agreement, including arbitration proceedings, administrative hearings, and other proceedings before the Employment Relations Board (ERB).
- d. Act as a representative of the exclusive representative for employees within the bargaining unit for purposes of collective bargaining.
- e. Attend labor management meetings held by a committee composed of employers, employees, and representatives of the labor organization to discuss employment relations matters.
- f. Provide information regarding a collective bargaining agreement to newly hired employees at employee orientations or at any other meetings for new employees.
- g. Testify in a legal proceeding in which the public employee has been subpoenaed as a witness.
- h. Perform any other duties agreed upon by a public employer and an exclusive representative in a collective bargaining agreement or any other agreement.

**1.4** The Association shall be allowed to hold business meetings and conduct business on City premises provided that said meetings are before or after the employees' regular work hours, during meal periods

and during any other break periods and are 1) not disruptive to the duties of the employees 2) does not interfere with the efficient operation of the police department 3) do not conflict with organized City meetings scheduled for the premise.

## ARTICLE 2 - SETTLEMENT OF DISPUTES

**2.1 *Grievance and Arbitration Procedures.*** Nothing in this article precludes the resolutions of differences on an informal basis. Any grievance or dispute which may arise between the parties involving the application, meaning or interpretation of this Agreement shall be settled in the following manner:

Step 1. The employees or Association shall submit the grievance in writing to the Chief of Police within ten (10) working days from the date the employee or Association knew or should have known of the alleged violation, whichever came first. The written grievance shall contain the following information:

- A. A statement of the grievance and the relevant facts to support it.
- B. The article and section of the Agreement which has been breached.
- C. A description as to exactly how this Agreement was breached.
- D. A statement of the remedy or resolution being sought by the employee or Association.

Within ten (10) working days, the Chief of Police shall call a meeting with the employee and/or the Association representative to discuss and clarify the grievance, and attempt to resolve said grievance before responding in writing. The Chief of Police shall respond to the employee, giving the decision in writing within ten (10) working days of receiving the grievance or the meeting with the employee, whichever comes later.

Step 2. If the grievance remains unresolved after Step 1, the employee shall, within ten (10) working days of receipt of the written response of Step 1, submit a grievance in writing to the City Manager.

Within ten (10) working days, the City Manager shall call a meeting with the employee and the Association representative to discuss the grievance, and attempt to solve said grievance before responding in writing. The City Manager shall respond to the employee, giving the decision in writing within ten (10) working days of receiving the grievance, or the meeting with the employee, whichever comes later.

Step 3. If the grievance is still unsettled, either party may, within ten (10) working days after the response from the City Manager is due, by written notice to the other party, request arbitration. Only grievances over the application, meaning, or interpretation of a specific provision of this Agreement may be submitted to arbitration. The arbitration shall be limited to the issues raised in the written grievance filed by the employee or Association. The arbitrator's decision shall be made in writing and shall be issued to the parties as soon as practical after the case is submitted to the arbitrator.

**2.2 *Selection of Arbitrator.*** For all matters not subject to 2.3 below, the parties shall attempt to select an arbitrator who is mutually acceptable. If within ten (10) working days from the request for arbitration,

the parties are unable to agree upon an arbitrator, the State Mediation and Conciliation Service shall be requested to submit a list of seven (7) arbitrators with offices in Oregon or Washington. The party to strike the first arbitrator shall be determined by coin flip. This process shall be repeated, and the remaining person shall be the arbitrator.

**2.3 Selection of Arbitrator – Disciplinary Arbitrations for Law Enforcement Personnel.** For disciplinary grievances involving an alleged violation of Article 3 for law enforcement personnel (as defined by ORS 131.930), the Association shall submit a request for the Employment Relations Board to appoint an arbitrator pursuant to the process established in ORS 243.808-812 after providing notice to the City.

**2.4 Sharing of Expenses.** Expenses for the arbitration shall be borne by the losing party. Each party, however, shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim recording of the proceedings, it may cause such a record to be made, provided it pays for the record and makes a copy available, without charge, to the arbitrator. If the other party desires a copy, both parties shall jointly share the cost of the transcript and all copies.

**2.5 Authority of Arbitrator.** The arbitrator shall have the authority to consider only a claim based upon a specific provision of this Agreement and shall have no authority to add to, modify or detract from this Agreement. The decision of the arbitrator shall be final and binding upon the parties.

Time limits may be extended by written mutual agreement including by email. In the event the parties dispute timeline issues for matters submitted to arbitration, the arbiter will be limited to hear the timeliness arguments first, including any closing summation by the parties. The arbiter will then rule from the bench on the timeliness issue.

## ARTICLE 3 - DISCIPLINE AND DISCHARGE

**3.1 Discipline and Discharge.** No employee shall be disciplined or discharged except for just cause, as that term is defined under ORS 236.350. Counseling, including oral warnings or similar, even if reduced to writing are not considered to be discipline and may not be protested through the grievance procedure. Counseling can be maintained in the supervisory file and referenced for the purposes of yearly evaluations or progressive discipline, and are not placed in the personnel file. Employees will be notified if counseling is placed in their supervisory file.

**3.2 Probationary Employee.** The provisions of this article shall not apply to employees who have not completed the probationary period of employment.

**3.3 Progressive Discipline.** The principles of progressive discipline will generally be followed based on the totality of circumstances. Progressive discipline or corrective actions normally include the following steps: oral warning reduced to writing (considered a counseling); written reprimand; suspension without pay; demotion; and dismissal.

**3.4 Imposition.** If a supervisor has reason to discipline an employee, the supervisor shall make reasonable efforts to impose such discipline in a manner that will not unduly embarrass the employee before other employees or the public.

**3.5 Due Process.** In the event the City believes an employee may be subject to discipline greater than a written reprimand, the following procedural due process shall be followed:

- A. The employee and Association representative shall be notified, in writing, of the charges or allegations that may subject them to discipline.
- B. The employee and Association representative shall be notified, in writing, of the disciplinary sanctions being considered.
- C. The employee will be given an opportunity to refute the charges or allegations either in writing or orally in an informal hearing.
- D. The employee shall be notified, in writing, that the employee will be entitled to Association representation at the informal hearing.

**3.6 Employee Bill of Rights.**

All employees in the bargaining unit shall be entitled to protection of what shall hereafter be called the Employees' Bill of Rights.

The wide-ranging powers and duties given this department and its members involve them in all manners of contacts and relationships with the public and other City employees. These contacts result in many questions concerning the actions of members of the department.

These questions often require immediate investigation by the employee's supervisor or their appointed internal affairs investigator. In an effort to ensure that these investigations are conducted in a manner that is conducive to good order and discipline, the following guidelines are promulgated:

- A. The employees covered by this Agreement do not waive any of their constitutional or civil rights guaranteed by the federal and state constitutions and laws afforded any citizen of the United States.
- B. Prior to any investigation interview that could result in suspension or dismissal the employee shall be notified at least twenty-hour (24) hours in advance, except when in the reasonable opinion of the City a delay will jeopardize the investigation or when criminal conduct is at issue. The employee shall be informed by the Chief of Police of the general nature of the investigation and whether the employee is a witness or suspect before any interview commences.
- C. Any interview shall take place in the employer police office except when impractical. The interview shall be at a reasonable time for the employee, preferably during the employee's duty time, unless the exigencies of the investigation dictate otherwise.
- D. The employee shall be afforded the right to counsel and/or Association representative prior to and during the interview. After the interviewer has completed questioning of the employee, the representative may ask clarification questions to clarify previous answers or to elicit further information, may suggest additional witnesses to be interviewed, and may present additional information that may be relevant.

- E. The employee shall be entitled to reasonable rest periods.
- F. Interviews shall be done under circumstances devoid of intimidation or coercion and shall not otherwise violate the employee's constitutional rights. The employee shall not be subject to any abusive language.
- G. The employee shall not be required to take or be subjected to any lie detector device as a condition of continued employment.
- H. No suspension without pay, reduction in salary, demotion or dismissal will take place without due process.

## ARTICLE 4 - GENERAL PROVISIONS

**4.1 Uniforms and Protective Clothing.** If an employee is required to wear a uniform, protective clothing or any type of protective device as a condition of employment, such uniform, protective clothing or protective device shall be furnished to the employees by the City. The City will provide, at a minimum, the following list of uniforms and general equipment for each full-time regular officer. The police department may provide additional equipment for an individual officer based upon their specialty assignment needs.

### Uniforms

Three short sleeve uniform shirts	One department handgun
Three long sleeve uniform shirts	One duty belt equipped with necessary police equipment
Three pairs of uniform pants	One bullet proof vest
One pair of uniform boots or shoes*	Insignia and badges for uniforms
One uniform rain coat	One flat badge as provided
One pair of rain pants	
One uniform hat	

\*Reimbursement for boots will be a maximum of two hundred fifty dollars (\$250.00). Boots or shoes will be of good quality. Boots or shoes may be re-soled at least once before replacement.

The City will provide for cleaning and maintenance of uniforms supplied. Each officer will be required to maintain said uniforms and equipment in reasonable condition based upon their use and age.

Detective Assignment Clothing Repair/Replacement: Other than usual customary wear, the City will clean or replace clothing damaged or soiled in the line of duty, not to exceed two hundred dollars (\$200) per fiscal year on a reimbursement basis subject to applicable withholding.

To the extent practicable, replacement equipment shall be generally equivalent to the standard of the equipment used as of the execution of this Agreement.

**4.2 Personnel Files.** Employees may review their personnel file at reasonable times during business hours and may receive a copy of the employee's personnel file at no cost to the employee.

Employees shall be required to read and sign any adverse material placed in their personnel file. Signing of such material does not necessarily indicate the employee's agreement.

Employees may provide a written response to evaluations, warnings and reprimands within ten (10) working days of signing any adverse material. All disciplinary items in an employee's personnel file shall be removed after twenty-four (24) months. However, if an employee is disciplined on a matter related to any material in the file, the original discipline shall be refreshed for the ensuing twenty-four (24)-month period.

Items removed as per the preceding paragraph shall be retained by the City in a sealed historical file separate from the personnel file to be kept by the City Manager or their designee. This file shall be released only in the case of legal or liability reasons. Once items are removed they will not be relied upon by the City to build further disciplinary actions against the employee, unless used for impeachment or notice of rule.

**4.3 Leave Request.** All leave requests shall be approved or denied within seven (7) working days from the date the employee submits the request.

**4.4 Ammunition.** All officers shall receive one hundred fifty (150) rounds of ammunition at no cost to the employee, per quarter, to maintain qualification. This provision has no value upon separation of employment.

## ARTICLE 5 - WORK WEEK AND OVERTIME

**5.1 Hours of Work.** The regular hours of work shall consist of one of the following. The City shall give employees at least thirty (30) days' notice if it wants to change regular working time per A or B below:

- A. Five day, eight-hour shift. The regular working time shall be five (5) consecutive work days of eight (8)-hour shifts with two (2) consecutive days off including a half (½)-hour lunch and two fifteen (15)-minute rest breaks per day. If an officer must work beyond eight (8) hours per day or forty (40) hours per week, the employee will be paid at the rate of time and one-half (1½).
- B. Four day, ten-hour shift. The regular working time shall be four (4) consecutive work days of ten (10) hour shifts with three (3) consecutive days off (unless on shift rotation) including a half (½)-hour lunch and two fifteen (15)-minute rest breaks per day. If an officer must work beyond ten (10) hours per day or forty (40) hours per week, the employee will be paid at the rate of time and one-half (1½). For the purposes of shift rotations, an employee schedule may be adjusted to reflect a forty (40)-hour work week with three (3) days off which may not be consecutive.

**5.2 Work Week.** The work week is between 12:01 AM Monday to 12:00 Midnight the following Sunday.

**5.3 Selection of Shifts.** Subject to staffing and qualification needs as determined by the Chief, seniority shall be a preferred factor in the selection of shifts and days off, provided the officer is otherwise qualified. Shifts are determined by the following two (2) options at the discretion of the Chief. The

department will post the yearly schedule by November 15th either for 1) a yearly shift bid or for 2) bidding days off while on rotations.

1. **Yearly Shift Bid.** Shifts shall be "re-bid" prior to January 1 of each year. All available shifts, as determined by the Chief or their designee, shall be posted and officers shall select their shift based on seniority (ie: graveyards for the whole of the year).
2. **Rotations within the year.** In the event the City elects to rotate shifts, preference shall be given on the basis of seniority for days off as available on each rotation for days off (see Article 10.4). (ie: employees rotate shifts 3-4 times year (days to swing to grave) and bid days off). A bid for days off while on a rotation schedule may also occur as a result of a vacancy.

**5.4 Schedule changes to individual schedules:** Due to the small size of this department, schedule changes may be necessary to cover unexpected leaves or events. The department will make best efforts to provide more than five (5) days' notice of individual shift changes. The five (5)-day period is one hundred twenty (120) hours.

In the event more than five (5) days' notice is not provided, excluding emergency circumstances involving unforeseen events, the officer will receive overtime for the adjusted hours different from the original scheduled shift. (For example: If the employee's shift is adjusted by two (2) hours, the employee receives two (2) hours of overtime and eight (8) hours straight time for the regularly scheduled ten (10)-hour shift.)

"Notice": Where notice is less than five (5) days, the department will contact individuals by phone (text/voicemail) or personal contact.

Where notice is greater than five (5) days, email may be used.

The contact, if off hours, will not be considered compensable time if de minimis. Mutually, employees will make best efforts to provide advance notice of requests for time off.

**5.5 Overtime.** Overtime shall be paid at the rate of time and one-half (1½) of the officer's applicable rate for hours exceeding eight (8) per day or forty (40) per week for a five-eight (5/8) shift or ten (10) per day for a four-ten (4/10) shift.

All overtime must be approved by the Chief of Police and/or the City Manager on forms separate from the monthly time sheet. Hours of work, for the purposes of computing the threshold of reaching forty (40) hours worked include all paid leave such as vacation leave, sick leave, holidays, etc. Overtime will only be paid for hours worked and there will be no pyramiding of overtime.

**5.6 On Call Time.** No employee shall be placed on call more than four (4) hours in any one (1) work week, unless a bona fide emergency exists. Any scheduled on-call time beyond four (4) hours weekly will be paid at half (½) time pay with the officer being readily available to respond to calls for duty. All employees required to be on call shall be provided with a cell phone at City expense. Employees will not be subject to on call on their days off.

**5.7 Minimum Call Out or Off Duty Court Appearance Pay.** Any employee called back to work for a particular and individual work event on the employee's scheduled off duty time shall receive a minimum call out pay of three (3) hours at the rate of time and one-half (1½) the employee's regular hourly rate. A

second call out or court appearance for a different problem within the original three (3) hours will not be considered an additional call out. This section does not apply to a shift changes provided by 5.4 above.

**5.8 *Alternate Work Schedules for Officers.*** With the approval of the Chief or designee, an employee may flex their work schedule within the work week to avoid or minimize overtime.

**5.9 *Shift Trading.*** Subject to the approval of the Chief or designee, officers may agree to trade shifts and days off. The City is not responsible for repayment of shifts or any overtime as a result of the trade. In the case of rotating shifts, any trade of a shift shall have no effect on the officer's subsequent rotations. Following a trade, each officer shall rotate to the shift they would have if the trade had not taken place.

**5.10 *Scheduled Overtime.*** Scheduled overtime shall be offered by seniority. If an officer takes or refuses the overtime; they shall rotate to the bottom of the list. New hires are placed at the bottom of the list when initially qualified. Officers may remove their name from the list for any period of time. When returning after a hiatus, they shall be placed on the bottom of the list.

The sergeant may work the overtime after the exhaustion of the callback list, if no employee is available, or if they elect not to mandate overtime. If the overtime situation requires the presence of a supervisor the provisions of this article shall be waived.

**5.11 *Unscheduled Overtime.*** The Chief or designee shall schedule according to operational needs.

It is understood that the department may mandate overtime when circumstances warrant.

**5.12 *Compensatory Time.*** Upon request of the employee, compensatory time at the rate of time and one-half (1½) shall be designated in lieu of pay for overtime. Compensatory time shall not accrue in excess of forty (40) hours. The employee may carry over into the next fiscal year up to twenty (20) hours, with any remainder paid in the last pay period of the ending fiscal year. Compensatory time off will be administered in accordance with the Fair Labor Standards Act.

## ARTICLE 6 - COMPENSATION

**6.1 *Wages.*** Employees shall be compensated in accordance with Appendix A, which is made a part of this Agreement by this reference. The salary scale will reflect steps with a differentiation of five percent (5%) between steps up to Step 6.

Effective July 1, 2023, the City will increase Step A for each classification by five and a half percent (5.5%). Steps are five percent (5%) apart. (*Bargaining note: This is the only retroactive provision of the CBA.*)

Effective July 1, 2024 and July 1, 2025, the City will increase Step A for each classification by a minimum of two percent (2%) and a maximum of four percent (4%) based on the CPI-U West Size Class B/C annual average of the calendar year prior. Steps are five percent (5%) apart.

Effective since July 1, 2015, the salary scale includes a Step 7 that is two and one-half percent (2.5%) above Step 6 applicable for officers with at least eight (8) years (ninety-six (96) months) of continuous service as a sworn officer as eligible under this article.

Salary steps are based on yearly satisfactory performance evaluations. Denial of a step increase is grievable, however, by mutual agreement of the parties on a case by case basis, the City will allow a ninety (90)-day period for reevaluation. If the employee successfully meets expectations in the second review, the employee will be eligible for the increase for the next nine (9) months, in efforts to maintain yearly steps.

**6.2 Starting Salary.** New employees will be hired at Step 1 or Step 2, at the discretion of the City. For purposes of recruitment of lateral hires, the City may hire a lateral officer at a higher step on the wage scale based on the years of service as a certified police officer. For example, an officer with four (4) years of service as a certified officer may not be hired at more than Step 5.

**6.3 Probationary Period and Steps.** New employees will serve an eighteen (18)-month probationary period and are not eligible for step increase until satisfactorily completing the probationary period.

Upon successful completion of the eighteen (18)-month probationary period, employees will receive the next step on the wage scale. Employees are eligible for additional steps upon their anniversary date from date of hire upon satisfactory evaluation. *(Note: An employee who successfully completes probation is eligible for an additional step at twenty-four (24) months of hire.)* Employees may receive yearly evaluations regardless of step status.

Employees on probation serve at the discretion of the City and may be terminated without recourse to the grievance process.

**6.4 Probationary Period for Lateral Hires and Non-Sworn Employees.** Lateral hires and non-sworn employees shall serve a twelve (12)-month probation. A lateral hire must be Oregon DPSST certified or eligible for certification. In the event the employee is not DPSST certified, the employee must be certified within one hundred eighty (180) days and probation starts after certification. The City retains discretion upon hiring for all qualifications and years of experience for the position.

At the Chief of Police's sole discretion, the City may grant a lateral hire a step increase after twelve (12) months of employment with the City regardless of whether the lateral hire has obtained an Oregon DPSST certificate if the delay in achieving the certificate is—in the Chief's sole opinion—out of the lateral hire's control.

Employees on probation serve at the discretion of the City and may be terminated without recourse to the grievance process.

**6.5 Senior Patrol Officer Pay.** Employees who have completed seven (7) years' service and who hold an advanced certificate shall receive the designation of Senior Patrol Officer (SPO) and will also have five percent (5%) added to the officer's base rate per month. SPO pay does not impose any change in rank or classification from police officer.

**6.6 Pay Date.** The City may change the pay date with notice to the Association. The parties shall negotiate the impact of the change.

**6.7 Certification Pay.**

- A. All employees who possess a DPSST intermediate certificate shall receive two hundred twenty-five dollars (\$225) monthly. Certification pay shall be added to the monthly salary.
- B. All employees who possess a DPSST advance certificate shall receive three hundred dollars (\$300) monthly, non-accumulative to intermediate certificate pay. Certification pay shall be added to the monthly salary. *(Note: see also Article 6.5.)*

**6.8 Field Training Officer Premium.** Officers assigned as Field Training Officer (FTO) shall receive a five percent (5%) differential in pay upon their base wage for each shift serving as FTO. The officer shall be paid for a full shift for any assignment of more than four (4) hours. The officer must complete the FTEP class to be qualified as a FTO.

**6.9 Canine Officers.** The City, at the discretion of the Chief and City Manager, may utilize a police canine. The assignment of canine patrol is an assignment that may be transferred or stopped at the discretion of the Chief. An officer assigned to the canine program is responsible for the routine care of their animal. The parties agree that at the discretion of the agency, the employee may be relieved from duty for the equivalent of four (4) hours per work week or be assigned a full shift and receive compensation for those four (4) hours beyond their regularly scheduled shift as adequate time for weekly care, prorated daily with shift schedules. When compensation is received, the employee may elect compensatory time off or payment.

Canine patrol duties require specialized training and experience. Officers assigned to canine patrol will receive an additional incentive of five percent (5%) base pay per pay period during the period of the assignment.

**6.10 Travel, Mileage and Meals.**

- A. Travel requests, for any purpose, must be approved by the employee's supervisor and the City Manager in advance of the travel. Travel shall be by the least expensive mode as feasible.
- B. Vehicle travel should be as follows:
  - 1. If a City car is available, it should be used. A gas credit card is available from the cashier.
  - 2. If a City car is not available, the employee may use his or her own car. Reimbursement will be equal to the Internal Revenue Service allowance for mileage.
  - 3. Reimbursements for lodging and meals shall be paid only if the amounts are not included in the conference or meeting package, however breakfast per diem will be provided to employees on travel status.
  - 4. Meals will be by GSA per diem.

5. Motel/hotel reimbursements shall be the actual value of the accommodation and shall not exceed the conference rate. If conference rates are not available, advance approval is required from the City Manager.

The employee may request an advance to pay for lodging expenses. Upon return, the employee will turn in receipts for accommodations.

**6.11 Detective Assignment:** The Chief retains the discretion to assign work duties including focused work on investigations in a Detective capacity. A police officer assigned in writing to the assignment of Detective will receive the additional premium of five percent (5%) of base pay for each month of the assignment, or as prorated. This assignment does not create a new classification and the term of the assignment or removal from the assignment is at the sole discretion of the Chief of Police.

**6.12 Longevity Pay.** Employees' longevity pay shall be based on a percentage of the per pay period base wage of the employee as follows:

- 1% after 10 years continuous service (120 months)
- 2% after 15 years of continuous service (180 months)
- 3% after 20 years of continuous service (240 months)
- 4% after 25 years of continuous service (300 months)

Longevity steps are not cumulative.

## **ARTICLE 7 - HEALTH AND WELFARE/PENSION**

**7.1 Insurance.** The premium cost share will be that the City contributes ninety percent (90%) and the employees contribute ten percent (10%) of the aggregate premium through payroll deduction.

Orthodontia coverage is part of the current dental plan and included with the total premium.

The City will provide full-time employees and their dependents CIS plan HDHP-4, including RX, Dental-ODS Plan II, Ortho, Alternative Care Rider, and Vision VSP A.

The City will establish a Health Savings Account (HSA) for each eligible employee.

1. For all employees hired after July 1, 2023, the City shall contribute to an employee's HSA an annual amount of one thousand seven hundred dollars (\$1,700) for employees on an employee-only plan, or three thousand four hundred dollars (\$3,400) for employees on a plan with one (1) dependent or more elected. These contributions will be prorated and made monthly. If an employee's plan status changes during the year, the HSA contribution will adjust the following month after notification to the City for the remainder of the year. The maximum employer contribution per year is either one thousand seven hundred dollars (\$1,700) for employee-only, or three thousand four hundred dollars (\$3,400) for an employee with one (1) dependent or more elected.

2. The parties agree that the HSA monthly payment after July 1, 2026, exceeds the term of this CBA and is the only enforceable term beyond the term of the CBA ending on June 30, 2026, excluding any statutory status quo obligations.
3. For all employees hired before July 1, 2023, in the first pay period of the calendar year, the City will pay a lump sum contribution to the employee's HSA account in the amount of eight hundred fifty dollars (\$850) for employee-only, or one thousand seven hundred dollars (\$1,700) for an employee with one (1) dependent or more elected.
4. In the first pay period of July, the City will pay a lump sum contribution to the employee's HSA account in the amount of eight hundred fifty dollars (\$850) for employee-only, or one thousand seven hundred dollars (\$1,700) for an employee with one (1) dependent or more elected.
5. The maximum employer contribution per year is either one thousand seven hundred dollars (\$1,700) for employee-only, or three thousand four hundred dollars (\$3,400) for an employee with one (1) dependent or more elected.
6. The parties agree that the HSA payment on July 1, 2026, exceeds the term of this CBA and is the only enforceable term beyond the term of this CBA ending on June 30, 2026, excluding any statutory status quo obligations.
7. Part-time employees. Part-time employees will receive prorated payments based on budgeted FTE hours worked except employees budgeted for seventy-five percent (75%) FTE or greater will be treated with same cost share as full-time employees.
8. For employees who do not have a choice to participate in an HSA account because of coverage under Medicare, Tricare/VA, or Indian Health Services, the City will make available a comparable benefit, subject to IRS and plan regulations.
9. Employees may apply vacation cash outs to their independent HSA accounts, up to eighty (80) hours maximum per fiscal year, as permitted under the limitations of Article 9.3, or apply remaining comp time balances over the twenty (20)-hour carry over per year under Article 5.12.

**7.2 Life and Accidental Death and Dismemberment.** The City will provide each employee with a fifty thousand dollar (\$50,000) term life insurance policy with double indemnity at no cost to the employee.

**7.3 Long-Term Disability.** The City will make available and pay for a long-term disability insurance plan.

**7.4 Retirement/PERS.**

- A. **Tier III.** The City shall provide eligible employees with retirement coverage through the Public Employees Retirement System (PERS). Since July 1, 1998, the employer will pay the employee's portion of PERS.

The City shall report unused sick leave to PERS upon retirement for the purpose of computing the retiree's benefit consistent with PERS rules.

- B. **OPSRP.** The city shall provide eligible employees with retirement coverage through the Oregon Public Service Retirement Plan (OPSRP). The City will pay the employee's contribution to OPSRP.

**7.5 Insurance Committee.** The parties recognize the value to monitor and evaluate health care insurance coverage and trends as a result of the many changes to insurance benefits occurring in the current conditions. At the Association's request, the parties agree to meet as a voluntary insurance committee quarterly to discuss insurance trends, plans, and options. The meetings can be attended by Association representatives and employees, City management and executive representatives, and non-represented employees, with one of each group serving together to direct the meetings. The meetings are non-binding and informal intended to serve as informational and as an evaluation of the conditions. The meetings should be posted thirty (30) days in advance or as otherwise necessary. In the event the City or Association seeks to adjust insurance benefits or plans as a result of these meetings, the parties will give respective notice, as under PECBA, for further inquiry for additional discussions with the Association or City or provide a request to bargain. Participation in the committee does not waive any rights under PECBA.

## ARTICLE 8 - LEAVES

**8.1 Sick Leave.** All regular, full-time employees shall be entitled to eight (8) hours of sick leave with pay for each calendar month served, or fraction thereof. Part-time employees earn sick leave prorated on budgeted FTE with a minimum of one (1) hour earned for every thirty (30) hours not to exceed the prorated accrual. Accumulation of sick leave shall be capped at one thousand two hundred sixty (1,260) hours. All current employees hired prior to January 15, 2014, will be grandfathered at the previous one thousand nine hundred twenty (1,920)-hour cap. Sick leave with pay is intended to cover illness or injury of the employee or illness in his or her immediate family. Sick leave will be used for any qualifying event which triggers family medical leave as described in federal or state laws in accordance with City policy.

The City may require medical certification for use of leave as allowed by applicable law or after three (3) consecutive days. A doctor's certificate verifying that the employee is able to resume his or her normal work duties may be required upon a return to work from medical leave.

Any employee abusing any provision of this article may be subject to the provision of Article 3 - Discipline and Discharge.

With the approval of the City Manager, employees may donate vacation leave in excess of eighty (80) hours to other employees on an individual need basis only for the most serious of extended illness or injuries, or may donate leave as provided by City policy, subject to IRS regulations. Donated leave is only provided as needed.

**8.2 Jury Duty.** When an employee acting in their official capacity is subpoenaed as a witness on a case involving the City, the employee shall receive regular pay. Employees called to jury duty shall receive regular pay. No overtime will be earned on jury duty. If the employee is released for the day prior to noon, the employee will return to work. The employee shall be required to transfer to the City any salary, less personal expenses, received for such duty. See Section 5.7 for Off Duty provisions.

**8.3 Bereavement Leave.** In the event of a death in an employee's immediate family, including spouse, children, a relative living in the employee's household, parents, grandparents, sister, brother, grandchildren and in-laws, the employee shall be granted, with the approval of the City Manager, leave of absence with pay not to exceed five (5) working days. If additional time is requested, the City is willing to review the circumstances for the approval of additional time. This provision is concurrent with any benefits provided by OFLA.

**8.4 Leave Without Pay.** Leave without pay may be granted to any regular employee by the City Manager for any period of time up to three (3) months for personal, professional or family reasons.

All leave without pay must be requested by the employee in writing as soon as the need for such a leave is known. All written requests shall state the reason for the leave and the amount of leave time needed. Written request shall be submitted to the employee's supervisor, and referred to the City Manager with the supervisor's recommendation. All leave without pay shall be approved in writing by the City Manager setting out the terms, conditions and length of said leave. The City Manager has the discretion to reduce or deny the leave without pay request when the reduction or denial is in the best business interest of the City.

Failure to return from any leave without pay on or after the designated date, unless approval is given by the City Manager, may, subject to due diligence to contact the employee, be considered a voluntary resignation, and may be cause for denying reemployment with the City. Employees on leave without pay may return to work early, provided notice is given to their supervisor at least five (5) regular City work days in advance.

Holiday pay, sick leave and vacation benefits are not earned while an employee is on leave without pay. The City will not pay any portion of the employee's group medical and life insurance premiums while the employee is on leave without pay, unless otherwise required by applicable law or under a workers' compensation claim as provided by the CBA. The employee may elect to personally continue such coverage as provided permissible by COBRA and carrier rules.

Employees are required to use any earned but unused sick, if applicable, vacation and holiday benefits before a leave without pay is granted.

**8.5 Use of Sick Leave.** Employees who are granted leave without pay for medical or disability reasons must exhaust all accrued leaves prior to commencing leave without pay. The City will make efforts to provide for reasonable accommodations that do not create an undue burden on the employer as applicable by law.

**8.6 Paid Leave Oregon.** The City does not agree to pick up the employee's contribution to Paid Leave Oregon.

## ARTICLE 9 - VACATIONS AND HOLIDAYS

**9.1 Accrual.** All regular, full-time employees shall accrue vacation time as listed for the following periods of continuous service. Maximum accumulation of vacation will be four hundred eighty (480) hours.

**CONTINUOUS SERVICE**

**MONTHLY ACCRUAL**

0 through the 35 <sup>th</sup> month	8 hours
36 <sup>th</sup> month through the 71 <sup>st</sup> month	10 hours
72 <sup>nd</sup> month through the 119 <sup>th</sup> month	12 hours
120 <sup>th</sup> month through the 179 <sup>th</sup> month	13 hours
180 <sup>th</sup> month through the 203 <sup>rd</sup> month	14 hours
204 <sup>th</sup> month through the 239 <sup>th</sup> month	15 hours
240+ months	16.66 hours

Vacations shall be requested by the employee and approved by the Chief of Police. For vacation and training requests submitted at least thirty (30) calendar days in advance, the City will respond in ten (10) working days. If no response is given to the request for vacation leave, the requested leave shall be deemed to have been granted as the employee requested. If no response is given to the request for training, the request shall be deemed to have been denied.

**9.2 Vacation Scheduling.** So long as all shifts are covered, the department shall allow two (2) employees off on vacation at one (1) time subject to approval by the Chief of Police.

Employees shall be allowed to select two (2) vacation periods on the basis of seniority. Each vacation period must be of a minimum duration of one (1) day. Vacation time shall be scheduled with due consideration being given to requests from officers which shall be determined among officers of equal rank by seniority; provided, however, that each officer shall be permitted to exercise the right of seniority only once each year. The sign-up deadline for the exercise of seniority in the selection of vacations shall be March 15 for the calendar year running from April 15 through April 14 of the following year.

New employees shall not be eligible for vacation leave during their first year of employment, although vacation time shall be accrued from the beginning of employment. If, for any reason prior to the completion of one (1) year of continuous service with the City, such employee is terminated, the employee shall receive no credit for vacation time.

**9.3 Vacation Leave Cash Out.** Employees may cash out up to forty (40) hours of vacation leave per fiscal year. To be eligible, the employee must have forty (40) hours scheduled for vacation leave and have a balance of eighty (80) hours vacation leave.

**9.4 In-Lieu-Of Pay for Officers.** Police officers shall be entitled to an equivalent amount of fifteen (15) days of holiday leave per fiscal year in lieu of the designated calendar holidays. A "day" shall be defined as the number of hours in the employee's regularly assigned shift. This time shall be credited to the officer July 1. If the regularly assigned shift is changed during the year, the annual conversion amount shall be adjusted on a pro rata basis. Officers hired during the fiscal year shall have the number of hours prorated based on the first full month of employment. The holiday time taken off shall be set at the discretion of the Chief of Police. Holiday time is to be used within the fiscal year earned unless work requirements prevent the employee from taking the time off. Holiday time not used within the fiscal year may be paid off in June at the City's option. If the officer is unable to use the holiday hours prior to the end of the fiscal year, the officer shall notify the Chief prior to June 1. If the Chief and the officer are unable to schedule time off prior to the end of the fiscal year, the Chief shall notify the City Manager. The

officer and the City Manager shall mutually agree whether the unused holiday hours shall either be paid or carried over into the next fiscal year or any combination of options.

**9.5 Holidays.** The following are the regularly paid holidays for employees other than police officers:

New Year's Day	1 <sup>st</sup> day of January
Martin Luther King Jr's Birthday	3 <sup>rd</sup> Monday in January
Presidents' Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Juneteenth	19 <sup>th</sup> of June
Independence Day	4 <sup>th</sup> of July
Labor Day	1 <sup>st</sup> Monday in September
Veteran's Day	11 <sup>th</sup> of November
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day After Thanksgiving	Friday after Thanksgiving
Christmas Eve	24 <sup>th</sup> of December
Christmas Day	25 <sup>th</sup> of December
1 Personal Holiday*	

\*Any holiday falling on a Saturday will be observed the preceding Friday. Any holiday falling on Sunday will be observed the following Monday.

## ARTICLE 10 - SENIORITY AND LAYOFF

**10.1 Seniority.** Seniority means the continuous length of service since a regular employee's last date of hire. To the extent required by law governing military leaves and duty connected disability leave shall be included in length of service.

If an officer, who has been promoted to a position not in the Association, while in City service, reverts to a position they formerly held, the officer's seniority shall be restored in the classification to which the officer reverts, however time served in non-bargaining unit positions will not be credited to seniority.

**10.2 Scheduling.** Preference in vacation scheduling shall be contingent upon City's working requirements and by seniority whenever feasible. Final approval of the vacation schedule shall be subject to staffing levels. Vacation requests shall be administered under City policy.

**10.3 Lay-off.** In the event the City determines a layoff for any reason, employees shall be laid off in the inverse order of their seniority by classification.

Affected employees will be advised of the layoff at least fifteen (15) working days in advance of the effective date.

**10.4 Recall.** Employees shall be called back from layoff in inverse order of layoff by classification for up to two (2) years from the date of layoff. No new employees shall be hired until all employees on layoff status have had an opportunity to return to work. In order to maintain their right to recall, an employee must register in person or by mail with the City Manager or their designee upon change of address and telephone number signifying their availability for recall. If the employee fails to notify the City and as a

result the City is unable to notify an employee of a vacancy for recall, the employee shall be taken of the layoff list and shall be considered a voluntary resignation.

**10.5 Return to Service.** The employee shall notify the City of their availability to return to service upon receipt of a recall notice within five (5) working days. The employee must be able to return to service within fifteen (15) working days of the receipt of the recall notice. In the event a police department employee leaves the service of the City due to a layoff and within the next one (1) year period the City rehires said former employee in the same classification to which they were assigned at the time of reduction, such employee shall be placed at the step in the salary range which they occupied at the time of the original reduction, without a loss of seniority and their unused sick leave balance as of the time of layoff shall be restored.

## **ARTICLE 11 - WORKERS' COMPENSATION**

**11.1 Compensation Option.** Employees receiving workers' compensation benefits have the option of the City taking from their accrued sick leave, vacation, holiday and compensatory time (in such order), payments in the amount of time that when added to the compensation benefits would approximate their regular salary. Employees electing to use accrued leaves keep their workers' compensation payments, and the City will make payments using accrued leaves subject to applicable withholdings and subject to applicable rule or law. The intent of this section is that an employee may use their sick leave, vacation and compensatory time benefits on a prorated basis so that the combination of workers' compensation benefits and City benefits pays up to the employee's regular net pay inclusive of DPSST and longevity pay. The first three (3) days of any on-the-job illness or injury shall be charged against sick leave benefits if not paid by the workers' compensation insurance carrier under its rules for coverage. Overpayment by the City may be later deducted through payroll deduction of accrued leave banks or employee may reimburse the City directly within ninety (90) days.

**11.2 City Contribution for Insurance.** During the period of temporary disability, the City will continue to contribute toward the cost of health and welfare insurance, including accrual of seniority, vacation/sick leave as if the employee were working, for a period of one (1) year. If the employee elects COBRA coverage, the City agrees to pay their portion of the premium and pay the COBRA administrative fee during the period set forth in this section. Employees are responsible for any premium cost shares as provided in this Agreement.

**11.3 Hearing Release Time.** Employees scheduled for a workers' compensation hearing and who are in paid status shall suffer no loss of compensation.

## **ARTICLE 12 - SAVINGS**

Should any article, section or portion thereof in this Agreement be unlawful or held unlawful, invalid or unenforceable by any court of competent jurisdiction, by ruling of the ERB, by statute or constitutional amendment or by the inability of the employer to perform to the terms of the Agreement, such decision of said court shall apply only to the specific article, section or portion thereof, directly specified in said decision. Upon such declaration, the parties agree to negotiate immediately a substitute, if possible, for the invalidated article, section or portion thereof under the provisions of ORS 243.702.

## ARTICLE 13 - MANAGEMENT RIGHTS

The Association recognizes and agrees that responsibility for management of the City and direction of its workforce is vested solely in the City and responsible department heads. The Association recognizes and agrees that in order to fulfill this responsibility, the City shall retain the exclusive right to exercise the regular and customary functions of management. Unless otherwise expressly restricted by a specific provision of this Agreement the City shall have the sole and exclusive right, at its own discretion, to exercise the regular and customary functions of management, including, but not limited to:

- Directing the activities of the departments and employees covered by the Agreement;
- Determining standards, levels of service and methods of operations, including subcontracting;
- Introducing, discontinuing and modifying methods of operation, processes, equipment, etc.;
- Hiring, promoting, laying off and transferring employees;
- Disciplining and discharging employees;
- Determining work schedules and assigning work;
- Promulgating and implementing policies and procedures;
- Enforcing, revising and modifying rules related to employee conduct, performance, attendance and safety. However, prior to implementing such new or revised rules the City shall send a copy of the new or revised rules to the Association; and
- Exercise any other right not specifically abridged by this Agreement.

If the City does not exercise one (1) or more of its management's rights, such conduct shall not be deemed a waiver or abandonment of any such right(s). If the city exercises any of its reserved management right(s) in a particular manner, such conduct shall not preclude its exercise of such right(s) differently or in any other way not in conflict with a specific provision of this Agreement.

**ARTICLE 14 - DURATION OF AGREEMENT**

This Agreement shall be effective upon execution and shall remain in full force and effect until the 30<sup>th</sup> day of June 2026.

These parties will initiate bargaining a successor agreement no later than March 1, 2026.

\*\*

**SIGNATURE PAGE**

This agreement is signed on this \_\_\_\_\_ day of \_\_\_\_\_ 2023 by Warrenton Public Safety Association and the City of Warrenton.

For the City

For the Association

\_\_\_\_\_  
Henry Balensifer III, Mayor

\_\_\_\_\_  
NAME, Position

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

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

\_\_\_\_\_  
Esther Moberg, City Manager

\_\_\_\_\_  
NAME, Position

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

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

**APPENDIX A Wage Scale**

**Effective July 1, 2023  
5.5% COLA**

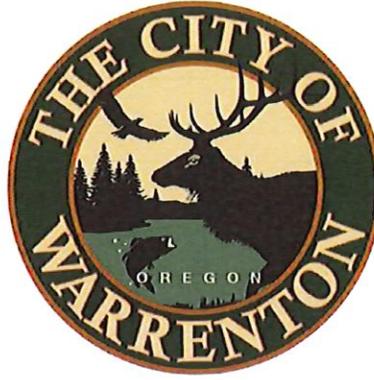
		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Police Officer	Monthly	4,831.83	5,073.42	5,327.09	5,593.44	5,873.11	6,166.77	6,320.94
Police Clerk/Municipal Court	Monthly	3,773.51	3,962.19	4,160.30	4,368.32	4,586.74	4,816.08	4,936.48
Police Clerk/Property Evidence Clerk	Monthly	3,962.19	4,160.30	4,368.32	4,586.74	4,816.08	5,056.88	5,183.30

**Effective July 1, 2024  
TBD 2%-4% COLA**

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Police Officer	Monthly							
Police Clerk/Municipal Court	Monthly							
Police Clerk/Property Evidence Clerk	Monthly							

**Effective July 1, 2025  
TBD 2%-4% COLA**

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Police Officer	Monthly							
Police Clerk/Municipal Court	Monthly							
Police Clerk/Property Evidence Clerk	Monthly							



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: September 12, 2023  
SUBJ: IGA requesting ARPA funds from County

### SUMMARY

The County is willing to use some ARPA funds toward the sewer and water line expansion project in conjunction with the new Fort Point development (across 11<sup>th</sup> ave). The City Manager is requesting approval of the attached IGA to go forward with receiving these funds, a minimum of \$250,000, to support housing infrastructure (water and sewer line expansion) in Clatsop County. The County is supporting efforts by Warrenton to add more housing in our county. This water and sewer line expansion project will help route new water and sewer lines to the ridge road area and away from the older infrastructure in Hammond.

### RECOMMENDATION/SUGGESTED MOTION

I move to approve the Intergovernmental agreement accepting ARPA funds in the amount of \$250,000 from Clatsop County for City of Warrenton water and sewer line expansion project from 11<sup>th</sup> avenue to Ridge Road.

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

### FISCAL IMPACT

N/A or...budgeted....or how funded

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

## FUNDING AGREEMENT

This intergovernmental agreement is made this \_\_\_ day of August, 2023, between **Clatsop County**, a Political Subdivision of the State of Oregon, hereinafter “**County**” and **City of Warrenton**, a Political Subdivision of the State of Oregon, hereinafter “**City**”.

### Recitals

**WHEREAS**, ORS 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform; and

**WHEREAS**, In May 2021, County was allocated approximately \$7.8 million in Federal American Rescue Plan Act of 2021 (ARPA) funds to respond to the impacts of the coronavirus pandemic; and

**WHEREAS**, the Clatsop County Board of Commissioners has approved ARPA funds being granted to the City to provide water infrastructure support to facilitate housing development.

NOW THEREFORE, the parties agree as follows:

1. Term: This Agreement shall be for September 1, 2023 through December 31, 2026.
2. Purpose and Payment: County shall provide funding to the City in the total amount of \$250,000 for water infrastructure enhancements. The City represents that it shall use the funds provided for this exclusive purpose. The County will make a single payment to the City upon approval by the Board of Commissioners and execution of this Agreement.
3. Indemnity: This Agreement is for the benefit of the parties only. To the extent allowed under the Oregon Constitution and the Oregon Tort Claims Act, the City shall indemnify and hold County harmless for any claim arising from the application of these funds. The City shall maintain liability insurance in an amount sufficient to satisfy the current Oregon Tort Claim Act limits, and shall name County as an additional insured on any policies.
4. Compliance and Reporting: Funds provided to the City by this Agreement are a subaward of State and Local Fiscal Recovery Funds (SLFRF). Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient. The City shall adhere to all SLFRF subrecipient compliance and reporting requirements as determined by the U.S. Department of the Treasury. These requirements include, but are not limited to: (a) Subrecipients are subject to audit pursuant to the Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements. (b) Subrecipients must ensure subawards are not used for ineligible purposes, and there is no fraud, waste, or abuse associated with awarded funds. (c) County may issue additional reporting requirements for SLFRF subawards greater than \$50,000, as required by the U.S. Department of the Treasury. The City shall follow the annual reporting schedule outlined below until all funds are expended or until December 31, 2027 (deadline for expending funds); whichever comes first.

Annual Report	Period Covered	Due Date
1	July 1, 2021 – March 31, 2022	April 15, 2022
2	April 1, 2022 – March 31, 2023	April 15, 2023
3	April 1, 2023 – March 31, 2024	April 15, 2024

4	April 1, 2024 – March 31, 2025	April 15, 2025
5	April 1, 2025 – March 31, 2026	April 15, 2026
6	April 1, 2026 – December 31, 2026	January 15, 2027

5. General: Funding for this Agreement is allocated by the Clatsop County Board of Commissioners.

(A) All funds not expended for the specific purpose described within this agreement shall be returned to the County;

(B) All funds not expended by December 31, 2026 shall be returned to the County.

6. General Terms and Conditions

6.1. Laws of Oregon. The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. All relevant provisions required by ORS Chapter 279A and 279C to be included in public contracts are incorporated and made a part of this Agreement as if fully set forth herein.

6.2. Default. Time is of the essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

6.3. Modification of the Agreement. No waiver, consent, modification, or change of terms of this Agreement shall be binding unless in writing and signed by both parties.

6.4. Remedies. Any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Clatsop County Circuit Court. The parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

6.5. Excused Performance. In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of GOD, governmental restrictions imposed on or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused. The Party seeking non-performance under this section shall provide notice to the other party as soon as practicable.

6.6. Severability. If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

6.7. Integration. This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

**COUNTY:**

Don Bohn, County Manager

Name, Title

Date

Signature

**City of Warrenton:**

Name, Title

Date

Signature

City of Warrenton Address

City of Warrenton Phone



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## MEMORANDUM

TO: Clatsop County Commissioners

FROM: Esther Moberg, Warrenton City Manager

DATE: August 18, 2023

Dear Clatsop County Commissioners,

The City of Warrenton respectfully requests County ARPA funds in the amount of \$250,000 to offset costs for infrastructure improvements for a major housing development in Warrenton. This project will help meet multiple levels of housing needs for the County. Warrenton is anticipating a planned development being built over the next five to ten years. Before that happens, we need additional water and sanitary sewer mains added to the Ridge Road area to meet the anticipated capacity of 450 units being added to our community.

Warrenton recognizes we often are seen as having the most available opportunities for development of future housing. We are willing to play our part in meeting the housing needs of the area, but we also need some support when it comes to infrastructure capacity. The oversizing of the water and sanitary sewer pipelines is only part of our work. We continue to plan for other infrastructure needs including a new wastewater treatment plant and adding a new reservoir to our water treatment plant.

Thank you for helping us work towards collaborative solutions to meet the housing needs of the area.

*Esther Moberg*