

**PORT OF TACOMA  
TACOMA, WASHINGTON  
PIER 3 CRANES CLIMATE CONTROL SYSTEM  
UPGRADE**

**PROJECT NO. 201158.01**

**CONTRACT NO. 071813**

**Thais Howard, PE  
Director, Engineering**

**Joe Caldwell  
Project Manager**

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## **PROCUREMENT AND CONTRACTING REQUIREMENTS**

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**END OF SECTION**

**PART 1 - GENERAL**

1.01 SUMMARY

A. Contract Drawings: The following drawings are a part of the Contract Documents:

Sheet No.	Drawing Title
3ASX003351-PCD	4 STS ZPMC for Port of Tacoma, Crane no. 2605, 2606, 2607, 2608 L006114
16-2401-WTB	Interconnection Table for ZP16-2401
Product Data	50TC Cooling Only/Electric Heat Package Rooftop 3 to 15 Nominal Tons

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## PIER 3 CRANES CLIMATE CONTROL SYSTEM UPGRADE

### PROJECT NO. 201158.01 | CONTRACT NO. 071813

- Scope of Work:** The Work required for this Project includes:  
This scope of work for each of the 4 cranes includes: A project manager to manage the day-to-day project activities. A control drawing package with floorplan locations, controller points, bill of materials & material submittal. Procurement, installation, and low voltage wiring for each crane (one Global controller with expandable Input/Output modules with Hand, Off, Auto Switches, two Space Temperature sensors for redundancy, to be used in averaging function, one Outside Air Temperature Sensor, one Connection to Network Switch, one Monitoring of PLC enable input). For each rooftop Air Handling Unit (3) per crane will need control of Existing AHUs and (1) Return Air Temperature Sensor. The system will also include Design Built Programming sequence & Configuration of DDC controllers, Point to point checkout of controllers, Startup & testing new control system installed As-Built drawing package, Web based graphics package
- Bid Estimate:** Estimated cost range is \$150,000 to \$200,000, plus Washington State Sales Tax (WSST).  
  
In accordance with RCW 39.04.320, fifteen (15) percent apprenticeship participation is required for certain projects estimated to cost one million (\$1,000,000) dollars or more. Bidders may contact the Department of Labor and Industries, Specialty Compliance Services Division, Apprenticeship Section, P.O. Box 44530, Olympia, WA 98504-4530, by phone (360) 902-5320, or e-mail at [Apprentice@lni.wa.gov](mailto:Apprentice@lni.wa.gov), to obtain information on available apprenticeship programs.
- Sealed Bid Date/ Time/Location:** Bids will be received at the Front Reception Desk, Port Administration Office, One Sitcum Plaza, Tacoma, Washington 98421 until **2:00 P.M. on February 1, 2023**, at which time they will be publicly opened and read aloud and the apparent low bid will be determined.
- Pre-Bid 10:00 a.m.. Conference and Site Tour:** A pre-Bid conference and site visit have been set for January 11, 2023 at  
  
The site visit will convene at the Port's Administrative building, located at One Sitcum Plaza. The following Personal Protective Equipment is required for the site visit: sturdy shoes, reflective vest, and hardhat.  
  
Attendees will be required to sign a Release and Acceptance of Responsibility and Acknowledgement of Risks Form prior to entering the site and shall provide their own Personal Protection Equipment (PPE) as required above.

**Bid Security:** Each Bid must be accompanied by a Bid security in an amount equal to five (5) percent of the Base Bid in a form allowed by the Instructions to Bidders.

**Contact Information:** Any questions to the Port may be emailed to [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com). No oral responses will be binding by the Port.

Questions will not be accepted after seven (7) days prior to the Bid Date.

**Bidding Documents:** Plans, Specifications, Addenda, and Plan Holders List for this Project are available on-line through The Port of Tacoma's Website [portoftacoma.com](http://portoftacoma.com). Click on "Contracts," "Procurement," and then the Procurement Number Required. Bidders must subscribe to the Holder's List on the right hand side of the screen in order to receive automatic email notification of future addenda and to be placed on the Holder's List.

Contact [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com) with questions. Holder's Lists will be updated regularly. Additional Instructions available in Section 00 21 00 - Instructions to Bidders.

**Public Works Training Requirements:** Effective July 1, 2019, all businesses are required to have training before bidding on public works projects and prevailing wage under RCW 39.04.359 and RCW 39.12, or is on the list of exempt businesses maintained by the Department of Labor and Industries. The bidder must designate a person or persons to be trained on these requirements. The training will be provided by the Department of Labor and Industries or by a training provider whose curriculum is approved by the Department of Labor and Industries.

Please refer to Labor and Industries' web site ([https://www.lni.wa.gov/TradesLicensing/PrevWage/Contractors/Training.asp?utm\\_medium=email&utm\\_source=govdelivery](https://www.lni.wa.gov/TradesLicensing/PrevWage/Contractors/Training.asp?utm_medium=email&utm_source=govdelivery)) for more information and training dates, requirements, and exemptions. Failure to attend this training could result in a determination of "not responsible" and the bidder not being awarded a public works contract.

**END OF SECTION**



## **PART 1 - SUMMARY**

### **1.01 DEFINITIONS**

All definitions set forth in the Agreement, the General Conditions of the Contract for Construction, and in other Contract Documents are applicable to the Bidding Documents.

- A. "Addenda" are written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections. The contents of an Addendum are issued in no particular order and therefore should be carefully and completely reviewed.
- B. An "Additive Bid" (or "Additive") is an amount stated in the Bid to add specified features of the Work.
- C. An "Alternate Bid" (or "Alternate") is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.
- D. An "Apprentice" is a worker for whom an apprenticeship agreement has been registered and approved by the Washington State Apprenticeship and Training Council (RCW 49.04 and WAC 296-05).
- E. "Award" means the formal decision by the Port of Tacoma ("Port") notifying a Responsible Bidder with the lowest responsive Bid of the Port's acceptance of their Bid and intent to enter into a Contract with the Bidder.
- F. The "Award Requirements" include the statutory requirements as a condition precedent to Award.
- G. The "Base Bid" is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base to which Work may be added or from which Work may be deleted for sums stated in Alternate Bids.
- H. A "Bid" is a complete and properly signed proposal to do the Work, submitted in accordance with the Bidding Documents, for the sums therein stipulated and supported by any data called for by the Bidding Documents.
- I. The "Bid Date" is the day and hour specified in the Bidding Documents, as may be changed through an Addendum, by which Bidders are required to submit Bids to the Port.
- J. The "Bid Form" is the form(s) included with the Bidding Documents, with Specification Section 00 41 00, through which a Bidder submits a Bid.
- K. A "Bidder" is a person or entity who submits a Bid.
- L. The "Bidding Documents" include the Advertisement or Invitation to Bid, Instructions to Bidders, the Bid Form, any other sample bidding and contract forms, including those provided by reference, the Bid security, and the proposed Contract Documents, including any Addenda issued prior to the Bid Date.
- M. The "Contract Documents" proposed for the Work consist of the Agreement, the General Conditions of the Contract (as well as any Supplemental, Special, or other conditions included in the Project Manual), the Drawings, the Specifications, and all Addenda issued prior to, and all modifications issued after, execution of the Contract.

- N. The "Schedule of Unit Prices" is a separate schedule on the Bid Form for Unit Pricing as an all-inclusive price per unit of measurement for materials, equipment, or services as described in the Bidding Documents or in the proposed Contract Documents for the optional use of the Port. Quantities are not predictions of amounts anticipated. The Port may, but is not obligated to, accept a Schedule of Unit Price if it accepts the Base Bid. The Schedule of Unit Prices are not factored into the evaluation of determining the low bid amount and are not included as part of the bid award amount.
- O. A "Sub-Bidder" is a person or entity of any tier who submits a bid or proposal to or through the Bidder for materials, equipment or labor for a portion of the Work.

#### 1.02 BIDDER'S REPRESENTATIONS

By making its Bid, each Bidder represents that:

- A. BIDDING DOCUMENTS. The Bidder has read and understands the Bidding Documents, and its Bid is made in accordance with them.
- B. PRE-BID MEETING. The Bidder has attended pre-Bid meeting(s) required by the Bidding Documents. Attendance at a mandatory meeting or training session means that, in the sole opinion of the Port, a Project representative of a Bidder has attended all or substantially all of such meeting or session.
- C. BASIS. Its Bid is based upon the materials, systems, services, and equipment required by the Bidding Documents, and is made without exception.
- D. EXAMINATION. The Bidder has carefully examined and understands the Bidding Documents, the Contract Documents including, but not limited to, any liquidated damages, insurance provisions, and the Project site, including any existing buildings, it has familiarized itself with the local conditions under which the Work is to be performed, has correlated its observations with the requirements of the proposed Contract Documents, and it has satisfied itself as to the nature, location, character, quality, and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services, and other items to be furnished, and all other requirements of the Contract Documents. The Bidder has also satisfied itself as to the conditions and other matters that may be encountered at the Project site or that may affect performance of the Work or the cost or difficulty thereof, including, but not limited to, those conditions and matters affecting transportation, access, disposal, handling and storage of materials, equipment and other items; availability and quality of labor, water, electric power, and utilities; availability and condition of roads; climatic conditions and seasons; physical conditions at the Project site and the surrounding locality; topography and ground surface conditions; and equipment and facilities needed preliminary to, and at all times during, the performance of the Work. The failure of the Bidder to fully acquaint itself with any applicable condition or matter shall not in any way relieve the Bidder from the responsibility for performing the Work in accordance with, and for the Contract Sum and within the Contract Time provided for in, the Contract Documents.
- E. PROJECT MANUAL. The Bidder has checked its copies of the Project Manual (if any) with the table of contents bound therein to ensure the Project Manual is complete.
- F. SEPARATE WORK. The Bidder has examined and coordinated all Drawings, Contract Documents, and Specifications with any other contracts to be awarded separately from, but in connection with, the Work being Bid upon, so that the Bidder is fully informed as to conditions affecting the Work under the Contract being Bid upon.

- G. LICENSE REQUIREMENTS. The Bidders and Sub-Bidders are registered and hold all licenses required by the laws of Washington, including a certificate of registration in compliance with RCW 18.27, for the performance of the Work specified in the Contract Documents.
- H. CERTIFICATION. The Bidder verifies under penalty of perjury that the Bidder has not have been determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of Chapters 49.46, 49.48, or 49.52 RCW within the three (3) year period immediately preceding the Bid Date.
- I. NO EXCEPTIONS. Bids must be based upon the materials, systems, and equipment described and required by the Bidding Documents, without exception.

### 1.03 BIDDING DOCUMENTS

#### A. COPIES

- 1. Bidders may obtain complete sets of the Bidding Documents from The Port of Tacoma's Website [www.portoftacoma.com](http://www.portoftacoma.com). Click on "Contracts" then "Procurement."
- 2. Complete Sets. Bidders shall use complete sets of Bidding Documents in preparing Bids and are solely responsible for obtaining updated information. The Port does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete and/or superseded sets of Bidding Documents.
- 3. Conditions. The Port makes copies of the Bidding Documents available only for the purpose of obtaining Bids on the Work and does not confer a license or grant permission for any other use.
- 4. Legible Documents. To the extent any Drawings, Specifications, or other Bidding Documents are not legible, it is the Bidder's responsibility to obtain legible documents.

#### B. INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

- 1. Format. The Contract Documents are divided into parts, divisions, and sections for convenient organization and reference. Generally, there has been no attempt to divide the Specification sections into Work performed by the various building trades, any Work by separate contractors, or any Work required for separate facilities in, or phases of the Project.
- 2. Duty to Notify. Bidders shall promptly notify the Port in writing of any ambiguity, inconsistency, or error that they may discover upon examination of the Bidding Documents or of the site and local conditions.
- 3. Products and Installation. All Bidders shall thoroughly familiarize themselves with specified products and installation procedures and submit to the Port any objections (in writing) no later than seven (7) days prior to the Bid Date. The submittal of the Bid constitutes acceptance of products and procedures specified as sufficient, adequate, and satisfactory for completion of the Contract.
- 4. Written Request. Bidders requiring clarification or interpretation of the Bidding Documents shall make a written email request to [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com) at least seven (7) days prior to the Bid Date.

5. Request to Modify Responsibility Criteria. No later than seven (7) days prior to the Bid Date, a potential Bidder may request in writing that the Port modify the Responsibility Criteria. The Port will evaluate the information submitted by the potential Bidder and respond before the Bid Date. If the evaluation results in a change of the Criteria, the Port will issue an Addendum identifying the new Criteria.
6. Addenda. The Bidder shall not rely on oral information provided at any pre-Bid meetings or during site visits. Verbal statements made by representatives of the Port are for informational purposes only. Any interpretation, correction, or change of the Bidding Documents will be made solely by written Addendum. Interpretations, corrections, or changes of the Bidding Documents made in any manner other than by written Addendum, including but not limited to, oral statements will not be binding, and Bidders shall not rely upon such statements, interpretations, corrections, or changes. The Port is not responsible for explanations or interpretations of the Bidding Documents other than in a written Addendum.
7. Site Visits. Any site visits are provided as a courtesy to potential Bidders to assist them in becoming familiar with the Project site conditions. However, only the Bidding Documents, including any issued Addenda, may be relied upon by Bidders.
8. Singular References. Reference in the singular to an article, device, or piece of equipment shall include as many of such articles, devices, or pieces as are indicated in the Contract Documents or as are required to complete the installation.
9. Utilities and Runs. The Bidder should assume that the exact locations of any underground or hidden utilities, underground fuel tanks, and plumbing and electrical runs may be somewhat different from any location indicated in the surveys or Contract Documents.

C. SUBSTITUTIONS

1. For substitutions during bidding, refer to Section 00 26 00 – Substitution Procedures.

D. ADDENDA

1. Distribution. All Addenda will be written and will be made available on the Port's website or any other source specified by the Port for the Project.
2. Copies. Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.
3. Verification and Acknowledgment of Receipt. Prior to submitting a Bid, each Bidder shall ascertain that it has received all Addenda issued. Each Bidder shall acknowledge its receipt and consideration of all Addenda in its Bid.

1.04 BIDDING PROCEDURE

A. FORM AND STYLE OF BIDS

1. Form. Bids (including required attachments) shall be submitted on forms identical to the Bid Form included with the Bidding Documents. No oral, email, or telephonic responses or modifications will be considered.
2. Entries on the Bid Form. All blanks on the Bid Form shall be filled in by typewriter, printer, or manually in ink.

3. Figures. All sums shall be expressed in figures, not words. Portions of the Bid Form may require the addition or multiplication of component bids to a total or the identification of component amounts within a total. In case of discrepancy between unit prices listed and their sum(s), the unit prices listed shall govern (rather than the sum).
4. Initial Changes. Any interlineation, alteration, or erasure shall be initialed by an authorized representative of the Bidder.
5. Bid Breakdown. The Bid Form may contain, for the Port's accounting purposes only, a breakdown of some or all of the components included in the Base Bid.
  - a. For lump-sum Bids, the total Contract Sum shall be submitted.
  - b. For unit-price Bids, a price shall be submitted for each item of the Work, an extension thereof, and, if requested, the total Contract Sum.
6. Alternates. All Alternates should be Bid. The Port reserves the right, but is not obligated, to reject any Bid on which all requested Alternates are not Bid. If no change in the Base Bid is required for an Alternate, enter "Zero" or "0." If there is no entry, the Bidder will be presumed to have made no offer to perform the Alternate. If it is not otherwise clear from the Bid or the nature of the Alternate, it will be presumed that the amount listed for an Alternate is additive rather than deductive.
7. Schedule of Unit Prices. All Unit Prices under this schedule shall be bid. The Port reserves the right, but is not obligated, to reject any Bid on which all requested Schedule of Unit Prices are not Bid.
8. No Conditions. The Bidder shall make no conditions or stipulations on the Bid Form, nor qualify its Bid in any manner.
9. Identity of Bidder. The Bidder shall include in the specified location on the Bid Form, the legal name of the Bidder and, if requested, a description of the Bidder as a sole proprietor, a partnership, a joint venture, a corporation, or another described form of legal entity. The Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. The Port verifies signature authority on the Labor and Industries website <https://fortress.wa.gov/lni/bbip/Search.aspx> under the contractor registration business owner information. If the business owner information is not current, the Bidder shall show proof of authority to sign at the request of the Port. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder
10. Bid Amounts Do Not Include Sales Tax. The Work to be performed constitutes a "retail sale" as this term is defined in RCW 82.04.050. Thus, the Base Bid amount shall include in the sum stated all taxes imposed by law, EXCEPT WASHINGTON STATE AND LOCAL SALES TAX due on the Base Bid. The engaged Contractor will pay retail sales tax on all consumables used during the performance of the Work and on all items that are not incorporated into the final Work; this tax shall be included in the Base Bid price and in any other prices set forth on the Bid Form. The Port will pay state and local retail sales tax due on each progress payment and final payment to the engaged Contractor for transmittal by the Contractor to the Washington State Department of Revenue or to the applicable local government.

## B. SUBMISSION OF BIDS

1. Procedure. The Bid, the Bid security, and other documents required to be submitted with the Bid, shall be enclosed in a sealed envelope identified with the Project name and number and the Bidder's name and address. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face of the mailing envelope.
  - a. If a Bid is mailed, it shall be addressed to the Port of Tacoma, Contracts Department, 1 Sitcum Plaza, Tacoma, WA 98421.
  - b. If a Bid is delivered, it shall be delivered to the Front Reception Desk, Port of Tacoma, 1 Sitcum Plaza, Tacoma, WA 98421.
  - c. The time stamp clock at the Front Reception Desk at 1 Sitcum Plaza is the Port's official clock.
2. Deposit. Bids shall be deposited at the designated location prior to the Bid Date indicated in the Advertisement or Invitation to Bid, or any extension thereof made by Addendum. Bids received after the Bid Date and time specified shall be returned without consideration at the discretion of the Port, or rejected at the time of receipt.
3. Delivery. The Bidder assumes full responsibility for timely delivery at the location designated for receipt of Bids.
4. Form. Oral, facsimile, telephonic, electronic, or email Bids are invalid and will not be considered.

#### C. MODIFICATION OR WITHDRAWAL OF BID

1. After the Bid Date. A Bid may not be modified, withdrawn, or canceled by the Bidder during a ninety (90) day period following the Bid Date, and each Bidder so agrees by virtue of submitting its Bid.
2. Before the Bid Date. Prior to the Bid Date, any Bid submitted may be modified or withdrawn only by notice to the party receiving Bids at the place designated for receipt of Bids. The notice shall be in writing, with the signature of the Bidder, and shall be worded so as not to reveal the amount of the original Bid. Email notice will not be accepted. It shall be the Bidder's sole responsibility to verify that the notice has been received by the Port in time to be withdrawn before the Bid opening.
3. Resubmittal. Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids, provided that they are then fully in conformance with these Instructions to Bidders.
4. Bid Security with Resubmission. Bid security shall be in an amount sufficient for the Bid as modified or resubmitted.

#### D. COMMUNICATIONS

1. Communications from a Bidder related to these Instructions to Bidders must be in writing to [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com). Communications, including but not limited to, notices and requests by Sub-Bidders shall be made through the Bidder and not directly by a Sub-Bidder to the Port.

#### 1.05 CONSIDERATION OF BIDS

- A. OPENING OF BIDS. Unless stated otherwise in the Advertisement or Invitation to Bid or an Addendum, the properly identified Bids received on time will be opened publicly and will be read aloud. An abstract of the Base Bids and any Alternate Bids will promptly (and generally within twenty-four (24) hours) be made available to Bidders and other interested parties.

- B. REJECTION OF BIDS. The Port shall have the right, but not the obligation, to reject any or all Bids for any reason, or for no reason, to reject a Bid not accompanied by the required Bid security, or to reject a Bid which is in any way incomplete or irregular.
- C. BIDDING MISTAKES. The Port will not be obligated to consider notice of claimed Bid mistakes received more than twenty-four (24) hours after the Bid Date. In accordance with Washington law, a low Bidder that claims error and fails to enter into the Contract is prohibited from Bidding on the Project if a subsequent call for Bids is made for the Project.
- D. ACCEPTANCE OF BID (AWARD)
1. Intent to Accept. The Port intends, but is not bound, to Award a Contract to the Responsible Bidder with the lowest responsive Bid, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Port has the right to waive any informality or irregularity in any Bid(s) received and to accept the Bid which, in its judgment, is in its own best interests.
  2. Alternates. The Port shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Contract or Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates (if any) accepted. Failure to submit Bids on all Alternates may be cause for rejecting the Bidder's entire Bid. The Port retains the right to accept Alternate Bid items at the price Bid within ninety (90) days after the Contract is executed.
  3. Requirements for Award. Before the Award, the lowest responsive Bidder must be deemed Responsible by the Port and must satisfy all Award Requirements.
- E. BID PROTEST PROCEDURES
1. Procedure. A Bidder protesting, for any reason, the Bidding Documents, a Bidding procedure, the Port's objection to a Bidder or a person or entity proposed by the Bidder, including but not limited to, a finding of non-Responsibility, the Award of the Contract or any other aspect arising from, or relating in any way to, the Bidding, shall cause a written protest to be filed with the Port within two (2) business days of the event giving rise to the protest. (Intermediate Saturdays, Sundays, and legal holidays are not counted as business days.) The written protest shall include the name of the protesting Bidder, the bid solicitation number and title under which the protest is submitted, a detailed description of the specific factual and legal grounds for the protest, copies of all supporting documents, evidence that the apparent low bidder has been given notice of the protest, and the specific relief requested. The written protest shall be sent by email to [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com).
  2. Consideration. Upon receipt of the written protest, the Port will consider the protest. The Port may, within three (3) business days of the Port's receipt of the protest, provide any other affected Bidder(s) the opportunity to respond in writing to the protest. If the protest is not resolved by mutual agreement of the protesting Bidder and the Port, the Contracts Director of the Port, or his or her designee, will review the issues and promptly furnish a final and binding written decision to the protesting Bidder, and any other affected Bidder(s), within six (6) business days of the Port's receipt of the protest. (If more than one (1) protest is filed, the Port's decision will be provided within six (6) business days of the Port's receipt of the last protest.) If no reply is received from the Port during the six (6) business-day period, the protest will be deemed rejected.
  3. Waiver. Failure to comply with these protest procedures will render a protest waived.

4. Condition Precedent. Timely and proper compliance with, and exhaustion of, these protest procedures shall be a condition precedent to any otherwise permissible judicial consideration of a protest.

#### 1.06 POST BID INFORMATION

##### A. THE LOWEST RESPONSIVE BIDDER SHALL:

1. Responsibility Detail Form. Within 24 hours of the Low Responsive Bidder Selection Notification, the apparent low Bidder shall submit to the Port the Responsibility Detail Form and other required documents (Section 00 45 13) executed by an authorized company officer. As requested from the Port, the low responsive Bidder shall provide written confirmation that the person signing the Bid on behalf of the Bidder was duly authorized at the time of bid, a detailed breakdown of the Bid in a form acceptable to the Port, and other information required by the Port.
2. The apparent low Bidder shall submit to the Port upon request:
  - a. Additional information regarding the use of the Bidder's own forces and the use of subcontractors and suppliers;
  - b. The names of the persons or entities (including a designation of the Work to be performed with the Bidder's own forces, and the names of those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work (i.e., either a listed Sub-Bidder or a Sub-Bidder performing Work valued at least ten (10) percent of the Base Bid), consistent with the listing required with the Bid; and
  - c. The proprietary names and the suppliers of the principal items or systems of materials and equipment proposed for the Work.
3. Failure to provide any of the above information in a timely manner will constitute an event of breach permitting forfeiture of the Bid security.
4. Bidder Responsibility. The Bidder will be required to establish, to the satisfaction of the Port, the reliability and responsibility of itself and the persons or entities proposed to furnish and perform the Work described in the Bidding Documents. If requested, the Bidder shall meet with the Port to discuss the Bid, including any pricing, the Bid components, and any assumptions made by the Bidder.
5. Objection. Prior to an Award of the Contract, the Port will notify the Bidder in writing if the Port, after due investigation, has reasonable objection to the Bidder or a person or entity proposed by the Bidder. Upon receiving such objection, the Bidder may, at Bidder's option: (a) withdraw their Bid, (b) submit an acceptable substitute person or entity with no change in the Contract Time and no adjustment in the Base Bid or any Alternate Bid, even if there is a cost to the Bidder occasioned by such substitution, or (c) file a protest in accordance with the Bidding Documents.
6. Change. Persons and entities proposed by the Bidder to whom the Port has made no reasonable objection must be used on the Work for which they were proposed and shall not be changed, except with the written consent of the Port.



7. Right to Terminate. The Bidder's representations concerning its qualifications will be construed as a covenant under the Contract. If a Bidder makes a material misrepresentation on a Qualification Statement, the Port has the right to terminate the Contract for cause and may then pursue any remedies that exist under the Contract or that are otherwise available.
- B. INFORMATION FROM OTHER BIDDERS: All other Bidders designated by the Port as under consideration for Award of a Contract shall also provide a properly executed Qualification Statement, if so requested by the Port.

#### 1.07 PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND, AND INSURANCE

- A. BOND REQUIREMENTS. Within ten (10) days after the Port's Notice of Award of the Contract, the successful Bidder shall obtain and furnish statutory bonds pursuant to RCW 39.08 covering the faithful performance of the Contract and the payment of all obligations arising thereunder in the form and amount prescribed in the Contract Documents. Bonds shall be written for one hundred (100) percent of the contract award amount, plus Washington State Sales Tax and Change Orders. The cost of such bonds shall be included in the Base Bid.
  1. On contracts of one hundred fifty thousand dollars (\$150,000) or less, at the option of the Contractor or the General Contractor/Construction Manager as defined in RCW 39.10.210, the Port may, in lieu of the bond, retain ten (10) percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue, the employment security department, and the department of labor and industries and settlement of any liens filed under RCW 60.28, whichever is later. The recovery of unpaid wages and benefits must be the first priority for any actions filed against retainage held by a state agency or authorized local government.
  2. On contracts of one hundred fifty thousand dollars (\$150,000) or less, the Port may accept a full payment and performance bond from an individual surety or sureties.
- B. TIME OF DELIVERY AND FORM OF BONDS. The successful Bidder shall deliver an original copy of the required bonds to the Port, 1 Sitcum Plaza, Tacoma, WA 98421, within the time specified in the Contract Documents.
- C. INSURANCE. The successful Bidder shall deliver a certificate of insurance from the Bidder's insurance company that meets or exceeds all requirements of the Contract Documents.
- D. GOVERNMENTAL REQUIREMENTS. Notwithstanding anything in the Bidding or Contract Documents to the contrary, the Bidder shall provide all bonding, insurance, and permit documentation as required by governmental authorities having jurisdiction for any portions of the Project.

#### 1.08 FORM OF AGREEMENT

- A. FORM TO BE USED. The Contract for the Work will be written on the form(s) contained in the Bidding Documents, including any General, Supplemental, or Special Conditions, and the other Contract Documents included with the project manual.
- B. CONFLICTS. In case of conflict between the provisions of these Instructions and any other Bidding Document, these Instructions shall govern. In case of conflict between the provisions of the Bidding Documents and the Contract Documents, the Contract Documents shall govern.
- C. CONTRACT DELIVERY. Within ten (10) days after Notice of Award, the Bidder shall submit a signed Contract to the Port in the form tendered to the Bidder and without modification.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This Section includes administrative and procedural requirements for substitutions.

### 1.02 DEFINITIONS/CLARIFICATIONS

- A. Substitutions. Changes in products, materials, equipment, and methods of construction from those required by the Contract Documents and proposed by Contractor.
- B. The Contract Documents include performance specifications for products and equipment which meet Project requirements. In those cases where a representative item or manufacturer is named in the specification, it is provided for the sole purpose of identifying a product meeting the required functional performance, and where the words "or equal" are used, a substitution request as further described, is not required.
- C. Where non-competitive or sole source products or manufacturers are explicitly specified with the words "or approved equal," "Engineer approved equal," or "as approved by the Engineer" are used, they shall be taken to mean "or approved equal." In these cases a substitution request as further described in this Section, is required.

### 1.03 SUBMITTALS

- A. Substitution Request Form. Use copy of form located at the end of this Section.
- B. Pre-Bid Substitution Requests. Submit one (1) PDF of the Substitution Request Form along with all supporting documentation for consideration of each request. Identify product, fabrication, or installation method to be replaced. Include Drawing numbers and titles. Substitution requests prior to the Bid Date may originate directly from a prime Bidder, or from a prospective Sub-Bidder.
  - 1. Documentation. Show compliance with requirements for substitutions with the following, as applicable:
    - a. Statement indicating why specified product, fabrication, or installation cannot be provided.
    - b. Coordination information, including a list of changes or modifications needed to other parts of the Work that will be necessary to accommodate proposed substitution.
    - c. Product Data, including drawings and descriptions of products, fabrication, and installation procedures.
    - d. Samples, where applicable or requested.
    - e. Certificates and qualification data, where applicable or requested.
    - f. Research reports evidencing compliance with building code in effect for the Project.
  - 2. Engineer's Action. Engineer will review substitution requests if received electronically to [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com) at least seven (7) days prior to the Bid Date. Substitution requests received after this time will not be reviewed.
    - a. Forms of Acceptance. Substitution requests will be formally accepted via written addendum prior to the Bid Date. Bidders shall not rely upon approvals made in any other manner.
    - b. Use product originally specified if Engineer does not issue a decision on use of a proposed substitution within time allocated.

- c. The Port's decision of approval or disapproval of a proposed substitution shall be final.
- C. Post-Award Substitution Requests must be submitted by the Contractor and not a Subcontractor nor Supplier.
1. Documentation. Show compliance with requirements for substitutions with the following, as applicable:
    - a. Statement indicating why specified product or fabrication or installation cannot be provided, if applicable.
    - b. Coordination information, including a list of changes or modifications needed to other parts of the Work that will be necessary to accommodate proposed substitution.
    - c. Detailed comparison of significant qualities of proposed substitution with those of the Work specified. Include annotated copy of applicable specification Section. Significant qualities may include, but are not limited to, attributes such as performance, weight, size, durability, visual effect, sustainable design characteristics, warranties, and specific features and requirements indicated. Indicate deviations, if any, from the Work specified.
    - d. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
    - e. Samples, where applicable or requested.
    - f. Certificates and qualification data, where applicable or requested.
    - g. List of similar installations for completed projects with project names and addresses. Also provide names and addresses of the applicable architect, engineer, and owner.
    - h. Material test reports from a qualified testing agency indicating and interpreting test results for compliance with requirements indicated.
    - i. Research reports evidencing compliance with building code in effect for the Project.
    - j. Comparison of the approved Baseline Project Schedule using proposed substitution with products specified for the Work, including effect on the overall Contract Time. If specified product or method of construction cannot be provided within the Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating date of receipt of purchase order, lack of availability, or delays in delivery.
    - k. Cost information, including a proposal of change, if any, in the Contract Sum.
    - l. Contractor's certification that proposed substitution complies with requirements in the Contract Documents except as indicated in substitution request, is compatible with related materials, and is appropriate for applications indicated.
    - m. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.
  2. Engineer's Action. If necessary, Engineer will request additional information or documentation for evaluation within seven (7) calendar days of receipt of a request for substitution. Engineer will notify Contractor through Port of acceptance or rejection of proposed substitution within fifteen (15) calendar days of receipt of request, or seven (7) calendar days of receipt of additional information or documentation, whichever is later.
    - a. Forms of Acceptance. Change Order or Minor Change in Work.

- b. Use product originally specified if Engineer does not issue a decision on use of a proposed substitution within time allocated.
3. Substitutions for Cause. Submit requests for substitution immediately upon discovery of need for change, but not later than fourteen (14) days prior to date required for preparation and review of related submittals.
    - a. Conditions. Engineer will consider Contractor's request for substitution when the following conditions are satisfied:
      - 1) Requested substitution is consistent with the Contract Documents and will produce indicated results.
      - 2) Requested substitution will not adversely affect the Baseline Project Schedule.
      - 3) Requested substitution has received necessary approvals of authorities having jurisdiction.
      - 4) Requested substitution is compatible with other portions of the Work.
      - 5) Requested substitution has been coordinated with other portions of the Work.
      - 6) Requested substitution provides specified warranty.
      - 7) If requested substitution involves more than one (1) contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.
  4. Substitutions for Convenience. Engineer will consider Contractor's requests for substitution if received within fourteen (14) days after the Notice of Award.
    - a. Conditions. Engineer will consider Contractor's request for substitution when the following conditions are satisfied:
      - 1) Requested substitution offers Port a substantial advantage in cost, time, energy conservation, or other considerations, after deducting additional responsibilities Port must assume. Port's additional responsibilities may include compensation to Engineer for redesign and evaluation services, increased cost of other construction by Port, and similar considerations.
      - 2) Requested substitution does not require extensive revisions to the Contract Documents.
      - 3) Requested substitution is consistent with the Contract Documents and will produce indicated results.
      - 4) Requested substitution will not adversely affect the Baseline Project Schedule.
      - 5) Requested substitution has received necessary approvals of authorities having jurisdiction.
      - 6) Requested substitution is compatible with other portions of the Work.
      - 7) Requested substitution has been coordinated with other portions of the Work.
      - 8) Requested substitution provides specified warranty.

- 9) If requested substitution involves more than one (1) contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.

D. Substitutions will not be considered when:

1. Indicated or implied on shop drawings or product data submittals without formal request submitted in accordance with this Section.
2. Acceptance will require substantial revision of Contract Documents or other items of the Work.
3. Submittal for substitution request does not include point-by-point comparison of proposed substitution with specified product.

1.04 QUALITY ASSURANCE

- A. Compatibility of Substitutions: Investigate and document compatibility of proposed substitution with related products and materials.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

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**PROJECT TITLE: Pier 3 Cranes Climate Control System Upgrade      PROJECT NO.: 201158.01**

SUBMITTED BY: \_\_\_\_\_ CONTRACT NO.: Required

PRIME/SUB/SUPPLIER: \_\_\_\_\_ DATE: \_\_\_\_\_

-----  
Specification Title: \_\_\_\_\_ Section No.: \_\_\_\_\_

Description: \_\_\_\_\_ Paragraph: \_\_\_\_\_

\_\_\_\_\_ Page No.: \_\_\_\_\_

-----  
Proposed Substitution: \_\_\_\_\_

Trade Name: \_\_\_\_\_ Model No.: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Installer: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Differences between proposed substitution and specified product: \_\_\_\_\_

\_\_\_\_\_

-----  
 Point-by-Point comparative data attached - REQUIRED

-----  
Reason for not providing specified item: \_\_\_\_\_

-----  
Similar Installation:

Project: \_\_\_\_\_ A/E: \_\_\_\_\_

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

Owner: \_\_\_\_\_ Date Installed: \_\_\_\_\_

Proposed substitution affects other parts of Work:  No  Yes; explain \_\_\_\_\_

-----  
Supporting Data Attached:

Drawings  Product Data  Samples  Tests  Reports  Other: \_\_\_\_\_

-----  
Applicable to Substitution Requests During Construction:

Proposed to Port for accepting substitution: \$ \_\_\_\_\_

Proposed substitution changes Contract Time:  No  Yes [Add] [Deduct] \_\_\_\_\_ # days.

-----  
The Undersigned certifies:



- Proposed substitution has been fully investigated and determined to be equal or superior in all respects to specified product.
- Same warranty will be furnished for proposed substitution as for specified product.
- Same maintenance service and source of replacement parts, as applicable, is available.
- Proposed substitution will have no adverse effect on other trades and will not affect or delay Baseline Project Schedule.
- Cost data as stated above is complete. Claims for additional costs related to accepted substitution which may subsequently become apparent are to be waived.
- Proposed substitution does not affect dimensions and functional clearances.
- Payment will be made for changes to building design, including A/E design, detailing, and construction costs caused by the substitution.
- Coordination, installation, and changes in the Work as necessary for accepted substitution will be complete in all respects.

---

Submitted By: \_\_\_\_\_  
Signed By: \_\_\_\_\_ Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_ Email: \_\_\_\_\_  
Attachments: \_\_\_\_\_

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**A/E's REVIEW AND RECOMMENDATION**

- Approved Substitution
- Approved Substitution as Noted
- Reject Substitution - Use specified materials.
- Substitution Request received too late - Use specified materials.

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

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**ENGINEER'S REVIEW AND ACTION**

- Substitution Approved - Make submittals in accordance with this Specification Section. If during construction, prepare Change Order.
- Substitution Approved as Noted - Make submittals in accordance with this Specification Section. If during construction, prepare Change Order.
- Substitution Rejected - Use specified materials.
- Substitution Request received too late - Use specified materials.

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

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**END OF SECTION**

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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**PART 1 - GENERAL**

1.01 SUMMARY

- A. This Section provides the notification required for disclosure of asbestos, lead-containing or other hazardous materials.

1.02 HAZARDOUS MATERIALS NOTICE

- A. The Port is reasonably certain that asbestos and lead will not be disturbed by the project. If the Contractor encounters material suspected of containing lead or asbestos which will interfere with the execution of the work, the Contractor shall stop work and notify the Engineer.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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**BIDDER'S NAME:** \_\_\_\_\_

**PROJECT TITLE: PIER 3 CRANES CLIMATE CONTROL SYSTEM UPGRADE**

The undersigned Bidder declares that it has read the Contract Documents (including documents provided by reference), understands the conditions under which the Work will be performed, has examined the Project site, and has determined for itself all situations affecting the Work herein Bid upon. Bidder proposes and agrees, if this Bid is accepted, to provide at Bidder's own expense, all labor, machinery, tools, materials, etc., including all Work incidental to, or described or implied as incidental to such items, according to the Contract Documents, and that the Bidder will complete the Work within the time stated, and that Bidder will accept in full the lump sum or unit price(s) set forth below:

ITEM NO.	DESCRIPTION OF ITEM	QTY	UOM	UNIT PRICE	EXTENDED PRICE (QTY. x UNIT PRICE)
1	Crane Climate Control System Upgrade Crane 1	1	LS		
2	Crane Climate Control System Upgrade Crane 2	1	LS		
3	Crane Climate Control System Upgrade Crane 3	1	LS		
4	Crane Climate Control System Upgrade Crane 4	1	LS		

TOTAL BID AMOUNT	
10.3% WASHINGTON STATE SALES TAX (WSST) ON BASE BID SUBTOTAL	
BID TOTAL (WITH WSST)	

Note: Show prices in figures only.

Evaluation of Bids. In accordance with the provisions of the Contract Documents, Bids will be evaluated to determine the lowest Base Bid Subtotal offered by a responsible Bidder submitting a responsive Bid.

Schedule of Unit Prices. The unit prices are proposed to apply only in the event of additions to, or deletions from, the work required and ordered. All prices shall include complete installation without Washington State Sales Tax. The bidder shall propose a price for each item; failure to propose a price for each item may render the bid non-responsive. The Port reserves the right to accept or reject the unit prices proposed.

Trench Excavation Safety: \_\_\_\_\_ (Total in Written Figures Only)

Principal Subcontractors/Suppliers. For Bids greater than one million (\$1,000,000) dollars, the Bidder shall list below the name of each subcontractor or supplier to whom the Bidder proposes to subcontract the portions of the work listed below, or name itself for the work.

Work to be Performed	Name of Firm
HVAC (Heating, Ventilation and Air Conditioning) Work	
Plumbing Work as described in RCW 18.106	
Electrical Work as described in RCW 19.28	

Non-Collusion Representation. The Bidder declares under penalty of perjury that the Bid submitted is genuine and not a sham or collusive bid, or made in the interest or on behalf of any person or firm not therein named; and further represents that the Bidder has not directly or indirectly induced or solicited any other bidder to submit a sham bid, or encouraged any other person or corporation to refrain from bidding; and that the Bidder has not in any manner sought by collusion to secure to the Bidder an advantage over any other bidder or bidders.

RCW 39.04.350 Certification. The Bidder represents and certifies, under penalty of perjury, that within the three- (3-) year period immediately preceding the Bid Date, the Bidder has not been determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries, nor through a civil judgment entered by a court of limited or general jurisdiction, to have willfully violated, as defined in RCW 49.48.082, any provision of Chapters 49.46, 49.48, nor 49.52 RCW.

Addenda. Bidder acknowledges receipt and acceptance of all Addenda through No. \_\_\_\_ (Identify Last Addenda By Number)

Apprenticeship Requirements. For Bids greater than one million (\$1,000,000) dollars, the apprentice labor hours required for this project are fifteen (15) percent of the total labor hours. The Bidder agrees to utilize this level of apprentice participation.

_____ Name of Firm	_____ Date
_____ Signature	_____ By Title
_____ Mailing Address	_____ City, State Zip Code
_____ Telephone Number	_____ Email Address
_____ WA State Contractor's License No.	_____ Employment Security Department No.

\_\_\_\_\_  
 Identification of Bidder as a sole proprietor, a partnership, a joint venture, a corporation, or another described form of legal entity



**END OF SECTION**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto the PORT OF TACOMA as Obligee, in the penal sum of \_\_\_\_\_ Dollars, for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigned, jointly and severally, by these present.

The condition of this obligation is such that if the Obligee shall make any award to the Principal for \_\_\_\_\_, according to the terms of the proposal or bid made by the Principal therefor, and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligee; or, if the principal shall, in case of failure to do so, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligee, as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_

BY \_\_\_\_\_  
PRINCIPAL

BY \_\_\_\_\_  
SURETY

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

AGENT AND ADDRESS

Note: Bidder may submit Surety's bid bond form, provided it is similar in substance, made out in the name of the Port of Tacoma, and that the agent's name and address appear as specified. Bonds containing riders limiting responsibility for toxic waste or limiting the term of responsibility will be rejected.

**END OF SECTION**

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**THIS IS NOT TO BE SUBMITTED WITH A BID.**

THE LOW RESPONSIVE BIDDER SHALL BE REQUIRED TO COMPLETE THIS RESPONSIBILITY DETAIL FORM AS SPECIFIED IN SECTION 00 21 00 - INSTRUCTIONS TO BIDDERS. **THIS COMPLETED RESPONSIBILITY DETAIL FORM SHALL BE SUBMITTED ELECTRONICALLY (PDF) VIA EMAIL TO THE CONTACT(S) IDENTIFIED IN THE LOW RESPONSIVE BIDDER SELECTION NOTIFICATION.**

**BIDDER'S COMPANY NAME:** \_\_\_\_\_

For the below Mandatory Bidder Responsibility Criteria, please mark the appropriate choice.

1.01 MANDATORY BIDDER RESPONSIBILITY CRITERIA

A. The Bidder shall meet the following mandatory responsibility criteria as described in RCW 39.04.350(1). The Bidder shall be rejected as not responsible if any answer to questions 1 through 5 is "No" or any answer to questions 6 through 8 is "Yes."

1. Does the Bidder have a Certificate of Registration in compliance with RCW 18.27?  
 Yes       No
2. Does the Bidder have a current Washington State Unified Business Identifier number?  
 Yes       No
3. Does the Bidder have Industrial Insurance Coverage for the Bidder's employees working in Washington State as required in RCW 51?  
 Yes       No
4. Does the Bidder have an Employment Security Department number as required in RCW 50?  
  
*\*Attach letter dated within six (6) months of Bid Date.*  
*\*Request a letter electronically by clicking on the following link <https://fortress.wa.gov/esd/twt/pwcinternet/> or by emailing a request to [publicworks@esd.wa.gov](mailto:publicworks@esd.wa.gov).*  
 Yes       No
5. Does the Bidder have a Washington State Excise Tax Registration number as required in RCW 82?  
 Yes       No
6. Has the Bidder been disqualified from bidding on any public works project under RCW 39.06.010 or 39.12.065(3)?  
 Yes       No
7. Has the Bidder violated RCW 39.04.370 more than one (1) time as determined by the Washington State Department of Labor and Industries?  
 Yes       No

- 8. Has the Bidder ever been found to be out of compliance with Apprenticeship Utilization requirements of RCW 39.04.320?  
 Yes       No
  
- 9. Has the Bidder ever been found to have willfully violated, as defined in RCW 49.48.082, any provision of Chapters 49.46, 49.48, or 49.52 RCW within the three- (3-) year period immediately preceding the date of this bid solicitation?  
 Yes       No
  
- 10. Has the Bidder completed the training required by RCW 39.04.350, or is the Bidder on the list of exempt businesses maintained by the Department of Labor and Industries?  
 Yes       No

If any answer to questions 1 through 5 is "No" or any answer to questions 6 through 8 is "Yes" - **STOP HERE** and contact the Contract Administrator. The Bidder is not responsible for this Work. Otherwise proceed to 1.02. **Provide attached to this completed form documentation to confirm responsibility criteria.**

For remaining criteria below, check or fill-out the appropriate item. Based upon the answer provided by the Bidder, the Port may request additional information or seek further explanation. As needed, provide backup documentation for any explanations listed below.

1.02 CONTRACT AND REGULATORY HISTORY

A. The Port will evaluate whether the Bidder's contract and regulatory history demonstrates an acceptable record of past project performance and consistent responsibility. The Bidder shall answer the following questions. The Bidder may be rejected as not responsible if any answer to questions 1 through 5 below is "Yes."

- 1. Has the Bidder had a contract terminated for cause or default in the last five (5) years?  
 Yes, **If YES, explain below.**       No  

---
  
- 2. Has the Bidder required a Surety to take over all, or a portion of, a project to cure or respond to an asserted default or material breach of contract on the part of the Bidder on any public works project in the last five (5) years?  
 Yes, **If YES, explain below.**       No  

---
  
- 3. Have the Bidder and major Sub-Bidders been in bankruptcy, reorganization, and/or receivership on any public works project in the last five (5) years?  
 Yes, **If YES, explain below.**       No  

---

4. Have the Bidder and major Sub-Bidders been disqualified by any state or local agency from being awarded and/or participating on any public works project in the last five (5) years?

- Yes, **If YES, explain below.**       No

5. Are the Bidder and major Sub-Bidders currently a party to a formal dispute resolution process with the Port (i.e., a pending mediation, arbitration, or litigation)?

- Yes, **If YES, explain below.**       No

**1.03 ACCIDENT/INJURY EXPERIENCE**

- A. The Port will evaluate the Bidder’s accident/injury Experience Modification Factor (“EMF”) from the Washington State Department of Labor and Industries to assess whether the Bidder has an acceptable safety record preventing personal injuries on projects.
- B. List the Bidder’s accident/injury EMF for the last five (5) years. An experience factor is calculated annually by the Washington State Department of Labor and Industries.

Year	Effective Year	Experience Factor
1		
2		
3		
4		
5		

If the Bidder has received an EMF of greater than 1.0 for any year, explain the cause(s) of the designation and what remedial steps were taken to correct the EMF. The Bidder may be rejected as not responsible if the Bidder’s EMF is greater than 1.0 and sufficient remedial steps have not been implemented.

**1.04 WORK PERFORMED BY BIDDER**

- A. The Bidder shall state the amount of the Work, as an equivalent to the Base Bid, excluding taxes, insurance, and bonding, the Bidder will execute with its own forces.

\_\_\_\_\_ %

**1.05 ADDITIONAL CONTRACTOR INFORMATION**

- A. As part of completing this Responsibility Detail Form, **submit the following information with the completed Responsibility Detail Form:**
  - 1. Bidder’s recent job resume, including a list of similar projects performed and contact information for the similar project owner(s), a brief description of work, start and end dates, and contract amount.
  - 2. Resumes of Bidder’s proposed project manager and job superintendent.

- B. The Bidder's failure to provide the required project information may result in a determination of the Bidder being declared non-responsible by the Port.
- C. The Bidder shall submit this completed, **SIGNED** Responsibility Detail Form electronically (PDF), with all requested backup documentation, via email to the contact(s) noted on the Low Responsive Bidder Selection Notification.
- D. The Bidder and its subcontractors to verify that its subcontractors at each tier meet the responsibility criteria as required by RCW 39.06.020 and 39.04.350.
  - 1. Bidder shall verify major subcontractors meet the responsibility criteria required. Fill out one Port of Tacoma Public Works Project Bidder Evaluation Checklist for Subcontractors for each major subcontractor and submit to the Port with this form. Backup documentation is not required to be submitted.

**PROJECT: Pier 3 Cranes Climate Control System Upgrade**

**PROJECT NO.: 201158.01**

**CONTRACT NO.: Required**

**Responsibility Certification Form**

The Low responsive Bidder shall complete the Responsibility Detail Form, attach all documentation, and submit to the Port within twenty-four (24) hours following receipt of the Low Responsive Bidder Selection Notification. All forms shall be submitted electronically (PDF) via email to the contact(s) listed on the Selection Notice. Note, the same project may be used to demonstrate experience across multiple categories if applicable.

By completing and signing this Responsibility Detail Form, the Bidder is certifying that the information contained within the Form, the backup documentation, and any additional information requested by the Port is true and complete. The Bidder's failure to disclose the required information or the submittal of false or misleading information may result in the rejection of the Bidder's Bid, revocation of award, or contract termination.

The information provided herein is true and complete.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

**PORT OF TACOMA PUBLIC WORKS PROJECT BIDDER EVALUATION CHECKLIST FOR  
 SUBCONTRACTORS**

**PROJECT TITLE: Pier 3 Cranes Climate Control System Upgrade**

**BIDDER: \_\_\_\_\_**

**CONTRACT AND PROJECT NUMBER: Required/ 201158.01**

This checklist shall be completed by the Bidder and its subcontractors to verify that its subcontractors at each tier meet the responsibility criteria as required by RCW 39.06.020 and RCW 39.04.350.

This checklist should be submitted to the Port of Tacoma Contracts Administrator within twenty-four (24) hours of request.

**Document verification information or backup data is not to be submitted to the Port, this information should remain on file with the Contractor and be presented to the Port if requested at a later date.**

Item No.	Item	Initials/ Comments
1.	At the time of Bid submittal, have a certificate of registration in compliance with RCW 18.27: Check the L&I site <a href="https://fortress.wa.gov/lni/bbip/">https://fortress.wa.gov/lni/bbip/</a> .  Verify that a subcontractor has an electrical contractor license, if required by RCW 19.28, or an elevator contractor license, if required by RCW 70.87.	
2.	While reviewing registration information above, also check contractor's <b>Employer Liability Certificate</b> to verify workers' comp (industrial insurance) premium status – current account.  Complete a "Submit Contractor Tracking Request" to be notified if the contractor fails to pay workers' comp premiums or renew their contractor registration or if their electrical contractor license is suspended or revoked within one year.	
3.	State excise tax registration number (Department of Revenue). (contractor's Washington State Unified Business Identifier and tax registration number) <a href="http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/">http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/</a> .	
4.	Not disqualified from bidding on any public works contract under <a href="#">RCW 39.06.010</a> or <a href="#">RCW 39.12.065(3)</a> .  Check the Department of Labor and Industries <a href="http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/">http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/</a> .	
5.	Verify subcontractors are registered with the Washington State Employment Security Department (ESD) and have an account number. Request a letter to be sent from the subcontractor electronically by clicking on the following link <a href="https://fortress.wa.gov/esd/twt/pwcinternet/">https://fortress.wa.gov/esd/twt/pwcinternet/</a> or by emailing a request to <a href="mailto:publicworks@esd.wa.gov">publicworks@esd.wa.gov</a> . Include ESD#, UBI#, and business name in the email. Certificate of Coverage letter issued/dated within the last six (6) months.	



<b>Item No.</b>	<b>Item</b>	<b>Initials/ Comments</b>
	Document if subcontractor confirms in writing, under penalty of perjury, that it has no employees and this requirement does not apply.	

**END OF SECTION**

THIS AGREEMENT is made and entered into by and between the PORT OF TACOMA, a State of Washington municipal corporation, hereinafter designated as the "Port," and:

The "Contractor" is: \_\_\_\_\_ (Legal Name)

\_\_\_\_\_ (Address)

\_\_\_\_\_ (Address 2)

\_\_\_\_\_ (Phone No.)

The "Project" is: Pier 3 Cranes Climate Control System Upgrade (Title)

201158.01 | Required (Project/Contract No.)

1101 Port of Tacoma Road (Project Address)

Project Location Address 2 (Project Address 2)

The "Engineer" is: Thais Howard, PE (Engineer)

Director of Engineering (Title)

thoward@portoftacoma.com (Email)

(253) 888-4718 (Phone No.)

The "Contractor's Representative" is: \_\_\_\_\_ (Representative)

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

\_\_\_\_\_ (Email)

\_\_\_\_\_ (Phone No.)

**BACKGROUND AND REPRESENTATIONS:**

The Port publicly solicited bids on the Contract Documents. The Contractor submitted a Bid to the Port on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to perform the Work.

The Contractor represents that it has the personnel, experience, qualifications, capabilities, and means to accomplish the Work in strict accordance with the Contract Documents, within the Contract Time and for the Contract Price, and that it and its Subcontractors satisfy the responsibility criteria set forth in the Contract Documents, including any supplemental responsibility criteria.

The Contractor further represents that it has carefully examined, and is fully familiar with, all provisions of the Contract Documents, including any Addenda, that it has fully satisfied itself as to the nature, location, difficulty, character, quality, and quantity of the Work required by the Contract Documents and the conditions and other matters that may be encountered at or near the Project site(s), or that may affect performance of the Work or the cost or difficulty thereof, including all applicable safety and site responsibilities, and that it understands and can satisfy all scheduling and coordination requirements and interim milestones.

**AGREEMENT:**

The Port and the Contractor agree as follows:

**1.0 CONTRACTOR TO FULLY PERFORM THE WORK**

The Contractor shall fully execute and complete the entire Work for the Project described in the Contract Documents, except to the extent specifically indicated in the Agreement, the General Conditions of the Contract (as well as any Supplemental, Special, or other conditions included in the Project Manual), the Drawings, the Specifications, and all Addenda issued prior to, and all modifications issued after, execution of the Contract.

**2.0 DATE OF COMMENCEMENT**

The date of commencement of the Work, which is the date from which the Contract Time is measured, shall be fixed as the date of execution of the Contract.

**3.0 CONTRACT TIME AND LIQUIDATED DAMAGES**

The Contractor shall achieve all interim milestones as set forth in the Contract Documents and Substantial Completion of the entire Work not later than 90 calendar days from execution of the Contract, subject to adjustments of this Contract Time as provided in the Contract Documents. The Contractor shall achieve Final Completion of the entire Work within 30 calendar days of the date on which Substantial Completion is achieved.

Provisions for liquidated damages as a reasonable estimate of future loss, as of the date of this Agreement, are included in the Contract Documents. The parties agree that the stated liquidated damages are reasonable and not penalties individually nor cumulatively.

The liquidated damages for failure to achieve Substantial Completion by the required date shall be \$100 per calendar day. After the required Final Completion date, the liquidated damages for failure to achieve Final Completion shall be \$100 per calendar day.

Liquidated damages assessed by the Port will be deducted from monies due to the Contractor, or from monies that will become due to the Contractor. The liquidated damages, as specified and calculated herein, shall be levied, cumulatively if applicable, for each and every calendar day that Substantial Completion and/or Final Completion of the Work is delayed beyond the required completion dates, or the completion dates modified by the Port for extensions of the Contract Time.

#### 4.0 CONTRACT PRICE

In accordance with the Contractor's Bid dated \_\_\_\_\_, the Port shall pay the Contractor in current funds for the Contractor's performance of the Contract, the Contract Price of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), subject to additions and deductions as provided in the Contract Documents. State and local sales tax is not included in the Contract Price, but will be due and paid by the Port with each progress payment.

#### 5.0 ALTERNATES

Date:

**END OF SECTION**

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**PERFORMANCE BOND # \_\_\_\_\_**

**CONTRACTOR (NAME AND ADDRESS)**

**SURETY (NAME AND PRINCIPLE PLACE OF BUSINESS)**

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

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

**OWNER (NAME AND ADDRESS)**

**AGENT OR BROKER (FOR INFORMATION ONLY)**

PORT OF TACOMA  
P.O. BOX 1837  
TACOMA, WA 98401-1837

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

**KNOW ALL MEN BY THESE PRESENTS:**

That \_\_\_\_\_ as Principal, hereinafter called Contractor, and \_\_\_\_\_ as Surety, hereinafter called Surety, are held and firmly bound unto the Port of Tacoma as Obligee, hereinafter called the Port, in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof Contractor and Surety bind themselves, their executors, administrators, legal representatives, successors, and assigns, jointly and severally, firmly by these presents.

**WHEREAS:**

Contractor shall execute an agreement with the Port for Pier 3 Cranes Climate Control System Upgrade, Project No. 201158.01/Contract No. Required, a copy of which Contract is by reference made a part hereof (the term "Contract" as used herein to include the aforesaid agreement together with all the Contract Documents, addenda, modifications, all alterations, additions thereto, deletions therefrom, and any other document or provision incorporated into the Contract) and is hereinafter referred to as the Contract.

This bond is executed and issued pursuant to the provisions of RCW 39.08.

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION** is such that if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

**FURTHER:**

- A. Surety hereby waives notice of any alterations, change orders, modifications, or extensions of time made by the Port.
- B. Surety recognizes that the Contract includes provisions for additions, deletions, and modifications to the Work and/or Contract Time and the amounts payable to the Contractor. Subject to the limitations contained in (A) above, Surety agrees that no such addition, deletion, or modification, or any combination thereof, shall avoid or impair Surety's obligation hereunder.
- C. Whenever Contractor has been declared by the Port to be in default, and the Port has given Surety notice of the Port's determination of such default, Surety shall promptly (in no event more than fifteen (15) days following receipt of such notice) advise the Port of its intended action to:
  - 1. Remedy the default within fifteen (15) days following its advice to the Port as set forth above, or

- 2. Assume within fifteen (15) days, following its advice to the Port as set forth above, completion of the Contract in accordance with the Contract Documents and become entitled to payment of the balance of the Contract Sum, or
- 3. Pay the Port upon completion of the Contract, in cash, the cost of completion together with all other reasonable costs and expenses incurred by the Port as a result of the Contractor's default, including but not limited to, those reasonable costs and expenses incurred by the Port in its efforts to mitigate its losses, which may include, but are not limited to, attorney's fees and efforts to complete the Work prior to the Surety exercising the options available to it as set forth herein.
- D. If the Port shall commence suit and obtain judgment against the Surety for recovery hereunder, then the Surety, in addition to such judgment, shall pay all costs and attorney's fees incurred by the Port in enforcement of its rights hereunder. Venue for any action arising out of, or in connection with, this bond shall be in Pierce County, Washington.
- E. No right or action shall accrue on this bond to, or for the use of, any person or corporation other than the Port of Tacoma.

Signed and Sealed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**IMPORTANT:** Surety companies executing bonds must have an A.M. Best Rating of "A-, FSC (6)" or higher, have an underwriting limitation of not less than the Contract Sum, and be authorized to transact business in the State of Washington.

**SURETY**

**CONTRACTOR**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

Power of Attorney attached.

**END OF SECTION**

**LABOR AND MATERIAL PAYMENT BOND # \_\_\_\_\_**

**CONTRACTOR (NAME AND ADDRESS)**

**SURETY (NAME AND PRINCIPLE PLACE OF BUSINESS)**

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

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

**OWNER (NAME AND ADDRESS)**

**AGENT OR BROKER (FOR INFORMATION ONLY)**

PORT OF TACOMA  
P.O. BOX 1837  
TACOMA, WA 98401-1837

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

**KNOW ALL MEN BY THESE PRESENTS:**

That \_\_\_\_\_ as Principal, hereinafter called Contractor, and \_\_\_\_\_ as Surety, hereinafter called Surety, are held and firmly bound unto the Port of Tacoma as Obligee, hereinafter called the Port, and all others entitled to recovery hereunder, in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof Contractor and Surety bind themselves, their executors, administrators, legal representatives, successors, and assigns, jointly and severally, firmly by these presents.

**WHEREAS:**

Contractor shall execute an agreement with the Port for Pier 3 Cranes Climate Control System Upgrade, Project No. 201158.01/Contract No. 071813, a copy of which Contract is by reference made a part hereof (the term "Contract" as used herein to include the aforesaid agreement together with all the Contract Documents, addenda, modifications, alterations, additions thereto, deletions therefrom, and any other document or provision incorporated into the Contract) and is hereinafter referred to as the Contract.

This bond is executed pursuant to the provisions of RCW 39.08.

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION** is such that if Contractor shall promptly make payment to all claimants, as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract and shall indemnify and save the Port harmless from all cost and damage by reason of Contractor's default, then this obligation shall be null and void; otherwise, it shall remain in full force and effect, subject to the following conditions.

- A. Surety hereby waives notice of any alterations, change orders, modifications, or extensions of time made by the Port.
- B. Surety recognizes that the Contract includes provisions for additions, deletions, and modifications to the Work and/or Contract Time and the amounts payable to the Contractor. Subject to the limitations contained in (A) above, Surety agrees that no such addition, deletion, or modification, or any combination thereof, shall avoid or impair Surety's obligation hereunder.



- C. Surety hereby agrees that every person protected under the provisions of RCW 39.08.010 who has not been paid as provided under the Contract, and pursuant to RCW 39.08.010, less any amounts withheld pursuant to statute, and less retainage withheld pursuant to RCW 60.28, after the expiration of a period of thirty (30) days after the date on which the completion of the Contract in accordance with RCW 39.08, may sue on this bond, prosecute the suit to final judgment as may be due claimant, and have execution thereon including recovery of reasonable costs and attorney's fees as provided by RCW 39.08. The Port shall not be liable for the payment of any costs or expenses of any such suit.
- D. No suit or action shall be commenced hereunder by any claimant unless claimant shall have given the written notices to the Port, and where required, the Contractor, in accordance with RCW 39.08.030.
- E. The amount of this bond shall be reduced by, and to the extent of, any payment or payments made in good faith hereunder, inclusive of the payment by Surety of claims which may be properly filed in accordance with RCW 39.08 whether or not suit is commenced under and against this bond.
- F. If any Claimant shall commence suit and obtain judgment against the Surety for recovery hereunder, then the Surety, in addition to such judgment and attorney fees as provided by RCW 39.08.030, shall also pay such costs and attorney fees as may be incurred by the Port as a result of such suit. Venue for any action arising out of, or in connection with, this bond shall be in Pierce County, Washington.

Signed and Sealed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**IMPORTANT:** Surety companies executing bonds must have an A.M. Best Rating of "A-, FSC (6)" or higher, have an underwriting limitation of not less than the Contract Sum, and be authorized to transact business in the State of Washington.

**SURETY**

**CONTRACTOR**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

Power of Attorney attached.

**END OF SECTION**

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

PROJECT TITLE: Pier 3 Cranes Climate Control System Upgrade

PROJECT NO.: 201158.01

CONTRACT NO.: Required

KNOW ALL MEN BY THESE PRESENTS: That we, \_\_\_\_\_  
\_\_\_\_\_ a corporation existing under and by virtue of the laws of the State of Washington and authorized to do business in the State of Washington, as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized to transact the business of surety in the State of Washington, as Surety, are jointly and severally held and bound unto the PORT OF TACOMA, hereinafter called Port, as Obligee, and are similarly held and bound unto the beneficiaries of the trust fund created by RCW 60.28 as their heirs, executors, administrators, successors, and assigns in the penal sum of \_\_\_\_\_ (\$ \_\_\_\_\_) plus five (5) percent of any increases in the Contract Price that have occurred or may occur, due to change orders, increases in the quantities, or the addition of any new item of work.

WHEREAS, on the \_\_\_\_\_ day of \_\_\_\_\_, the said Principal herein executed Contract No. 071813 with the Port for Pier 3 Cranes Climate Control System Upgrade, Project No. 201158.01.

WHEREAS, said Contract and RCW 60.28 require the Port to withhold from the Principal the sum of five (5) percent from monies earned by the Principal on estimates during the progress of the work, hereinafter referred to as earned retained funds.

WHEREAS, the Principal has requested that the Port accept a bond in lieu of earned retained funds as allowed under RCW 60.28.

NOW THEREFORE, this obligation is such that the Surety, its successors, and assigns are held and bound unto the Port and unto all beneficiaries of the trust fund created by RCW 60.28.011(1) in the aforesaid sum. This bond, including any proceeds therefrom, is subject to all claims and liens and in the same manner and priority as set forth for retained percentages in RCW 60.28. The condition of this obligation is also that if the Principal shall satisfy all payment obligations to persons who may lawfully claim under the trust fund created pursuant to RCW 60.28, to the Port, and indemnify and hold the Port harmless from any and all loss, costs, and damages that the Port may sustain by release of said retainage to Principal, then this obligation shall be null and void, provided the Surety is notified by the Port that the requirements of RCW 60.28.021 have been satisfied and the obligation is duly released by the Port.

IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable under this obligation as Principal. The Surety will not be discharged or released from liability for any act, omission, or defenses of any kind or nature that would not also discharge the Principal.

IT IS HEREBY FURTHER DECLARED AND AGREED that this obligation shall be binding upon and inure to the benefit of the Principal, the Surety, the Port, the beneficiaries of the trust fund created by RCW 60.28 and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, said Principal and said Surety have caused these presents to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

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

City/ST/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

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

By: \_\_\_\_\_  
Attorney-In-Fact

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

City/ST/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

**IMPORTANT:** Surety companies executing bonds must have an A.M. Best Rating of "A-, FSC (6)" or higher, and be authorized to transact business in the State of Washington.

**END OF SECTION**

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## ARTICLE 1 - THE CONTRACT DOCUMENTS

### 1.01 GENERAL

- A. Contract Documents form the Contract. The Contract Documents are enumerated in the Agreement between the Port and Contractor ("Agreement"). Together, the Contract Documents form the Contract. The Contract represents the entire integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only in writing and only as set forth in the Contract Documents.
- B. Headings only for convenience. The titles or headings of the sections, divisions, parts, articles, paragraphs, and subparagraphs of the Contract Documents are intended only for convenience.

### 1.02 DEFINITIONS

- A. "Contract Documents" proposed for the Work consist of the Agreement, the General Conditions of the Contract (as well as any Supplemental, Special, or other conditions included in the Project Manual), the Drawings, the Specifications, and all Addenda issued prior to, and all modifications issued after, execution of the Contract.
- B. "Contractor" means the person or entity contracting to perform the Work under these Contract Documents. The term Contractor includes the Contractor's authorized representative for purposes of identifying obligations and responsibilities under the Contract Documents, including the ability to receive notice and direction from the Port.
- C. "Day" means a calendar day unless otherwise specifically designated.
- D. "Drawings" are the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, including plans, elevations, sections, details, and diagrams.
- E. "Engineer" is the Port employee generally tasked with administering the Project on the Port's behalf and the person with overall responsibility for managing, for the Port, the Project scope, budget, and schedule. To the extent empowered, the Engineer may delegate to others at the Port (such as a Project Manager or Inspector) the responsibility for performing delegated responsibilities of the Engineer's under this Contract.
- F. "Port" means the Port of Tacoma. The Port will designate in writing a representative (usually the Engineer) who shall have the authority to act on the Port's behalf related to the Project. The "Port" does not include staff, maintenance, or safety workers, or other Port employees or consultants that may contact the Contractor or be present at the Project site.
- G. "Project" is identified in the Agreement and is the total construction to be performed by or through the Port, of which the Work performed under the Contract Documents may be only a part.
- H. "Specifications" are those portions of the Contract Documents that specify the written requirements for materials, equipment, systems, standards, and workmanship for the Work and for the performance of related services.
- I. "Subcontractor" means a person or entity that contracts directly with the Contractor to perform any Work under the Contract Documents. "Subcontractor of any tier" includes Subcontractors as well as any other person or entity, including suppliers, that contracts with a Subcontractor or a lower-tier Subcontractor (also referred to as "Sub-subcontractors") to perform any of the Work.

- J. "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, tools, equipment, materials, services, and incidentals necessary to complete all obligations under the Contract Documents. The Work may constitute only a part of the Project, and may interface and need to be coordinated with the work of others.

#### 1.03 INTENT OF THE CONTRACT DOCUMENTS

- A. Intent of Contract Documents. The intent of the Contract Documents is to describe the complete Work and to include all items and information necessary for the proper execution and completion of the Work by the Contractor.
- B. Contract Documents are complementary. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor is required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.
- C. No third party contract rights. The Contract Documents shall not create a contractual relationship of any kind (1) between the Port and a Subcontractor of any tier (although the Port does not waive any third-party beneficiary rights it may otherwise have as to Subcontractors of any tier), (2) between the Contractor and the Engineer or other Port employees or consultants, or (3) between any persons or entities other than the Port and Contractor.

#### 1.04 CORRELATION OF THE CONTRACT DOCUMENTS

- A. Precedence. In the event of a conflict or discrepancy between or among the Contract Documents, the conflict or discrepancy will be resolved by the following order of precedence: with an addendum or Change Order having precedence over an earlier document, and computed dimensions having precedence over scaled dimensions, and large scale drawings take precedence over small scale drawings:
  - 1. The signed Agreement
    - a. Supplemental Conditions
    - b. Division 00 General Conditions
    - c. Division 01 General Requirements of Specifications
    - d. All other Specifications, including all remaining divisions, material and system schedules and attachments, and Drawings
    - e. All other sections in Division 00 not specifically identified herein by Section
- B. Inconsistency between or among Contract Documents. If there is any inconsistency between the Drawings, schedules, or Specifications, or any attachments, the Contractor will make an inquiry to the Engineer to determine how to proceed, and, unless otherwise directed, the Contractor will provide the better quality or greater quantity of any work or materials, as reasonably interpreted by the Port, at no change in the Contract Sum or Contract Time. Thus, if Work is shown on Drawings, but not contained in Specifications or schedules, or contained in Specifications or schedules, but not shown on the Drawings, the Work as shown or contained will be provided at no change in the Contract Sum or Contract Time, according to Specifications or Drawings to be issued by the Port.

- C. Inconsistency with law. In the event of a conflict between the Contract Documents and applicable laws, codes, ordinances, regulations, or orders of governmental authorities having jurisdiction over the Work, or in the event of any conflict between such laws, the most stringent requirements govern.
- D. Organization of Contract Documents. The organization of the Specifications and Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of the Work to be performed. The Port assumes no responsibility for the division and proper coordination of Work between particular Subcontractors.
- E. Bid quantities are estimates only. Any "bid quantities" set forth in the Contract Documents are estimates only. The Port does not warrant that the actual amount of Work will correspond to any estimates. The basis of payment will be the actual quantities performed in accordance with the Contract Documents.

#### 1.05 OWNERSHIP OF THE CONTRACT DOCUMENTS

- A. Port owns all Contract Documents. All Drawings, Specifications, and other Contract Documents furnished to the Contractor are Port property, and the Port retains all intellectual property rights, including copyrights. The Contract Documents are to be used only with respect to the Project.

### **ARTICLE 2 - PORT OF TACOMA**

#### 2.01 AUTHORITY OF THE ENGINEER

- A. Engineer will be Port's representative. The Engineer or the Engineer's designee will be the Port's representative during the Project and will administer the Project on the Port's behalf.
- B. Engineer may enforce all obligations. The Engineer has the authority to enforce all requirements imposed on the Contractor by the Contract Documents.
- C. Only Engineer is agent of Port. Other than the Engineer, no other Port employee or consultant is an agent of the Port, and none are authorized to agree on behalf of the Port to changes in the Contract Sum or Contract Time, nor to waive provisions of the Contract Documents, nor to direct the Contractor to take actions that change the Contract Sum or Contract Time, nor to accept notice of protests or claims on behalf of the Port.

#### 2.02 ADMINISTRATION OF THE CONTRACT

- A. Port will administer Contract. The Port will provide administration of the Contract through the Engineer or the Engineer's designee. All communications with the Port or its consultants related to the Contract will be through the designated representative.
- B. Port not responsible for means and methods. The Port is not responsible for, and will have no control or charge of, the means, methods, techniques, sequences, or procedures of construction, or for safety precautions or programs incidental thereto, because these are the sole responsibility of the Contractor. If the Port makes any suggestion of means, methods, techniques, sequences, or procedures, the Contractor will exercise its independent judgment in deciding whether to adopt the suggestion, except as otherwise provided in the Contract Documents.
- C. Port not responsible for acts or omissions of Contractor or Subcontractors. The Port is not responsible for, and will have no control or charge of, the acts or omissions of the Contractor, Subcontractors of any tier, suppliers, or any of their agents or employees, or any other persons performing a portion of the Work.



- D. Port not responsible for the Work. The Port is not responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The presence of the Engineer or others at the Project site at any time does not relieve the Contractor from its responsibility for non-conforming Work.
- E. Port will have access to the Work. The Port and its representatives will at all times have access to the Work in progress, and the Contractor will provide proper facilities for such access and for inspection.

### 2.03 INFORMATION PROVIDED BY THE PORT

- A. Port to furnish information with reasonable promptness. The Port shall furnish information and services required of the Port by the Contract Documents with reasonable promptness.
- B. Subsurface investigation. The Port may have undertaken a limited investigation of the soil and other subsurface conditions at the Project site for design purposes only. The results of these investigations will be available for the convenience of the Contractor, but they are not Contract Documents. There is no warranty or guarantee, express or implied, that the conditions indicated are representative of those existing at the site or that unforeseen developments may not occur. The Contractor is solely responsible for interpreting the information.

### 2.04 CONTRACTOR REVIEW OF PROJECT INFORMATION

- A. Contractor to familiarize itself with site and conditions of Work. Prior to executing the Contract, the Contractor shall visit the site, become generally familiar with local conditions under which the Work is to be performed, and correlate personal observations with the requirements of the Contract Documents and all information provided with the Bid Documents. By signing the Contract, the Contractor confirms that the Contract Sum is reasonable compensation for the Work; that the Contract Time is adequate; that it has carefully examined the Contract Documents and the Project site; and that it has satisfied itself as to the nature, location, and character of the Work, the labor, materials, equipment, and other items required and all other requirements of the Contract Documents. The Contractor's failure fully to acquaint itself with any such condition does not relieve the Contractor from the responsibility for performing the Work in accordance with the Contract Documents, within the Contract Time, and for the Contract Sum.
- B. Contractor to review Contract Documents. Because the Contract Documents are complementary, the Contractor will, before starting each portion of the Work, carefully study and compare the various Drawings, Specifications, and other Contract Documents, as well as all information furnished by the Port.
- C. Contractor to confirm field conditions. Before starting each portion of the Work, the Contractor shall take field measurements of and verify any existing conditions, including all Work in place, and all general reference points; shall observe any conditions at the site affecting the Contractor; and shall carefully compare field measurements, conditions and other information known to the Contractor with the Contract Documents.

### 2.05 PORT'S RIGHT TO REJECT, STOP, AND/OR CARRY-OUT THE WORK

- A. Port may reject Work. The Port has the authority, but not the obligation, to reject work, materials, and equipment that is defective or that otherwise does not conform to the Contract Documents, and to decide questions concerning the Contract Documents. However, the failure to so reject, or the presence of the Port at the site, shall not be construed as assurance that the Work is acceptable or being completed in compliance with the Contract Documents.
- B. Port may stop Work. If the Contractor fails to correct Work that does not comply with the requirements of the Contract Documents, or repeatedly or materially fails to properly carry out the Work, the Port may issue an order to stop all or a portion of the Work until the cause for the order has been eliminated. The Port's right to stop the Work shall not impose a duty on the Port to exercise this right for the benefit of the Contractor or any third party.

- C. Port may carry-out Work. If the Contractor fails to perform the Work properly, fails to perform any provision of this Contract, or fails to maintain the Baseline Project Schedule, or if the Port reasonably concludes that the Work will not be completed in the specified manner or within the Contract Time, then the Port may, after three (3) days' written notice to the Contractor and without prejudice to any other remedy the Port may have, perform itself or have performed any or all of the Work and may deduct the cost thereof from any payment then or later due the Contractor.

## 2.06 SEPARATE CONTRACTORS

- A. Port may engage separate contractors or perform work with its own forces. The Port may contract with other contractors ("Separate Contractor") in connection with the Project or perform work with its own forces. The Contractor shall coordinate and cooperate with any Port forces or Separate Contractors, as applicable. The Contractor shall provide reasonable opportunity for the introduction and storage of materials and the execution of work by others.
- B. Contractor to inspect work of others. If any part of the Contractor's Work depends on the work of the Port or any Separate Contractor, the Contractor shall inspect and promptly report to the Port, in writing, any defects that impact the Contractor. Failure of the Contractor to so inspect and report defects in writing shall constitute an acceptance by Contractor of the work of the Port or Separate Contractor.
- C. Contractor to resolve claims of others. Should the Contractor, or any of its Subcontractors of any tier, cause damage of any kind, including but not limited to delay, to any Separate Contractor, the Contractor shall promptly, and using its best efforts, settle or otherwise resolve the dispute with the Separate Contractor. The Contractor shall also promptly remedy damage caused to completed or partially completed construction.

## 2.07 OFFICERS AND EMPLOYEES OF THE PORT

- A. No personal liability. Officers, employees, and representatives of the Port, including the Commissioners, acting within the scope of their employment, shall not be personally liable to Contractor for any acts or omissions arising out of the Project.

## **ARTICLE 3 - CONTRACTOR'S RESPONSIBILITIES**

### 3.01 DUTY TO PERFORM THE ENTIRE WORK

- A. Contractor must perform entire Work in accordance with Contract Documents. The Contractor shall perform the entire Work required by the Contract in accordance with the Contract Documents. Unless otherwise specifically provided, the Contractor shall provide and pay for all labor, tools, equipment, materials, electricity, power, water, other utilities, transportation, and other facilities necessary for the execution and completion of the Work.
- B. Contractor shall be independent contractor. The Contractor shall be, and operate as, an independent contractor in the performance of the Work. The Contractor is not authorized to enter into any agreements or undertakings for, or on behalf of, the Port and is not an agent or employee of the Port.

### 3.02 OBSERVED ERRORS, INCONSISTENCIES, OMISSIONS, OR VARIANCES IN THE CONTRACT DOCUMENTS

- A. Contractor to notify Port of any discrepancy. The Contractor's obligations to review and carefully study the Contract Documents and field conditions are for the purpose of facilitating coordination and construction. If the Contractor at any time observes that the Contract Documents, including Drawings and Specifications, vary from the conditions of the Project site, are in error, or omit any necessary detail, the Contractor shall promptly notify the Engineer in writing through a Request for Information. Any Work done after such observation, until authorized by the Engineer, shall be at Contractor's risk. The Contractor shall also promptly report to the Engineer any observed error, inconsistency, omission, or variance with applicable laws through a Request for Information. If the Contractor fails either to carefully study and compare the Contract Documents, or to promptly report any observed error, inconsistency, omission, or variance, the Contractor shall assume full responsibility and shall bear all costs, liabilities, and damages attributable to the error, inconsistency, omission, or variance.
- B. Requests for Information. The Contractor shall submit Requests for Information concerning the Contract Documents by following the procedure and using such form as the Port may require. The Contractor shall minimize Requests for Information by thoroughly studying the Contract Documents and reviewing all Subcontractor requests. The Contractor shall allow adequate time in its planning and scheduling for a response from the Port to a Request for Information.
- C. Port may provide information to supplement Drawings and Specifications. Minor items of work or detail that are omitted from the Drawings and Specifications, but inferable from the information presented and normally provided by accepted good practice, shall be provided and/or performed by the Contractor as part of the Contract Sum and within the Contract Time. Similarly, the Engineer may furnish to the Contractor additional Drawings and clarifications, consistent with the Contract Documents, as necessary to detail and illustrate the Work. The Contractor shall conform its Work to such additional Drawings and clarifications at no increase in the Contract Sum or Contract Time.

### 3.03 SUPERVISION AND RESPONSIBILITY FOR SUBCONTRACTORS

- A. Contractor responsible for Work and workers. The Contractor shall have complete control of the means, methods, techniques, sequences, or procedures related to the Work, and for all safety precautions or programs. The Contractor shall have complete control over, and responsibility for, all personnel performing the Work. The Contractor is also responsible for the acts and omissions of the Contractor's principals, employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors of any tier.
- B. Contractor to supervise the Work. The Contractor shall continuously supervise and direct the Work using competent and skilled personnel and the Contractor's best skill and attention.
- C. Contractor to enforce discipline and good order. The Contractor shall enforce strict discipline and good order among all workers on the Project, and shall not employ any unfit person or anyone not skilled in the work to which they are assigned. Incompetent, careless, or negligent workers shall immediately be removed from the Work. The Port may, but is not obligated to, require the Contractor to remove from the Work, at no change in the Contract Sum or Contract Time, anyone whom the Port considers objectionable.

### 3.04 MATERIALS AND EQUIPMENT

- A. Material and equipment to be new. All materials and equipment to be incorporated into the Work shall be new, unless specifically provided otherwise in the Contract Documents. The Contractor shall, if required in writing by the Port, furnish satisfactory evidence regarding the kind and quality of any materials, identify the source, and warrant compliance with the Contract Documents. The Contractor shall ensure that all materials and equipment are protected, kept dry, and stored under cover in a manner to protect such materials and equipment.
- B. Material and equipment shall conform to manufacturer instructions. All materials and equipment shall conform, and shall be applied, installed, used, maintained, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processor, unless otherwise specifically provided by the Engineer.

### 3.05 CONTRACTOR WARRANTIES

- A. Work will be of good quality and performed in workmanlike manner. In addition to any specific warranties set forth in the Contract Documents, the Contractor warrants that the Work, including all materials and equipment furnished under the Contract, will be of good quality and new, will be performed in a skillful and workmanlike manner, and will conform to the requirements of the Contract Documents. Any Work not conforming to this warranty, including unapproved or unauthorized substitutions, shall be considered defective.
- B. Work will be free from defects. The Contractor warrants that the Work will be free from defects for a period of one (1) year from the date of Substantial Completion of the Project.
- C. Contractor to collect and deliver warranties to Port. The Contractor shall collect and deliver to the Port any written warranties required by the Contract Documents. These warranties shall be obtained and enforced by the Contractor for the benefit of the Port without the necessity of separate assignment. These warranties shall extend to the Port all rights, claims, benefits, and interests that the Contractor may have under express or implied warranties or guarantees against a Subcontractor of any tier, supplier, or manufacturer for defective or non-conforming Work. Warranty provisions that purport to limit or alter the Port's rights under the Contract Documents, or the laws of the State of Washington, are null and void.
- D. General requirements. The Contractor is not relieved of its general warranty obligations by the specification of a particular product or procedure in the Contract Documents. Warranties in the Contract Documents shall survive completion, acceptance, and final payment.

### 3.06 REQUIRED WAGES

- A. Contractor will pay required wages. The Contractor shall pay (and shall ensure that all Subcontractors of any tier pay) all prevailing wages and other wages (such as Davis-Bacon Act wages) applicable to the Project. See Specification Section 00 73 46.
- B. The Contractor shall defend (at Contractor's sole cost, with legal counsel approved by Port), indemnify, and hold the Port harmless from all liabilities, obligations, claims, demands, damages, disbursements, lawsuits, losses, fines, penalties, costs, and expenses, whether direct or indirect, and including, but not limited to, attorneys' fees and consultants' fees and other costs and expenses of litigation, from any violation or alleged violation by the Contractor or any Subcontractor of any tier of RCW 39.12 ("Prevailing Wages on Public Works") or Chapter 51 RCW ("Industrial Insurance").

### 3.07 STATE AND LOCAL TAXES

- A. Contractor will pay taxes on consumables. The Contractor will pay the retail sales tax on all consumables used during performance of the Work and on all items that are not incorporated into the final Work; this tax shall be included in the Contract Sum.

- B. Port will pay taxes on the Contract Sum. The Port will pay state and local retail sales tax on the Contract Sum with each progress payment, and on final payment, for transmittal by the Contractor to the Washington State Department of Revenue or to the applicable local taxing authority. Rule 170: WAC 458-20-170.
- C. Direct all tax questions to the Department of Revenue. The Contractor should direct all questions concerning taxes on any portion of the Work to the State of Washington Department of Revenue or to the local taxing authority.
- D. State Sales Tax - Rule 171: WAC 458-20-171. For work performed related to building, repairing, or improving streets, roads, etc., which are owned by a municipal corporation, or political subdivision of the state, or by the United States, and which are used, primarily, for foot or vehicular traffic, the Contractor shall include Washington State Retail Sales Taxes in the various schedule prices, or other contract amounts, including those that the Contractor pays on the purchase of materials, equipment, or supplies used or consumed in doing the Work.

### 3.08 PERMITS, LICENSES, FEES, AND ROYALTIES

- A. Contractor to provide and pay for permits unless otherwise specified. Unless otherwise specified, the Contractor shall procure and pay for all permits, licenses, and governmental inspection fees necessary or incidental to the performance of the Work. All costs related to these permits, licenses, and inspections shall be included in the Contract Sum. Any action taken by the Port to assist the Contractor in obtaining permits or licenses shall not relieve the Contractor of its sole responsibility to obtain and pay for permits, licenses, and inspections as part of the Contract Sum.
- B. Contractor's obligations when permit must be in Port's name. When applicable law or agency requires a permit to be issued to a public agency, the Port will support the Contractor's request for the permit and accept the permit in the Port's name, if:
  - 1. The Contractor takes all necessary steps required for the permit to be issued;
  - 2. The permit applies to Work performed in connection with the Project; and
  - 3. The Contractor agrees in writing to abide by all requirements of the permit and to defend and hold harmless the Port from any liability in connection with the permit.
- C. Contractor to pay royalties. The Contractor shall pay all royalties and license fees required for the Work unless otherwise specified in the Contract Documents.

### 3.09 SAFETY

- A. Contractor solely responsible for safety. The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work and the performance of the Contract.
- B. Port not responsible for safety. The Port may identify safety concerns to the Contractor; however, no action or inaction of the Port or any third party relating to safety will: (1) relieve the Contractor of its sole and complete responsibility for safety and sole liability for any consequences, (2) impose any obligation on the Port or a third party to inspect or review the Contractor's safety program or precautions, (3) impose any continuing obligation on the Port or a third party to ensure the Contractor performs the Work safely, or (4) affect the Contractor's responsibility for the protection of property, workers, and the general public.
- C. Contractor to maintain a safe Work site. The Project site may be occupied during performance of the Work. The safety of these site occupants is of paramount importance to the Port. The Contractor shall maintain the Work site and perform the Work in a safe manner and in accordance with the Washington Industrial Safety and Health Act (WISHA) and all other applicable safety laws, rules, and regulations. This requirement shall apply continuously and not be limited to working hours.
- D. Contractor to protect Work site and adjacent property until Final Completion. The Contractor shall continuously protect the Work and adjacent property from damage. At all times until Final Completion, the Contractor shall be responsible for, and protect from damage, weather, deterioration, theft, and vandalism, the Work and all materials, equipment, tools, and other items incorporated or to be incorporated in the Work, and shall repair any damage, injury, or loss.

### 3.10 CORRECTION OF WORK

- A. Contractor to correct defective Work. The Contractor shall, at no cost to the Port, promptly correct Work that is defective or that otherwise fails to conform to the requirements of the Contract Documents. Such Work shall be corrected, whether before or after Substantial Completion, and even if it was previously inspected or observed by the Port.
- B. One-year correction period. The Contractor shall correct all defects in the Work appearing within one (1) year of Substantial Completion or within any longer period prescribed by law or by the Contract Documents. The Contractor shall initiate remedial action within fourteen (14) days of receipt of notice from the Port and shall complete remedial work within a reasonable time. Work corrected by the Contractor shall be subject to the provisions of this Section 3.10 for an additional one-year period following the Port's acceptance of the corrected Work.
- C. Contractor responsible for defects and failures to correct. The Contractor shall be responsible for any expenses incurred by the Port resulting from defects in the Work. If the Contractor refuses or neglects to correct the defects, or does not timely accomplish corrections, the Port may correct the Work and charge the Contractor the cost of the corrections. If damage or loss of service may result from a delay in correction, the corrections may be made by the Port and reimbursed by the Contractor.
- D. Port may accept defective work. The Port may, at its sole option, elect to retain defective or nonconforming Work. In such a case, the Port shall reduce the Contract Sum by a reasonable amount to account for the defect or non-conformance.
- E. No period of limitation established. Nothing contained in this Section 3.10 establishes a period of limitation with respect to any obligations under the Contract Documents or law. The establishment of the one (1) year correction period relates only to the specific obligation of the Contractor to correct defective or non-conforming Work.

### 3.11 UNCOVERING OF WORK

- A. Contractor to uncover work covered prior to inspection. If any portion of the Work is covered prior to inspection and approval, the Contractor shall, at its expense, uncover or remove the Work for inspection by the Port or others, and replace the Work to the standard required by the Contract Documents.
- B. Contractor to uncover work at Port's request. After initial inspection and observation, the Port may order a reexamination of Work, and the Work must be uncovered by the Contractor. If the uncovered Work complies with the Contract Documents, the Port shall pay the cost of reexamination and replacement. If the Work is found not to comply with the Contract Documents, the Contractor shall pay the cost of replacement, unless the Contractor demonstrates that it did not cause the defect in the Work.

### 3.12 RELOCATION OF UTILITIES

- A. Contractor should assume underground utilities are in approximate locations. The Contractor should assume that the locations of any underground or hidden utilities, underground tanks, and plumbing or electrical runs indicated in surveys or the Contract Documents are shown in approximate locations. The accuracy of this information is not guaranteed by the Port and shall be verified by the Contractor. The Contractor shall comply with RCW 19.122.030 and utilize a utility locator service to locate utilities on Port property. The Contractor shall bear the risk of loss if any of its Work directly or indirectly damages or interrupts any utility service or causes or contributes to damages of any nature.



- B. Utility relocation or removal. Where relocation or removal of utilities is necessary or required, it shall be performed at the Contractor's sole expense, unless the Contract Documents specify otherwise. If a utility owner is identified as being responsible for relocating or removing utilities, the work will be accomplished at the utility owner's convenience, either during, or in advance of, construction. Unless otherwise specified, it shall be the Contractor's sole responsibility to coordinate, schedule, and pay for work performed by a utility owner.
- C. Contractor to notify Port of unknown utilities. If the Contractor discovers the presence of any unknown utilities, it shall immediately notify the Engineer in writing.

### 3.13 LABOR

- A. Contractor responsible for labor peace. The Contractor is responsible for labor peace relating to the Work and shall cooperate in maintaining Project-wide labor harmony. The Contractor shall use its best efforts as an experienced contractor to adopt and implement policies and practices designed to avoid work stoppages, slowdowns, disputes, or strikes.
- B. Contractor to minimize impact of labor disputes. The Contractor will take all necessary steps to prevent labor disputes from disrupting or otherwise interfering with access to Port property. If a labor dispute disrupts the progress of the Work or interferes with access, the Contractor shall promptly and expeditiously take all necessary action to eliminate or minimize the disruption or interference.

### 3.14 INDEMNIFICATION

- A. Duty to defend, indemnify, and hold harmless. To the fullest extent permitted by law and subject to this Section 3.14, the Contractor shall defend (at the Contractor's sole cost, with legal counsel approved by Port), indemnify, and hold harmless the Port and the Northwest Seaport Alliance, including their respective Commissions, officers, managers, and employees, the Engineer, any consultants, and the agents and employees, successors and assigns of any of them (the "Indemnified Parties") from and against claims, damages, lawsuits, losses (including loss of use), disbursements, liabilities, obligations, fines, penalties, costs, and expenses, whether direct and indirect or consequential, including but not limited to, consultants' fees, and attorneys' fees incurred on such claims and in proving the right to indemnification ("Claims"), arising out of, or resulting from, the acts or omissions of the Contractor, a Subcontractor of any tier, their agents, and anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable (individually and collectively, the "Indemnitor").
- B. Duty to defend, indemnify, and hold harmless for sole negligence. The Contractor will fully defend, indemnify, and hold harmless the Indemnified Parties for the sole negligence or willful misconduct of the Indemnitor.
- C. Duty to defend, indemnify, and hold harmless for concurrent negligence. Where Claims arise from the concurrent negligence of (1) the Port; and (2) the Indemnitor, the Contractor's obligations to indemnify and defend the Indemnified Parties under this Section 3.14 shall be effective only to the extent of the Indemnitor's negligence.
- D. Duty to indemnify not limited by workers' compensation or similar employee benefit acts. In claims against any of the Indemnified Parties by an employee of the Contractor, a Subcontractor of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this Section 3.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts. After mutual negotiation of the parties, the Contractor waives immunity as to the Indemnified Parties under Title 51 RCW, "Industrial Insurance."

- E. Intellectual property indemnification. The Contractor will be liable for and shall defend (at the Contractor's sole cost, with legal counsel approved by Port), indemnify, and hold the Indemnified Parties harmless for Claims for infringement by the Contractor of copyrights or patent rights arising out of, or relating to, the Project.
- F. Labor peace indemnification. If the Contractor fails to satisfy its labor peace obligations under the Contract, the Contractor will be liable for and shall defend (at the Contractor's sole cost, with legal counsel approved by Port), indemnify, and hold harmless the Indemnified Parties for Claims brought against the Port by third parties (including but not limited to lessees, tenants, contractors, customers, licensees, and invitees of the Port) for injunctive relief or monetary loss.
- G. Cyber risk indemnification. Contractor shall defend, indemnify, and hold harmless the Indemnified Parties from and against any liability, expense, fines, penalties, cost, demand, or other obligation, resulting from or out of any cyber-related risk that includes theft, loss or misuse of data, release of private information as result of a network breach, penetration, compromise, or loss of IT systems control.
- H. Joinder. The Contractor agrees to being added by the Port as a party to any arbitration or litigation with third parties in which the Port alleges indemnification or seeks contribution from the Indemnitor. The Contractor shall cause each of its Subcontractors of any tier to similarly stipulate in their subcontracts; in the event any does not, the Contractor shall be liable in place of such Subcontractor(s) of any tier.
- I. Other. To the extent that any portion of this Section 3.14 is stricken by a court or arbitrator for any reason, all remaining provisions shall retain their vitality and effect. The obligations of the Contractor under this Section 3.14 shall not be construed to negate, abridge, or otherwise reduce any other right or obligations of indemnity which would otherwise exist. To the extent the wording of this Section 3.14 would reduce or eliminate an available insurance coverage, it shall be considered modified to the extent necessary so that the insurance coverage is not affected. This Section 3.14 shall survive completion, acceptance, final payment, and termination of the Contract.

### 3.15 WAIVER OF CONSEQUENTIAL DAMAGES

- A. Mutual waiver of consequential damages. The Contractor and Port waive claims against each other for consequential damages arising out of, or relating to, this Contract. This mutual waiver includes, but is not limited to: (1) damages incurred by the Port for rental expenses, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons, and (2) damages incurred by the Contractor for principal and home office overhead and expenses including, but not limited to, the compensation of personnel stationed there, for losses of financing, business, and reputation, for losses on other projects, for loss of profit, and for interest or financing costs. This mutual waiver includes, but is not limited to, all consequential damages due to either party's termination.
- B. Limitation. Nothing contained in this Section 3.15; however, shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents, to preclude damages specified in the Agreement, or to affect the Contractor's obligation to indemnify the Port for direct, indirect, or consequential damages alleged by a third party.

## ARTICLE 4 - SUBCONTRACTORS AND SUPPLIERS

### 4.01 RESPONSIBILITY FOR ACTIONS OF SUBCONTRACTORS AND SUPPLIERS.

- A. Contractor responsible for Subcontractors. The Contractor is fully responsible to the Port for the acts and omissions of its Subcontractors of any tier and all persons either directly or indirectly employed by the Contractor or its Subcontractors.

#### 4.02 AWARD OF CONTRACTS TO SUBCONTRACTORS AND SUPPLIERS

- A. Contractor to provide proposed Subcontractor information. The Contractor, within ten (10) days after the Port's notice of award of the Contract, shall provide the Engineer with the names of the persons or entities proposed to perform each of the principal portions of the Work (i.e., either a Subcontractor listed in a bid or proposal or a Subcontractor performing Work valued at least ten percent (10%) of the Contract Sum) and the proprietary names, and the suppliers of, the principal items or systems of materials and equipment proposed for the Work. No progress payment will become due until after this information has been furnished.
- B. Port to respond promptly with objections. The Port may respond promptly to the Contractor in writing stating: (1) whether the Port has reasonable objection to any proposed person or entity, or (2) whether the Port requires additional time for review. If the Port makes a reasonable objection, the Contractor shall replace the Subcontractor with no increase to the Contract Sum or Contract Time. Such a replacement shall not relieve the Contractor of its responsibility for the performance of the Work and compliance with all of the requirements of the Contract within the Contract Sum and Contract Time.
- C. Reasonable objection defined. "Reasonable objection" as used in this Section 4.02 includes, but is not limited to: (1) a proposed Subcontractor of any tier different from the entity listed with the bid, (2) lack of "responsibility" of the proposed Subcontractor, as defined by Washington law and the Bidding Documents, or lack of qualification or responsibility of the proposed Subcontractor based on the Contract or Bidding Documents, or (3) failure of the Subcontractor to perform satisfactorily in the Port's opinion (such as causing a material delay or submitting a claim that the Port considers inappropriate) on one or more projects for the Port within five (5) years of the bid date.
- D. No substitution allowed without permission. The Contractor shall not substitute a Subcontractor, person, or organization without the Engineer's written consent.

#### 4.03 SUBCONTRACTOR AND SUPPLIER RELATIONS

- A. Contractor to schedule, supervise, and coordinate Subcontractors. The Contractor shall schedule, supervise, and coordinate the operations of all Subcontractors of any tier, including suppliers. The Contractor shall ensure that appropriate Subcontractors coordinate the Work of lower-tier Subcontractors.
- B. Subcontractors to be bound to Contract Documents. By appropriate agreement, the Contractor shall require each Subcontractor and supplier to be bound to the terms of the Contract Documents and to assume toward the Contractor, to the extent of their Work, all of the obligations that the Contractor assumes toward the Port under the Contract Documents. Each subcontract shall preserve and protect the rights of the Port and shall allow to the Subcontractor, unless specifically provided in the subcontract, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Port. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with lower-tier Subcontractors.

- C. Contractor to correct deficiencies in Subcontractor performance. When a portion of the Work subcontracted by the Contractor is not being prosecuted in accordance with the Contract Documents, or if such subcontracted Work is otherwise being performed in an unsatisfactory manner in the Port's opinion, the Contractor shall, on its own initiative or upon the written request of the Port, take immediate steps to correct the deficiency or remove the non-performing party from the Project. The Contractor shall replace inadequately performing Subcontractors upon request of the Port at no change in the Contract Sum or Contract Time.
- D. Contractor to provide subcontracts. Upon request, the Contractor will provide the Port copies of written agreements between the Contractor and any Subcontractor.

## ARTICLE 5 - WORKFORCE AND NON-DISCRIMINATION REQUIREMENTS

### 5.01 COMPLIANCE WITH NON-DISCRIMINATION LAWS

- A. Contractor to comply with non-discrimination laws. The Contractor shall fully comply with all applicable laws, regulations, and ordinances pertaining to non-discrimination.

### 5.02 MWBE, VETERAN-OWNED, AND SMALL BUSINESS ENTERPRISE PARTICIPATION.

- A. In accordance with the legislative findings and policies set forth in RCW 39.19, the Port encourages participation in all of its contracts by MWBE firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this invitation or as a subcontractor to a Bidder. However, unless required by federal statutes, regulations, grants, or contract terms referenced in the Contract Documents, no preference will be included in the evaluation of Bids, no minimum level of MWBE participation shall be required as a condition for receiving an award, and Bids will not be rejected or considered non-responsive on that basis. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the Contract Documents will apply.

The Port encourages participation in all of its contracts by Veteran-owned businesses (defined in RCW 43.60.010) and located at <http://www.dva.wa.gov/program/certified-veteran--and-servicemember-owned-businesses> and Small, Mini, and Micro businesses (defined in RCW 39.26.010)

### 5.03 APPRENTICESHIP PARTICIPATION

- A. In accordance with RCW 39.04.320, fifteen (15) percent Apprenticeship Participation is required for all projects estimated to cost one million (\$1,000,000) dollars or more.
- B. Apprentice participation, under this contract, may be counted towards the required percentage (%) only if the apprentices are from an apprenticeship program registered and approved by the Washington State Apprenticeship and Training Council (RCW 49.04 and WAC 296-05).
- C. Bidders may contact the Department of Labor and Industries, Specialty Compliance Services Division, Apprenticeship Section, P.O. Box 44530, Olympia, WA 98504-4530 by phone at (360) 902-5320, or e-mail at [Apprentice@lni.wa.gov](mailto:Apprentice@lni.wa.gov), to obtain information on available apprenticeship programs.
- D. For each project that has apprentice requirements, the contractor shall submit a "Statement of Apprentice and Journeyman Participation" on forms provided by the Port of Tacoma, with every request for project payment. The Contractor shall submit consolidated and cumulative data collected by the Contractor and collected from all subcontractors by the Contractor. The data to be collected and submitted includes the following:
  - 1. Contractor name and address
  - 2. Contract number
  - 3. Project name
  - 4. Contract value
  - 5. Reporting period "Beginning Date" through "End Date"
  - 6. Name and registration number of each apprentice by contractor
  - 7. Total number of apprentices and labor hours worked by them, categorized by trade or craft.

8. Total number of journeymen and labor hours worked by them, categorized by trade or craft
  9. Cumulative combined total of apprentice and journeymen labor hours
  10. Total percentage of apprentice hours worked
- E. No changes to the required percentage (%) of apprentice participation shall be allowed without written approval of the Port. In any request for the change, the Contractor shall clearly demonstrate a good faith effort to comply with the requirements for apprentice participation.

## **ARTICLE 6 - CONTRACT TIME AND COMPLETION**

### **6.01 CONTRACT TIME**

- A. Contract Time is measured from Contract execution. Unless otherwise provided in the Agreement, the Contract Time is the period of time, including authorized adjustments, specified in the Contract Documents from the date the Contract is executed to the date Substantial Completion of the Work is achieved.
- B. Commencement of the Work. The Contractor shall begin Work in accordance with the notice of award and the notice to proceed and shall complete all Work within the Contract Time. When the Contractor's signed Agreement, required insurance certificate with endorsements, bonds, and other submittals required by the notice of award have been accepted by the Port, the Port will execute the Contract and, following receipt of other required pre-work submittals, will issue a notice to proceed to allow the Contractor to mobilize and commence physical Work at the Project site, as further described in these contract documents. No Work at the Project site may commence until the Port issues a notice to proceed.
- C. Contractor shall achieve specified completion dates. The Contractor shall achieve Substantial Completion within the Contract Time and shall achieve Final Completion within the time period thereafter stated in the Contract Documents.
- D. Time is of the essence. Time limits stated in the Contract Documents, including any interim milestones, are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

### **6.02 PROGRESS AND COMPLETION**

- A. Contractor to maintain schedule. The Contractor's sequence and method of operations, application of effort, and work force shall at all times be created and implemented to ensure the orderly, expeditious, and timely completion of the Work and performance of the Contract. The Contractor shall furnish sufficient forces and shall work such hours, including extra shifts, overtime operations, and weekend and holiday work as may be necessary to ensure completion of the Work within the Contract Time and the approved Baseline Project Schedule.
- B. Contractor to take necessary steps to meet schedule. If the Contractor fails substantially to perform in a timely manner in accordance with the Contract Documents and, through the fault of the Contractor or Subcontractor(s) of any tier, fails to meet the Baseline Project Schedule, the Contractor shall take such steps as may be necessary to immediately improve its progress by increasing the number of workers, shifts, overtime operations, or days of work, or by other means and methods, all without additional cost to the Port. If the Contractor believes that any action or inaction of the Port constitutes acceleration, the Contractor shall immediately notify the Port in writing and shall not accelerate the Work until the Port either directs the acceleration in writing or denies the constructive acceleration.
- C. Liquidated damages not exclusive. Any provisions in the Contract Documents for liquidated damages shall not preclude other damages due to breaches of Contract of the Contractor.



### 6.03 SUBSTANTIAL COMPLETION

- A. Substantial Completion defined. Substantial Completion is the stage in the progress of the Work, or portion or phase thereof, when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Port can fully occupy or utilize the Work, or the designated portion thereof, for its intended use, all requirements in the Contract Documents for Substantial Completion have been achieved, and all required documentation has been properly submitted to the Port in accordance with the Contract Documents. All Work, other than incidental corrective or punch list Work and final cleaning, must be completed. The fact that the Port may occupy the Work or a designated portion thereof does not indicate that Substantial Completion has occurred or that the Work is acceptable in whole or in part.
- B. Work not Substantially Complete unless Final Completion attainable. The Work is not Substantially Complete unless the Port reasonably judges that the Work can achieve Final Completion within the period of time specified in the Contract Documents.
- C. Notice of Substantial Completion. When the Work or designated portion has achieved Substantial Completion, the Port will provide a notice to establish the date of Substantial Completion. The notice shall establish responsibilities of the Port and Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall finish all remaining Work. If the notice of Substantial Completion does not so state, all responsibility for the foregoing items shall remain with the Contractor until Final Completion.

### 6.04 COMPLETION OF PUNCH LIST

- A. Contractor shall complete punch list items prior to Final Completion. The Contractor shall cause punch list items to be completed prior to Final Completion. If, after Substantial Completion, the Contractor does not expeditiously proceed to correct punch list items or if the Port considers that the punch list items, are unlikely to be completed prior to the date established for Final Completion (or such other period of time as is specified in the Contract Documents), the Port may, upon seven (7) days' written notice to the Contractor, take over and perform some or all of the punch list items. The Port may also take over and complete any portion of the Work at any time following Substantial Completion and deduct the actual cost of performing the Work (including direct and indirect costs) from the Contract Sum. The Port's rights under this Section 6.04 are not obligations and shall not relieve the Contractor of its responsibilities under any other provisions of the Contract Documents.

### 6.05 FINAL COMPLETION

- A. Final Completion. Upon receipt of written notice from the Contractor that all punch list items and other Contract requirements are completed, the Contractor will notify the Port, and the Port will perform a final inspection. If the Port determines that some or all of the punch list items have not been addressed, the Contractor shall be responsible to the Port for all costs, including re-inspection fees, for any subsequent reviews to determine completion of the punch list. When the Port determines that all punch list items have been satisfactorily addressed, that the Work is acceptable under the Contract Documents, and that the Work has fully been performed, the Port will promptly notify the Contractor of Final Completion.
- B. Contractor responsible for costs if Final Completion is not timely achieved. In addition to any liquidated damages, the Contractor is liable for, and the Port may deduct from any amounts due the Contractor, all costs incurred by the Port for services performed after the contractual date of Final Completion, whether or not those services would have been performed prior to that date had Final Completion been timely achieved.



- C. Final Completion submittals. The Port is not obligated to accept the Project as complete until the Contractor has submitted all required submittals to the Port.
- D. Contractor responsible for the Work until Final Completion. The Contractor shall assume the sole risk of loss and responsibility for all Work under the Contract, and all materials to be incorporated in the Work, whether in storage or at the Project site, until Final Completion. Damage from any cause to either permanent or temporary Work, utilities, materials, equipment, existing structures, the site, or other property owned by the Port or others, shall be repaired by the Contractor to the reasonable satisfaction of the Port at no change in the Contract Sum.

#### 6.06 FINAL ACCEPTANCE

- A. Final Acceptance. Final Acceptance is the formal action of the Port accepting the Project as complete. Public notification of Final Acceptance will be posted on the Port's external website (<http://www.portoftacoma.com/final-acceptance>).
- B. Final Acceptance not an acceptance of defective Work. Final Acceptance shall not constitute acceptance by the Port of unauthorized or defective Work, and the Port shall not be prevented from requiring the Contractor to remove, replace, repair, or dispose of unauthorized or defective Work or recovering damages due to the same.
- C. Completion of Work under RCW 60.28. Pursuant to RCW 60.28, "Lien for Labor, Materials, Taxes on Public Works," completion of the Contract Work shall occur upon Final Acceptance.

#### 6.07 PORT'S RIGHT TO USE THE PREMISES

- A. Port has right to use and occupy Work. The Port reserves the right to occupy or use any part of the Work before or after Substantial Completion of some or all of the Work without relieving the Contractor of any of its obligations under the Contract. Such occupancy or use shall not constitute acceptance by the Port of any of the Work, and shall not cause any insurance to be canceled or lapse.
- B. No compensation due if Port elects to use and occupy Work. No additional compensation shall be due to the Contractor as a result of the Port's use or occupancy of the Work or a designated portion.

### ARTICLE 7 - PAYMENT

#### 7.01 ALL PAYMENTS SUBJECT TO APPLICABLE LAWS AND SCHEDULE OF VALUES

- A. Payment of the Contract Sum. The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Port to the Contractor for performance of the Work under the Contract Documents. Payments made to the Contractor are subject to all laws applicable to the Port and the Contractor. Payment of the Contract Sum constitutes full compensation to the Contractor for performance of the Work, including all risk, loss, damages, or expense of whatever character arising out of the nature or prosecution of the Work. The Port is not obligated to pay for extra work or materials furnished without prior written approval of the Port.
- B. Schedule of Values. All payments will be based upon an approved Schedule of Values. Prior to submitting its first Application for Payment, the Contractor shall submit a Schedule of Values to the Port allocating the entire Contract Sum to the various portions of the Work. The Schedule of Values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Port may require. This schedule, unless objected to by the Port, shall be used as a basis for reviewing the Contractor's applications for payment.

## 7.02 APPLICATIONS FOR PAYMENT

- A. Applications for Payment. Progress payments will be made monthly for Work duly certified, approved by the Engineer, and performed (based on the Schedule of Values and actual quantities of Work performed) during the calendar month preceding the Application for Payment. These amounts are paid in trust to the Contractor for distribution to Subcontractors to the extent, and in accordance with, the approved Application for Payment.

## 7.03 PROGRESS PAYMENTS

- A. Progress payments. Following receipt of a complete Application for Payment, the Engineer will either authorize payment or indicate in writing to the Contractor the specific reasons why the payment request is being denied, in whole or in part, and the remedial action the Contractor must take to receive the withheld amount. After a complete Application for Payment has been received and approved by the Port, payment will be made within thirty (30) days. Any payments made by, or through, or following receipt of, payment from third parties will be made in accordance with the third party's policies and procedures.
- B. Port may withhold payment. The Port may withhold payment in whole or in part as provided in the Contract Documents or to the extent reasonably necessary to protect the Port from loss or potential loss for which the Contractor is responsible, including loss resulting from the Contractor's acts and omissions.

## 7.04 PAYMENT BY CONTRACTOR TO SUBCONTRACTORS

- A. Payment to Subcontractors. With each Application for Payment, the Contractor shall provide a list of Subcontractors to be paid by the Contractor. No payment request shall include amounts the Contractor does not intend to pay to a Subcontractor because of a dispute or other reason. If, however, after submitting an Application for Payment, but before paying a Subcontractor, the Contractor discovers that part or all of a payment otherwise due to the Subcontractor is subject to withholding from the Subcontractor under the subcontract (such as for unsatisfactory performance or non-payment of lower-tier Subcontractors), the Contractor may withhold the amount as allowed under the subcontract, but it shall give the Subcontractor and the Port written notice of the remedial actions that must be taken and pay the Subcontractor within eight (8) working days after the Subcontractor satisfactorily completes the remedial action identified in the notice.
- B. Payment certification to be provided upon request. The Contractor shall provide, with each Application for Payment, a certification signed by Contractor attesting that all payments by the Contractor to Subcontractors from the last Application for Payment were made within ten (10) days of the Contractor's receipt of payment. The certification will also attest that the Contractor will make payment to Subcontractors for the current Application for Payment within ten (10) days of receipt of payment from the Port.

## 7.05 FINAL PAYMENT

- A. Final payment. Final applications for payment are due within seven (7) days following Final Completion. Final payment of the unpaid balance of the Contract Sum, except retainage, will be made following Final Completion and within thirty (30) days of the Contractor's submission of an approved final Application for Payment.

- B. Releases required for final payment. The final payment shall not become due until the Contractor delivers to the Port a complete release of all liens arising out of the Contract, as well as an affidavit stating that, to the best of Contractor's knowledge, its release includes all labor and materials for which a lien could be filed. If a Subcontractor of any tier refuses to furnish a release or waiver required by the Port, the Port may (a) retain in the fund, account, or escrow funds in such amount as to defray the cost of foreclosing the liens of such claims and to pay attorneys' fees, the total of which shall be no less than 150% of the claimed amount, or (b) accept a bond from the Contractor, satisfactory to the Port, to indemnify the Port against the lien. If any such lien remains unsatisfied after all payments from the retainage are made, the Contractor shall refund to the Port all moneys that the Port may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- C. Contractor to hold Port harmless from liens. The Contractor shall defend (at the Contractor's sole cost, with legal counsel approved by Port), indemnify, and hold harmless the Port from any liens, claims, demands, lawsuits, losses, damages, disbursements, liabilities, obligations, fines, penalties, costs, and expenses, whether direct or indirect, including but not limited to, attorneys' fees and consultants' fees and other costs and expenses, except to the extent a lien has been filed because of the failure of the Port to make a contractually required payment.

#### 7.06 RETAINAGE

- A. Retainage to be withheld. In accordance with RCW 60.28, a sum equal to five percent (5%) of each approved Application for Payment shall be retained. Prior to submitting its first Application for Payment, the Contractor shall exercise one of the options listed below:
  - 1. Retained percentages will be retained by the Port in a fund; or
  - 2. If the Contractor provides a bond in place of retainage, it shall be in an amount equal to 5% of the Contract Sum plus Change Orders. The retainage bond shall be based on the form furnished in Section 00 61 23 or otherwise acceptable to the Port and duly completed and signed by a licensed surety or sureties registered with the Washington State Insurance Commissioner and on the currently authorized insurance list published by the Washington State Insurance Commissioner. The surety or sureties must be rated at least "A-, FSC(6)" or higher by A.M. Best Rating Guide and be authorized by the Federal Department of the Treasury. Attorneys-in-fact who sign the retainage bond must file with each bond a certified and effective Power of Attorney statement.
- B. Contractor may withhold retainage from Subcontractors. The Contractor or a Subcontractor may withhold not more than five percent (5%) retainage from the monies earned by any Subcontractor or lower-tier Subcontractor, provided that the Contractor pays interest to the Subcontractor at the same interest rate it receives from its reserved funds. If requested by the Port, the Contractor shall specify the amount of retainage and interest due a Subcontractor.
- C. Release of retainage. Retainage will be withheld and applied by the Port in a manner required by RCW 60.28 and released in accordance with the Contract Documents and statutory requirements. Release of the retainage will be processed in the ordinary course of business within sixty (60) days following Final Acceptance of the Work by the Port provided that no notice of lien has been given as provided in RCW 60.28, that no claims have been brought to the attention of the Port, that the Port has no claims under this Contract, and that release of retention has been duly authorized by the State. The following items must also be obtained prior to release of retainage: pursuant to RCW 60.28, a certificate from the Department of Revenue; pursuant to RCW 50.24, a certificate from the Department of Employment Security; and appropriate information from the Department of Labor and Industries including approved affidavits of wages paid for the Contractor and each subcontractor.

### 7.07 DISPUTED AMOUNTS

- A. Disputed amounts. If the Contractor believes it is entitled to payment for Work performed during the prior calendar month in addition to the agreed-upon amount, the Contractor may submit to the Port, along with the approved Application for Payment, a separate written payment request specifying the exact additional amount claimed to be due, the category in the Schedule of Values to which the payment would apply, the specific Work for which additional payment is sought, and an explanation of why the Contractor believes additional payment is due.

### 7.08 EFFECT OF PAYMENT

- A. Payment does not relieve Contractor of obligations. Payment to the Contractor of progress payments or final payment does not relieve the Contractor from its responsibility for the Work or its responsibility to repair, replace, or otherwise make good defective Work, materials, or equipment. Likewise, the making of a payment does not constitute a waiver of the Port's right to reject defective or non-conforming Work, materials, or equipment (even though they are covered by the payment), nor is it a waiver of any other rights of the Port.
- B. Acceptance of final payment waives claims. Acceptance of final payment by the Contractor, a Subcontractor of any tier, or a supplier shall constitute a waiver of claims except those previously made in writing and identified as unsettled in Contractor's final Application for Payment.
- C. Execution of Change Order waives claims. The execution of a Change Order shall constitute a waiver of claims by the Contractor arising out of the Work to be performed or deleted pursuant to the Change Order, except as specifically described in the Change Order.

### 7.09 LIENS

- A. Contractor to discharge liens. The Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials, or other items in connection with the performance of the Work including, but not limited to, any Subcontractors of any tier.

## **ARTICLE 8 - CHANGES IN THE WORK**

### 8.01 CHANGES IN THE WORK

- A. Changes in the Work authorized. Without invalidating the Contract and without notice to the Contractor's surety, the Port may authorize changes in the Work after execution of the Contract, including changes in the Contract Sum or Contract Time. Changes shall occur solely by Change Order, Unilateral Change Directive, or Minor Change in Work. All changes in the Work are effective immediately, and the Contractor shall proceed promptly to perform the change, unless otherwise provided in the Change Order or Directive.
- B. Changes in the Work Defined.
  - 1. A Change Order is a written instrument signed by the Port and Contractor stating their agreement to a change in the Work and the adjustment, if any, in the Contract Sum and/or Contract Time.
  - 2. A Unilateral Change Directive is a written instrument issued by the Port to transmit new or revised Drawings, issue additions or modifications to the Contract, furnish other direction and documents adjustment, if any, to the Contract Sum and/or Contract Time. A Unilateral Change Directive is signed only by the Port, without requiring the consent or signature of the Contractor.

3. A Minor Change in the Work is a written order from the Port directing a change that does not involve an adjustment to the Contract Sum or the Contract Time.
- C. Request for Proposal: At any time, the Port may issue a Proposal Request directing the Contractor to propose a change to the Contract Sum and/or Contract Time, if any, based on a proposed change in the Work. The Contractor shall submit a responsive Change Order proposal as soon as possible, and no later than fourteen (14) days after receipt, in which the Contractor specifies in good faith the extent to which the Contract Sum and/or Contract Time would change. All cost components shall be limited to the manner described in Section 8.02(B). If the Contractor fails to timely respond to a Proposal Request, the Port may issue the change as a Unilateral Change Directive.
1. Fixed price method is default for Contractor Change Order proposal. When the Port has requested that the Contractor submit a Change Order proposal, the Port may specify the basis on which the Contract Sum will be adjusted by the Contractor. The Engineer's preference, unless otherwise indicated, is for changes in the Work to be priced using Lump Sums or Unit Prices or on a time and material (Force Account) basis if unit pricing or lump sums cannot be negotiated or determined. In all instances, however, proposed changes shall include a not-to-exceed price for the change and shall be itemized for evaluation purposes in accordance with Section 8.02(B), as requested by the Engineer.
  2. The Port may accept or reject the Contractor's Change Order proposal, request further documentation, or negotiate acceptable terms with the Contractor. If The Port and Contractor reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, such agreement shall be incorporated in a Change Order.
  3. The Change Order shall constitute full payment and final settlement of all claims for time and for direct, indirect, and consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity, related to any Work either covered or affected by the Change Order, or related to the events giving rise to the request for equitable adjustment. The Port may reject a proposal, in which case the Port may either not effectuate the change or issue a Unilateral Change Directive. The Port will not make payment to the Contractor for any work until that work has been incorporated into an executed Change Order.
- D. Unforeseen Conditions: If the Contractor encounters conditions at the site that are: (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or any soils reports made available by the Port to the Contractor, or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall immediately provide oral notice to the Engineer before conditions are disturbed, followed within 24 hours by an initial written notice. The Contractor shall submit a detailed proposal no later than seven (7) days following discovery of differing site conditions. The Engineer will promptly investigate these conditions and, if the Engineer determines that they differ materially and cause an increase or decrease in the Contractor's cost or time required for performance of any part of the Work, will establish a change in the Contract Sum or Contract Time, or both, consistent with the requirements of the Contract Documents. If the Contractor disputes the Engineer's determination, the Contractor may proceed as provided in the dispute resolution procedure (Article 11). No increase to the Contract Sum or the Contract Time shall be allowed if the Contractor does not comply with the contractual requirements or if the Contractor knew, or reasonably should have known, of the concealed conditions prior to executing the Contract.

- E. Proceed Immediately: Pending agreement on the terms of the Change Order or upon determination of a differing site condition as defined in 8.01(D), the Engineer may direct Contractor to proceed immediately with the change in the Work. Contractor shall not proceed with any change in the Work until it has obtained the Engineer's written approval and documentation of the following:
1. The scope of work
  2. An agreed upon maximum not-to-exceed amount
  3. The method of final cost determination
  4. Estimated time to complete the changed work
  5. As a change in the Work is performed, unless the parties have signed a written Change Order to establish the cost of the change, the Contractor shall maintain an itemized accounting of all costs related to the change based on the categories in Section 8.02(B) and provide such data to the Port upon request. This includes, without limitation, invoices, including freight and express bills, and other support for all material, equipment, Subcontractor, and other charges related to the change and, for material furnished from the Contractor's own inventory, a sworn affidavit certifying the actual cost of such material. Failure to provide data to the Port within seven (7) days of a request constitutes a waiver of any claim. The Port may furnish any material or equipment to the Contractor that it deems advisable, and the Contractor shall have no claim for any costs or fee on such material or equipment.
- F. Procedure for Unilateral Change Directive. Whether or not the Port has rejected a Contractor's proposal, the Port may issue a Unilateral Change Directive and the Contractor shall promptly proceed with the specified Work. If the Contractor disagrees with a Unilateral Change Directive, the Contractor shall advise the Port in writing through a Change Order proposal within seven (7) days of receipt. The Contractor's Change Order proposal shall reasonably specify the reasons for any disagreement and the adjustment it proposes. Without this timely Change Order proposal, the Contractor shall conclusively be deemed to have accepted the Port's proposal.
- G. Payment pending final determination of Force Account work. Pending final determination of the total cost of Force Account Work, and provided that the Work to be performed under Force Account is complete and any reservations of rights have been signed by the Port, the Contractor may request payment for amounts not in dispute in the next Application for Payment accompanied by documentation indicating the parties' agreement. Work done on a Force Account basis must be approved in writing on a daily basis by the Engineer or the Engineer's designee and invoices shall be submitted with an Application for Payment within sixty (60) days of performance of the Work.

## 8.02 CHANGES IN THE CONTRACT SUM

- A. Port to Decide How Changes are Measured. The Port may elect, in its sole discretion, how changes in the Work will be measured for payment. Change in the Work may be priced on a lump sum basis, through Unit Prices, as Force Account, or by another method documented in the executed Change Order, Unilateral Change Directive, or Minor Change in the Work.
- B. Determination of Cost of Change. The total cost of any change in the Work, including a claim under Article 11, shall not exceed the prevailing cost for the Work in the locality of the Project. In all circumstances, the change in the Work shall be limited to the reasonable, actual cost of the following components:

1. Direct labor costs: These are the actual labor costs determined by the number of additional craft hours at their normal hourly rate necessary to perform a change in the Work. The hourly cost of labor will be based upon the following:
  - a. Basic wages and fringe benefits: The hourly wage (without markup or labor burden) and fringe benefits paid by the Contractor as established by the Washington Department of Labor and Industries or contributed to labor trust funds as itemized fringe benefits, whichever is applicable, not to exceed that specified in the applicable "Intent to Pay Prevailing Wage," for the laborers, apprentices, journeymen, and foremen performing or directly supervising the change in the Work on site. These wages do not include the cost of Contractor's project manager or superintendent or above, and the premium portion of overtime wages is not included unless pre-approved in writing by the Port. Costs paid or incurred by the Contractor for vacations, per diem, subsistence, housing, travel, bonuses, stock options, or discretionary payments to employees are not separately reimbursable. The Contractor shall provide to the Port copies of payroll records, including certified payroll statements for itself and Subcontractors of any tier, upon the Port's request.
  - b. Workers' insurance: Direct contributions to the State of Washington as industrial insurance; medical aid; and supplemental pension by class and rates established by the Washington Department of Labor and Industries.
  - c. Federal insurance: Direct contributions required by the Federal Insurance Compensation Act (FICA); Federal Unemployment Tax Act (FUTA); and State Unemployment Compensation Act (SUCA).
2. Direct material costs: This is an itemization, including material invoices, of the quantity and actual cost of additional materials necessary to perform the change in the Work. The cost will be the net cost after all discounts or rebates, freight costs, express charges, or special delivery costs, when applicable. No lump sum costs will be allowed unless approved in advance by the Port.
3. Construction equipment usage costs: This is an itemization of the actual length of time that construction equipment necessary and appropriate for the Work is used solely on the changed Work times the applicable rental cost as established by the lower of the local prevailing rates published in [www.equipmentwatch.com](http://www.equipmentwatch.com), as modified by the AGC/WSDOT agreement, or the actual rate paid to an unrelated third party. If more than one rate is applicable, the lowest available rate will be utilized. Rates and quantities of equipment rented that exceed the local fair market rental costs shall be subject to the Port's prior written approval. Total rental charges for equipment or tools shall not exceed 75% of the fair market purchase value of the equipment or the tool. Actual, reasonable mobilization costs are permitted if the equipment is brought to the site solely for the change in the Work. Mobilization and standby costs shall not be charged for equipment already present on the site.

The rates in effect at the time of the performance of the changed Work are the maximum rates allowable for equipment of modern design, and in good working condition, and include full compensation for furnishing all fuel, oil, lubrication, repairs, maintenance, and insurance. No gas surcharges are payable. Equipment not of modern design and/or not in good working condition will have lower rates. Hourly, weekly, and/or monthly rates, as appropriate, will be applied to yield the lowest total cost.

4. Subcontractor costs: These are payments the Contractor makes to Subcontractors for changed Work performed by Subcontractors. The Subcontractors' cost of changed Work shall be determined in the same manner as prescribed in this Section 8.02 and, among other things, shall not include consultant costs, attorneys' fees, or claim preparation expenses.
5. Service provider costs: These are payments the Contractor makes to service providers for changed Work performed by service providers. The service providers' cost of changed Work shall be determined in the same manner as prescribed in this Section 8.02.
6. Markup: This is the maximum total amount for overhead, profit, and other costs, including office, home office and site overhead (including purchasing, project manager, superintendent, project engineer, estimator, and their vehicles and clerical assistants), taxes (except for sales tax on the Contract Sum), warranty, safety costs, printing and copying, layout and control, quality control/assurance, small or hand tools (a tool that costs \$500 or less and is normally furnished by the performing contractor), preparation of as-built drawings, impact on unchanged Work, Change Order and/or claim preparation, and delay and impact costs of any kind (cumulative, ripple, or otherwise), added to the total cost to the Port of any Change Order work. No markup shall be due, however, for direct settlements of Subcontractor claims by the Port after Substantial Completion. The markup shall be limited in all cases to the following schedule:
  - a. Direct labor costs -- 20% markup on the direct cost of labor for the party (Contractor or Subcontractor) providing labor related to the change in the Work;
  - b. Direct material costs -- 20% markup on the direct cost of material for the party (Contractor or Subcontractor) providing material related to the change in the Work;
  - c. Construction equipment usage costs -- 10% markup on the direct cost of equipment for the party (Contractor or Subcontractor) providing equipment related to the change in the Work;
  - d. Contractor markup on Subcontractor costs -- 10% markup for the Contractor on the direct cost (excluding markup) of a change in the Work performed by Subcontractors (and for Subcontractors, for a change in the Work performed by lower-tier Subcontractors); and
  - e. Service provider costs -- 5% markup for the Contractor on the direct cost (excluding markup) of a change in the Work performed by service providers.

The total summed markup of the Contractor and all Subcontractors of any tier shall not exceed 30% of the direct costs of the change in the Work. If the markup would otherwise exceed 30%, the Contractor shall proportionately reduce the markup for the Contractor and all Subcontractors of any tier.
7. Cost of change in insurance or bond premium. This is defined as:
  - a. Contractor's liability insurance: The actual cost (expressed as a percentage submitted with the certificate of insurance provided under the Contract Documents and subject to audit) of the Contractor's liability insurance arising directly from the changed Work; and
  - b. Public works bond: The actual cost (expressed as a percentage submitted under the Contract Documents and subject to audit) of the Contractor's performance and payment bond arising directly from the changed Work.



Upon request, the Contractor shall provide the Port with supporting documentation from its insurer or surety of any associated cost incurred. The cost of the insurance or bond premium together shall not exceed 2.0% of the cost of the changed Work.

8. Unit Prices. If Unit Prices are specified in the Contract Documents or established by agreement of the parties for certain Work, the Port may apply them to the changed Work. Unit Prices shall include pre-agreed rates for material quantities and shall include reimbursement for all direct and indirect costs of the Work, including overhead, profit, bond, and insurance costs arising out of, or related to, the Unit Priced item. Quantities must be supported by field measurement statements signed by the Port, and the Port shall have access as necessary for quantity measurement. The Port shall not be responsible for not-to-exceed limit(s) without its prior written approval.

### 8.03 CHANGES IN THE CONTRACT TIME

- A. Extension of the Contract Time. If the Contractor is delayed at any time in the commencement or progress of the Work by events for which the Port is responsible, by unanticipated abnormal weather (subject to Section 8.03(E) below), or by other causes not the fault or responsibility of the Contractor that the Port determines may justify a delay in the Contract Time, then the Contract Time shall be extended by Change Order for such reasonable time as the Port may determine. In no event, however, shall the Contractor be entitled to any extension of time absent proof of: (1) delay to an activity on the critical path of the Project, or (2) delay transforming an activity to the critical path, so as to actually delay the anticipated date of Substantial Completion.
- B. Allocation of responsibility for delay not caused by Port or Contractor. If a delay was not caused by the Port, the Contractor, or anyone acting on behalf of any of them, the Contractor is entitled only to an increase in the Contract Time but not an increase in the Contract Sum.
- C. Allocation of responsibility for delay caused by Port. If a delay was caused by the Port or someone acting on behalf of the Port and affected the critical path, the Contractor shall be entitled to a change in the Contract Time and Contract Sum in accordance with Section 8.02. The Contractor shall not recover damages, an equitable adjustment, or an increase in the Contract Sum or Contract Time from the Port; however, where the Contractor could reasonably have avoided the delay. The Port is not obligated directly or indirectly for damages for any delay suffered by a Subcontractor of any tier that does not increase the Contract Time.
- D. Allocation of responsibility for delay caused by Contractor. If a delay was caused by the Contractor, a Subcontractor of any tier, or anyone acting on behalf of any of them, the Contractor is not entitled to an increase in the Contract Time or in the Contract Sum.
- E. Adverse weather. If adverse weather is identified as the basis for a claim for additional time, the claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not reasonably have been anticipated and had an adverse effect on the critical path of construction, and that the Work was on schedule (or not behind schedule through the fault of the Contractor) at the time the adverse weather conditions occurred. Neither the Contract Time nor the Contract Sum will be adjusted for normal inclement weather. For a claim based on adverse weather, the Contractor shall be eligible only for a change in the Contract Time (but not a change in the Contract Sum) if the Contractor can substantiate that there was significantly greater than normal inclement weather considering the full term of the Contract Time.

- F. Damages for delay. In the event the Contractor (including any Subcontractors of any tier) is held to be entitled to damages from the Port for delay beyond the amount permitted in Section 8.02(B), the total combined damages to the Contractor and any Subcontractors of any tier for each day of delay shall be limited to the reasonable, actual costs of the delay for which the Port is wholly responsible. The limitation on damages set forth in this Section does not apply to any damages arising exclusively from delay to which the Contractor is entitled to recover under Section 8.03(F).
- G. Limitation on damages. The Contractor shall not be entitled to damages arising out of loss of efficiency; morale, fatigue, attitude, or labor rhythm; constructive acceleration; home office overhead; expectant under run; trade stacking; reassignment of workers; rescheduling of Work, concurrent operations; dilution of supervision; learning curve; beneficial or joint occupancy; logistics; ripple; season change; extended or increased overhead or general conditions; profit upon damages for delay; impact damages including cumulative impacts; or similar damages. Any effect that such alleged costs may have upon the Contractor or its Subcontractors of any tier is fully compensated through the markup on Change Orders paid through Section 8.02(B).

#### 8.04 RESERVATION OF RIGHTS

- A. Reservations of rights void unless signed by Port. Reservations of rights will be deemed waived and are void unless any reserved rights are described in detail and are signed by the Contractor and the Port.
- B. Procedure for unsigned reservations of rights. If the Contractor adds a reservation of rights not signed by the Port to any Change Order, Unilateral Change Directive, Change Order proposal, Application for Payment, or any other document, all amounts and all Work therein shall be considered disputed and not payable until costs are re-negotiated or the reservation is withdrawn or changed in a manner satisfactory to, and signed by, the Port. If the Port makes payment based on a document that contains a reservation of rights not signed by the Port, and if the Contractor cashes such payment, then the reservation of rights shall be deemed waived, withdrawn, and of no effect.

#### 8.05 UNIT PRICES

- A. Adjustment to Unit Prices. If Unit Prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed (less than eighty percent (80%) or more than one hundred and twenty percent (120%) of the quantity estimated) so that application of a Unit Price would be substantially unfair, the applicable Unit Price but not the Contract Time, shall be adjusted if the Port prospectively approves a Change Order revising the Unit Price.
- B. Procedure to change Unit Prices. The Contractor or Port may request a Change Order revising a Unit Price by submitting information to support the change. A proposed change to a Unit Price will be evaluated by the Port based on the change in cost resulting solely from the change in quantity, any change in production rate or method as compared to the original plan, and the share, if any, of fixed expenses properly chargeable to the item. If the Port and Contractor agree on the change, a Change Order will be executed. If the parties cannot agree, the Contractor shall comply with the dispute resolution procedures (Article 11).

### **ARTICLE 9 - SUSPENSION AND TERMINATION OF CONTRACT**

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

- A. Port may suspend the Work. The Port may at any time suspend the Work, or any part thereof, by giving notice to the Contractor. The Work shall be resumed by the Contractor as soon as possible, but no later than fourteen (14) days after the date fixed in a notice to resume the Work. The Port shall reimburse the Contractor for appropriate and reasonable expenses consistent with Section 8.02 incurred by the Contractor as a result of the suspension, except where a suspension is the result of the Contractor repeatedly or materially failing to carry out or correct the Work in accordance with the Contract Documents, and the Contractor shall take all necessary steps to minimize expenses.
- B. Contractor obligations. During any suspension of Work, the Contractor shall take every precaution to prevent damage to, or deterioration of, the Work. The Contractor shall be responsible for all damage or deterioration to the Work during the period of suspension and shall, at its sole expense, correct or restore the Work to a condition acceptable to the Port prior to resuming Work.

## 9.02 TERMINATION OF CONTRACT FOR CAUSE BY THE PORT

- A. Port may terminate for cause. If the Contractor is adjudged bankrupt or makes a general assignment for the benefit of the Contractor's creditors, if a receiver is appointed due to the Contractor's insolvency, or if the Contractor, in the opinion of the Port, persistently or materially refuses or fails to supply enough properly skilled workmen or materials for proper completion of the Contract, fails to make prompt payment to Subcontractors or suppliers for material or labor, disregards laws, ordinances, or the instructions of the Port, fails to prosecute the Work continuously with promptness and diligence, or otherwise materially violates any provision of the Contract, then the Port, without prejudice to any other right or remedy, may terminate the Contractor after giving the Contractor seven (7) days' written notice (during which period the Contractor shall have the right to cure).
- B. Procedure following termination for cause. Following a termination for cause, the Port may take possession of the Project site and all materials and equipment, and utilize such materials and equipment to finish the Work. The Port may also exclude the Contractor from the Project site(s). If the Port elects to complete all or a portion of the Work, it may do so as it sees fit. The Port shall not be required to accept the lowest bid for completion of the Work and may choose to complete all or a portion of the Work using its own work force. If the Port elects to complete all or a portion of the Work, the Contractor shall not be entitled to any further payment until the Work is finished. If the expense of finishing the Work, including compensation for additional managerial and administrative services of the Port, exceeds the unpaid balance of the Contract Sum, the excess shall be paid by the Contractor.
- C. Port's remedies following termination for cause. The Port may exercise any rights, claims, or demands that the Contractor may have against third persons in connection with the Contract, and for this purpose the Contractor assigns and transfers to the Port all such rights, claims, and demands.
- D. Inadequate termination for cause converted to termination for convenience. If, after the Contractor has been terminated for cause, it is determined that inadequate "cause" for such termination exists, then the termination shall be considered a termination for convenience pursuant to Section 9.03.

## 9.03 TERMINATION OF CONTRACT FOR CONVENIENCE BY THE PORT

- A. Port may terminate for convenience. The Port may, at any time (without prejudice to any right or remedy of the Port), terminate all, or any portion of, the Contract for the Port's convenience and without cause. The Contractor shall be entitled to receive payment consistent with the Contract Documents only for Work properly executed through the date of termination, and costs necessarily incurred by reason of the termination (such as the cost of settling and paying claims arising out of the termination under subcontracts or orders), along with a fee of one percent (1%) of the Contract Sum not yet earned on the whole or part of the Work. The total amount to be paid to the Contractor shall not exceed the Contract Sum as reduced by the amount of payments otherwise made. The Port shall have title to all Work performed through the date of termination.

## 9.04 TERMINATION OF CONTRACT BY THE CONTRACTOR

- A. Contractor may terminate for cause. The Contractor may terminate the Contract if the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor or a Subcontractor of any tier, for either of the following reasons:
  - 1. Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped; or

2. An act of government, such as a declaration of national emergency, that requires all Work to be stopped.
- B. Procedure for Contractor termination. If one of the reasons described in Section 9.04A exists, the Contractor may, upon seven (7) days' written notice to the Port (during which period the Port has the opportunity to cure), terminate the Contract and recover from the Port payment for Work executed through the date of termination in accordance with the Contract Documents and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead and profit on Work executed and direct costs incurred by reason of such termination. The total recovery of the Contractor shall not exceed the unpaid balance of the Contract Sum.
- C. Contractor may stop the Work for failure of Port to pay undisputed amounts. The Contractor may stop Work under the Contract if the Port does not pay undisputed amounts due and owing to the Contractor within fifteen (15) days of the date established in the Contract Documents. If the Port fails to pay undisputed amounts, the Contractor may, upon fifteen (15) additional days' written notice to the Port, during which the Port can cure, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay, and start-up.

#### 9.05 SUBCONTRACT ASSIGNMENT UPON TERMINATION

- A. Subcontracts assigned upon termination. Each subcontract is hereby assigned by the Contractor to the Port provided that:
  1. The Port requests that the subcontract be assigned.
  2. The assignment is effective only after termination by the Port and only for those subcontracts that the Port accepts in writing.
  3. The assignment is subject to the prior rights of the surety, if any, under any bond issued in accordance with the Contract Documents.

When the Port accepts the assignment of a subcontract, the Port assumes the Contractor's rights and obligations under the subcontract, but only for events and payment obligations that arise after the date of the assignment.

### ARTICLE 10 - BONDS

#### 10.01 CONTRACTOR PERFORMANCE AND PAYMENT BONDS

- A. Contractor to furnish performance and payment bonds. Within ten (10) days following its receipt of a notice of award, and as part of the Contract Sum, the Contractor shall secure and furnish duly executed performance and payment bonds using the forms furnished by the Port. The bonds shall be executed by a surety (or sureties) reasonably acceptable to the Port, admitted and licensed in the State of Washington, registered with the Washington State Insurance Commissioner, and possessing an A.M. Best rating of "A-, FSC (6)" or better and be authorized by the U.S. Department of the Treasury. Pursuant to RCW 39.08, the bonds shall be in an amount equal to the Contract Sum, and shall be conditioned only upon the faithful performance of the Contract by the Contractor within the Contract Time and upon the payment by the Contractor of all taxes, fees, and penalties to the State of Washington and all laborers, Subcontractors, and suppliers, and others who supply provisions, equipment, or supplies for the performance of the Work covered by this Contract. The bonds shall be signed by the person or persons legally authorized to bind the Contractor.

- B. On contracts of one hundred fifty thousand dollars or less, at the option of the contractor as defined in RCW 39.10.210, the Port may, in lieu of the bond, retain ten percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue, the Employment Security Department, and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. The recovery of unpaid wages and benefits must be the first priority for any actions filed against retainage held by a state agency or authorized local government.

For contracts of one hundred fifty thousand dollars or less, the Port may accept a full payment and performance bond from an individual surety or sureties.

- C. Port may notify surety. If the Port makes or receives a claim against the Contractor, the Port may, but is not obligated to, notify the Contractor's surety of the nature and amount of the claim. If the claim relates to a possibility of a Contractor's default, the Port may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

## **ARTICLE 11 - DISPUTE RESOLUTION**

### **11.01 NOTICE OF PROTEST AND CLAIM**

- A. Dispute resolution procedure mandatory. All claims, direct or indirect, arising out of, or relating to, the Contract Documents or the breach thereof, shall be decided exclusively by the following alternative dispute resolution procedure, unless the parties mutually agree otherwise. If the Port and Contractor agree to a partnering process to assist in the resolution of disputes, the partnering process shall occur prior to, and not be in place of, the mandatory dispute resolution procedures set forth below.
- B. Notice of protest defined. Except for claims requiring notice before proceeding with the affected Work as otherwise described in the Contract Documents, the Contractor shall provide immediate oral notice of protest to the Engineer prior to performing any disputed Work and shall submit a written notice of protest to the Port within seven (7) days of the occurrence of the event giving rise to the protest that includes a clear description of the event(s). The protest shall identify any point of disagreement, those portions of the Contract Documents believed to be applicable, and an estimate of quantities and costs involved. When a protest relates to cost, the Contractor shall keep full and complete records and shall permit the Port to have access to those records at any time as requested by the Port.

- C. Claim defined. A claim is a demand by one of the parties seeking adjustment or interpretation of the Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract Documents. The term “claim” also includes all disputes and matters in question between the Port and Contractor arising out of, or relating to, the Contract Documents. Claims must be initiated in writing and include a detailed factual statement and clear description of the claim providing all necessary dates, locations, and items of Work, the date or dates on which the events occurred that give rise to the claim, the names of employees or representatives knowledgeable about the claim, the specific provisions of the Contract Documents that support the claim, any documents or oral communications that support the claim, any proposed change in the Contract Sum (showing all components and calculations) and/or Contract Time (showing cause and analysis of the resultant delay in the critical path), and all other data supporting the claim. Claims shall also be submitted with a statement certifying, under penalty of perjury, that the claim as submitted is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor’s knowledge and belief, that the claim is fully supported, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes the Port is liable. A claim shall be deemed to include all changes, direct and indirect, in cost and in time to which the Contractor and Subcontractors of any tier are entitled and may not contain reservations of rights without the Port’s written approval; any unapproved reservations of rights shall be without effect.
- D. Claim procedure. The Contractor shall submit a written claim within thirty (30) days of providing written notice of protest. The Contractor may delay submitting supporting data by an additional thirty (30) days if it notifies the Port in its claim that substantial data must be assembled. Any claim of a Subcontractor of any tier may be brought only through, and after review by and concurrence of, the Contractor.
- E. Failure to comply with notice of protest and claim requirements waives claims. Any notice of protest by the Contractor and any claim of the Contractor, whether under the Contract or otherwise, must be made pursuant to, and in strict accordance with, the applicable provisions of the Contract. Failure to properly and timely submit a notice of protest or to timely submit a claim shall waive the claim. No act, omission, or knowledge, actual or constructive, of the Port shall waive the requirement for timely written notice of protest and a timely written claim, unless the Port and the Contractor sign an explicit, unequivocal written waiver approved by the Port. The Contractor expressly acknowledges and agrees that the Contractor’s failure to timely submit required notices of protest and/or timely submit claims has a substantial impact upon, and prejudices, the Port. For the purpose of calculating time periods, an “event giving rise to a claim,” among other things, is not a Request for Information, but rather is a response that the Contractor believes would change the Contract Sum and/or Contract Time.
- F. False claims. The Contractor shall not make any fraudulent misrepresentations, concealments, errors, omissions, or inducements to the Port in the formation or performance of the Contract. If the Contractor or a Subcontractor of any tier submits a false or frivolous claim to the Port, which for purposes of this Section 11.01(F) is defined as a claim based in whole or in part on a materially incorrect fact, statement, representation, assertion, or record, the Port shall be entitled to collect from the Contractor by offset or otherwise (without prejudice to any right or remedy of the Port) any and all costs and expenses, including investigation and consultant costs, incurred by the Port in investigating, responding to, and defending against the false or frivolous claim.

- G. Compliance with lien and retainage statutes required. If a claim relates to, or is the subject of, a lien or retainage claim, the party asserting the claim may proceed in accordance with applicable law to comply with the notice and filing deadlines prior to resolution of the claim by mediation or by litigation.
- H. Performance required pending claim resolution. Pending final resolution of a claim, the Contractor shall continue to perform the Contract and maintain the Baseline Project Schedule, and the Port shall continue to make payments of undisputed amounts due in accordance with the Contract Documents.

#### 11.02 MEDIATION

- A. Claims must be subject to mediation. At any time following the Port's receipt of a written claim, the Port may require that an officer of the Contractor and the Port's designee (all with authority to settle) meet, confer, and attempt to resolve a claim. If the claim is not resolved during this meeting, the claim shall be subject to mandatory mediation as a condition precedent to the initiation of litigation. This requirement can be waived only by an explicit, written waiver signed by the Port and the Contractor.
- B. Mediation procedure. A request for mediation shall be filed in writing with the other party to the Contract, and the parties shall promptly attempt to agree upon a mediator. If the parties have not reached agreement within thirty (30) days of the request, either party may file the request with the American Arbitration Association, or such other alternative dispute resolution service to which the parties mutually agree, with a copy to the other party, and the mediation shall be administered by the American Arbitration Association (or other agreed service). The parties to the mediation shall share the mediator's fee and any filing fees equally. The mediation shall be held in Pierce County, Washington, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Unless the Port and the Contractor mutually agree in writing otherwise, all claims shall be considered at a mediation session that shall occur prior to Final Completion.

#### 11.03 LITIGATION

- A. Claims not resolved by mediation are subject to litigation. Claims not resolved through mediation shall be resolved by litigation, unless the parties mutually agree otherwise. The venue for any litigation shall be Pierce County, Washington. The Contractor may bring no litigation on claims, unless such claims have been properly raised and considered in the procedures of this Article 11. The Contractor must demonstrate in any litigation that it complied with all requirements of this Article.
- B. Litigation must be commenced promptly. All unresolved claims of the Contractor shall be waived and released, unless the Contractor has complied with the requirements of the Contract Documents, and litigation is served and filed within 180 days of the date of Substantial Completion approved in writing by the Port or termination of the Contract. The pendency of mediation (the time period between receipt by the non-requesting party of a written mediation request and the date of mediation) shall toll these deadlines until the earlier of the mediator providing written notice to the parties of impasse, or thirty (30) days after the date of the mediation session.
- C. Port not responsible for attorneys' fees. Neither the Contractor nor a Subcontractor of any tier, whether claiming under a bond or lien statute or otherwise, shall be entitled to attorneys' fees directly or indirectly from the Port (but may recover attorneys' fees from the bond or statutory retainage fund itself to the extent allowable under law).



- D. Port may join Contractor in dispute. The Port may join the Contractor as a party to any litigation or arbitration involving the alleged fault, responsibility, or breach of contract of the Contractor or Subcontractor of any tier.

## **ARTICLE 12 - MISCELLANEOUS**

### 12.01 GENERAL

- A. Rights and remedies are cumulative. The rights and remedies of the Port set forth in the Contract Documents are cumulative, and in addition to and not in limitation of, any rights and remedies otherwise available to the Port. The pursuit of any remedy by the Port shall not be construed to bar the Port from the pursuit of any other remedy in the event of similar, different, or subsequent breaches of this Contract. All such rights of the Port shall survive completion of the Project or termination of the Contractor.
- B. Reserved rights do not give rise to duty. The rights reserved or possessed by the Port to take any action shall not give rise to a duty for the Port to exercise any such right.

### 12.02 WAIVER

- A. Waiver must be in writing and authorized by Port. Waiver of any provisions of the Contract Documents must be in writing and authorized by the Port. No other waiver is valid on behalf of the Port.
- B. Inaction or delay not a waiver. No action, delay in acting, or failure to act by the Port shall constitute a waiver of any right or remedy of the Port, or constitute an approval or acquiescence of any breach or defect in the Work, nor shall any delay or failure of the Port to act waive or otherwise prejudice the right of the Port to enforce a right or remedy at any subsequent time.
- C. Claim negotiation not a waiver. The fact that the Port and the Contractor may consider, discuss, or negotiate a claim that has or may have been defective or untimely under the Contract, shall not constitute a waiver of the provisions of the Contract Documents, unless the Port and the Contractor sign an explicit, unequivocal waiver.

### 12.03 GOVERNING LAW

- A. Washington law governs. This Contract and the rights and duties of the parties hereunder shall be governed by the internal laws of the State of Washington, without regard to its conflict of law principles.

### 12.04 COMPLIANCE WITH LAW

- A. Contractor to comply with applicable laws. The Contractor shall at all times comply with all applicable Federal, State and local laws, ordinances, and regulations. This compliance shall include, but is not limited to, the payment of all applicable taxes, royalties, license fees, penalties, and duties.
- B. Contractor to provide required notices. The Contractor shall give notices required by all applicable Federal, State and local laws, ordinances, and regulations bearing on the Work.
- C. Contractor to confine operations at site to permitted areas. The Contractor shall confine operations at the Project site to areas permitted by applicable laws, ordinances, permits, rules and regulations, and lawful orders of public authorities and the Contract Documents.

### 12.05 ASSIGNMENT

- A. Assignment. The Port and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party and to the partners, successors, assigns, and legal representatives of such other party. The Contractor may not assign, transfer, or novate all or any portion of the Contract, including but not limited to, any claim or right to the Contract Sum, without the Port's prior written consent. If the Contractor attempts to make an assignment, transfer, or novation without the Port's consent, the assignment shall be of no effect, and Contractor shall nevertheless remain legally responsible for all obligations under the Contract. The Contractor also shall not assign or transfer, to any third party, any claims it may have against the Port arising under the Contract or otherwise related to the Project.

#### 12.06 TIME LIMIT ON CAUSES OF ACTION

- A. Time limit on causes of action. The Port and Contractor shall commence all causes of action, whether in contract, tort, breach of warranty, or otherwise, against the other arising out of, or related to, the Contract in accordance with the requirements of the dispute resolution procedure set forth in Article 11 of these General Conditions, within the time period specified by applicable law, and within the time limits identified in the Contract Documents. The Contractor waives all claims and causes of action not commenced in accordance with this Section 12.06.

#### 12.07 SERVICE OF NOTICE

- A. Notice. Written notice under the Contract Documents by either the Contractor or Port may be served on the other party by personal service, electronic or facsimile transmission, or delivery service to the last address provided in writing to the other party. For the purpose of measuring time, notice shall be deemed to be received by the other party on the next business day following the sender's electronic or facsimile transmittal or delivery by delivery service.

## 12.08 RECORDS

- A. Contractor and Subcontractors to maintain records and cooperate with Port audit. The Contractor and Subcontractors of any tier shall maintain books, ledgers, records, documents, estimates, bids, correspondence, logs, schedules, emails, and other tangible and electronic data and evidence relating or pertaining to costs and/or performance of the Contract (“records”) to such extent, and in such detail, as will properly reflect and fully support compliance with the Contract Documents and with all costs, charges, and other amounts of whatever nature. The Contractor shall preserve these records for a period of six (6) years following the date of Final Acceptance under the Contract. Within seven (7) days of the Port’s request, both during the Project and for six (6) years following Final Acceptance, the Contractor and Subcontractors of any tier shall make available, at their office during normal business hours, all records for inspection, audit, and reproduction (including electronic reproduction) by the Port or its representatives; failure to fully comply with this requirement shall constitute a material breach of contract and a waiver of all claims by the Contractor and Subcontractors of any tier.
- B. Rights under RCW 42.56. The Contractor agrees, on behalf of itself and Subcontractors of any tier, that any rights under Chapter 42.56 RCW will commence at Final Acceptance, and that the invocation of such rights at any time by the Contractor or a Subcontractor of any tier, or their respective representatives, shall initiate an equivalent right to disclosures from the Contractor and Subcontractors of any tier for the benefit of the Port.

## 12.09 STATUTES

- A. Contractor to comply with Washington statutes. The Contractor shall abide by the provisions of all applicable statutes, regulations, and other laws. Although a number of statutes are referenced in the Contract Documents, these references are not meant to be, and are not, a complete list.
  - 1. Pursuant to RCW 39.06, “Registration, Licensing of Contractors,” the Contractor shall be registered and licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27, “Registration of Contractors,” and shall satisfy all State of Washington bonding and insurance requirements. The Contractor shall also have a current state Unified Business Identifier number; have industrial insurance coverage for the Contractor’s employees working in Washington as required by Title 51 RCW; have an Employment Security Department number as required by Title 50 RCW; have a state excise tax registration number as required in Title 82 RCW; and not be disqualified from bidding on any public works contract under RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations).
  - 2. The Contractor shall comply with all applicable provisions of RCW 49.28, “Hours of Labor.”
  - 3. The Contractor shall comply with pertinent statutory provisions relating to public works of RCW 49.60, “Discrimination.”
  - 4. The Contractor shall comply with pertinent statutory provisions relating to public works of RCW 70.92, “Provisions in Buildings for Aged and Handicapped Persons,” and the Americans with Disabilities Act.
  - 5. Pursuant to RCW 50.24, “Contributions by Employers,” in general, and RCW 50.24.130 in particular, the Contractor shall pay contributions for wages for personal services performed under this Contract or arrange for an acceptable bond.

6. The Contractor shall comply with pertinent provisions of RCW 49.17, "Washington Industrial Safety and Health Act," and Chapter 296-155 WAC, "Safety Standards for Construction Work."
7. Pursuant to RCW 49.70, "Worker and Community Right to Know Act," and WAC 296-62-054 et seq., the Contractor shall provide to the Port, and have copies available at the Project site, a workplace survey or material safety data sheets for all "hazardous" chemicals under the control or use of Contractor or any Subcontractor of any tier.
8. All products and materials incorporated into the Project as part of the Work shall be certified as "asbestos-free" and "lead-free" by United States standards, and shall also be free of all hazardous materials or substances. At the completion of the Project, the Contractor shall submit certifications of asbestos-free and of lead-free materials certifying that all materials and products incorporated into the Work meet the requirements of this Section, and shall also certify that materials and products incorporated into the Work are free of hazardous materials and substances.

**END OF SECTION**

## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This Section includes requirements for the Contractor's insurance.

### 1.02 SUBMITTAL REQUIREMENTS

- A. Evidence of the required insurance within ten (10) days of the issued Notice of Award to the Contractor.
- B. Updated evidence of insurance as required until final completion.

### 1.03 COMMERCIAL GENERAL LIABILITY (CGL) INSURANCE

- A. The Contractor shall secure and maintain until Final Completion, at its sole cost and expense, the following insurance in carriers reasonably acceptable to the Port, licensed in the State of Washington, registered with the Washington State Insurance Commissioner, and possessing an A.M. Best rating of "A-, FSC six (6)" or better.
- B. The Port of Tacoma (Port) and the Northwest Seaport Alliance (NWSA) will be included as additional insureds for both ongoing and completed operations by endorsement to the policy using ISO Form CG 20 10 11 85 or forms CG 20 10 04 13 and CG 20 37 04 13 (or equivalent coverage endorsements). The inclusion of the Port and the NWSA as additional insureds shall not create premium liability for either the Port nor the NWSA.

Also, by endorsement to the policy, there shall be:

- 1. An express waiver of subrogation in favor of the Port;
  - 2. A cross liabilities clause; and
  - 3. An endorsement stating that the Contractor's policy is primary and not contributory with any insurance carried by the Port.
- C. If the Contractor, Supplier, or Subcontractors will perform any work requiring the use of a licensed professional, per RCW 18, the Contractor shall provide evidence to the Port of professional liability insurance in amounts not less than \$1,000,000.
  - D. This insurance shall cover all of the Contractor's operations, of whatever nature, connected in any way with the Contract, including any operations performed by the Contractor's Subcontractors of any tier. **It is the obligation of the Contractor to ensure that all Subcontractors (at whatever level) carry a similar program that provides the identified types of coverage, limits of liability, inclusion of the Port and the NWSA as additional insured(s), waiver of subrogation and cross liabilities clause.** The Port reserves the right to reject any insurance policy as to company, form, or substance. Contractor's failure to provide, or the Port's acceptance of, the Contractor's certificate of insurance does not waive the Contractor's obligation to comply with the insurance requirements of the Contract as specifically described below:
    - 1. Commercial General Liability Insurance on an Occurrence Form Basis including, but not limited to:
      - a. Bodily Injury Liability;
      - b. Property Damage Liability;
      - c. Contractual Liability;

- d. Products - Completed Operations Liability;
- e. Personal Injury Liability;

Alternatively, a Commercial General Liability (CGL) policy is acceptable if all of the above coverages are incorporated in the policy and there are no marine exclusions that will remove coverage for either vessels or work done by or above or around the water.

- 2. Comprehensive Automobile Liability including, but not limited to:
  - a. Bodily Injury Liability;
  - b. Property Damage Liability;
  - c. Personal Injury Liability;
  - d. Owned and Non-Owned Automobile Liability; and
  - e. Hired and Borrowed Automobile Liability.
- 3. Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

The policy shall include, or be endorsed to include, **property damage liability coverage** for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Vendor.

- E. Except where indicated above, the limits of all insurance required to be provided by the Contractor shall be not less than \$2,000,000 for each occurrence. If the coverage is aggregated, the coverage shall be no less than two times the per occurrence or per claim limit. However, coverage in the amounts of these minimum limits shall not be construed as to relieve the Contractor from liability in excess of such limits. Any additional insured endorsement shall NOT be limited to the amounts specified by this Contract, unless expressly waived in writing by the Port.
- F. Contractor shall certify that its operations are covered by the Washington State Worker's Compensation Fund. The Contractor shall provide its Account Number or, if self-insured, its Certificate of Qualification Number. The Contractor shall also provide evidence of Stop-Gap Employers' Liability Insurance.
- G. The Contractor shall furnish, within ten (10) days following issuance of the Notice of Award, a certificate of insurance satisfactory to the Port evidencing that insurance in the types and minimum amounts required by the Contract Documents has been secured. The Certificate of Insurance shall be signed by an authorized representative of the insurer together with a copy of the endorsement, which shows that the Port and the NWSA are named as additional insured(s).
- H. Contractor shall provide at least forty-five (45) days prior written notice to the Port of any termination or material change, or ten (10) day's-notice in the case of non-payment of premium(s).

- I. If the Contractor is required to make corrections to the Work after Final Completion, the Contractor shall obtain at its own expense, prior to the commencement of any corrective work, insurance coverage as required by the Contract Documents, which coverage shall be maintained until the corrections to the Work have been completed and accepted by the Port.

#### 1.04 BUILDER'S RISK INSURANCE

- A. Until Final Completion of the Work, the construction Work is at the risk of the Contractor and no partial payment shall constitute acceptance of the Work or relieve the Contractor of responsibility of completing the Work under the Contract.
- B. To the extent the Work provided under this Contract does not include the construction, rehabilitation or repair of any dam, road or bridge, and whenever the estimated cost of the Work is less than \$25,000,000, the Port and Contractor acknowledge that the Port will purchase, or has purchased, from a company or companies lawfully authorized and admitted to do business in Washington, property insurance written on a Builder's Risk "all-risk" (including Earthquake and Flood with applicable sub-limits) or equivalent policy form to cover the course of construction in the amount of the full insurable value thereof. This property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Port has an insurable interest in the property, whichever is later. Without further endorsement, the coverage afforded by this insurance includes the interests of the Port, the Contractor, and Subcontractors of any tier on the Project. Coverage for materials intended to be installed in the facility will be covered by the Builder's Risk policy. Losses up to the deductible amount, and payment of any deductible amount, shall be the responsibility of the Contractor. All tools and equipment not intended as part of the construction or installation (including but not limited to Contractor's equipment and tools) will NOT be covered by the policy.

To the extent the Work provided under this Contract involves any dam, roadway or bridge, the value of which exceeds \$250,000, or whenever the estimated cost of the Work is equal to or greater than \$25,000,000, Contractor will purchase from a company or companies lawfully authorized and admitted to do business in Washington, property insurance written on a Builder's Risk "all-risk" (excluding Earthquake and Flood with applicable sub-limits) or equivalent policy form to cover the course of construction in the amount of the full insurable value thereof. This Builder's Risk insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Port has an insurable interest in the property, whichever is later. Contractor shall provide evidence satisfactory to the Port confirming the coverage afforded by this insurance shall include the interests of the Port, the Contractor, and Subcontractors of any tier on the Project. Coverage for materials intended to be installed in the facility will be covered by the Builder's Risk policy purchased by the Contractor. Losses up to the deductible amount, and payment of any deductible amount, shall be the responsibility of the Contractor.

In all instances, the Contractor shall obtain property insurance for all Contractor-owned equipment and tools and, in the event of loss, payment of any deductible amount shall be the responsibility of the Contractor.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - PRODUCTS - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 PREVAILING AND OTHER REQUIRED WAGES**

- A. The Contractor shall pay (and shall ensure that all Subcontractors of any tier pay) all prevailing wages and other wages (such as Davis-Bacon Act wages) applicable to the Project.
- B. Pursuant to RCW 39.12, "Prevailing Wages on Public Works," no worker, laborer, or mechanic employed in the performance of any part of the Work shall be paid less than the "prevailing rate of wage" in effect as of the date that bids are due.
  - 1. Based on the Bid Date, the applicable effective date for prevailing wages for this Project is November 23, 2022.
- C. The State of Washington prevailing wage rates applicable for this public works Project, which is located in Pierce County, may be found at the following website address of the Department of Labor and Industries:

<https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>
- D. The schedule of the prevailing wage rates is made a part of the Contract Documents by reference as though fully set forth herein, and a printed copy of the applicable prevailing wage rates are also available for viewing at the Port Administration Building, located at 1 Sitcum Plaza, Tacoma, WA 98421 (253-383-5841). Upon request to the Procurement Department at [procurement@portoftacoma.com](mailto:procurement@portoftacoma.com), the Port will email or mail a hard copy of the applicable Journey Level prevailing wages for this Project.
- E. Questions relating to prevailing wage data should be addressed to the Industrial Statistician.
  - Mailing Address: Washington State Department of Labor and Industries  
Prevailing Wage Office  
P.O. Box 44540  
Olympia, WA 98504
  - Telephone: (360) 902-5335
  - Facsimile: (360) 902-5300
  - 1. If there is any discrepancy between the provided schedule of prevailing wage rates and the published rates applicable under WAC 296-127-011, the applicable published rates shall apply with no increase in the Contract Sum. It is the Contractor's responsibility to ensure that the correct prevailing wage rates are paid.
- F. Statement to Pay Prevailing Wages
  - 1. Prior to any payment being made by the Port under this Contract, the Contractor, and each Subcontractor of any tier, shall file a Statement of Intent to Pay Prevailing Wages with the Department of Labor and Industries for approval.
  - 2. The statement shall include the hourly wage rate to be paid to each classification of workers entitled to prevailing wages, which shall not be less than the prevailing rate of wage, and the estimated number of workers in each classification employed on the Project by the Contractor or a Subcontractor of any tier, as well as the Contractor's contractor registration number and other information required by the Department of Labor and Industries.

3. The statement, and any supplemental statements, shall be filed in accordance with the requirements of the Department of Labor and Industries. No progress payment shall be made until the Port receives such certified statement.
- G. The Contractor shall post, in a location readily visible to workers, at the Project site: (i) a copy of the Statement of Intent to Pay Prevailing Wages approved by the Industrial Statistician of the Department of Labor and Industries and (ii) the address and telephone number of the Industrial Statistician of the Department of Labor and Industries to whom a complaint or inquiry concerning prevailing wages may be directed.
- H. If a State of Washington prevailing wage rate conflicts with another applicable wage rate (such as Davis-Bacon Act wage rate) for the same labor classification, the higher of the two shall govern.
- I. Pursuant to RCW 39.12.060, if any dispute arises concerning the appropriate prevailing wage rate for work of a similar nature, and the dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the Director of the Department of Labor and Industries, and his or her decision shall be final and conclusive and binding on all parties involved in the dispute.
- J. Immediately following the end of all Work completed under this Contract, the Contractor and each Subcontractor of any tier, shall file an approved Affidavit of Wages Paid with the Department of Labor and Industries.
- K. The Contractor shall defend (at the Contractor's sole cost, with legal counsel approved by Port), indemnify, and hold the Port harmless from all liabilities, obligations, claims, demands, damages, disbursements, lawsuits, losses, fines, penalties, costs, and expenses, whether direct, indirect, including, but not limited to, attorneys' fees and consultants' fees and other costs and expenses, from any violation or alleged violation by the Contractor or any Subcontractor of any tier of RCW 39.12 ("Prevailing Wages on Public Works") or RCW Title 51 ("Industrial Insurance"), including, but not limited to, RCW 51.12.050.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

## **PART 1 - GENERAL**

### **1.01 REQUIREMENTS APPLICABLE PORT-WIDE**

- A. The Contractor shall submit, prior to the start of Work, a list of emergency contact numbers for itself and its Subcontractors, Suppliers, and manufacturer representatives. Each person on the Project site shall have a valid identification card that is tamper proof with laminated photo identification, such as one (1) of the following:
1. State-issued Driver's license (also required if driving a vehicle)
  2. Card issued by a governmental agency
  3. Passport
  4. Pacific Maritime Association card
  5. Labor organization identification card
- B. Identification cards shall be visible while on the Project site or easily displayed when requested.

### **1.02 TRANSPORTATION WORKER IDENTIFICATION CARD (TWIC) SUMMARY**

- A. TWIC is required for all personnel needing unescorted access to secure and restricted areas of Port facilities subject to 33 CFR 105, including truckers, surveyors, construction personnel, and delivery personnel. Secure areas are those areas with security measures for access control in accordance with a Coast Guard approved security plan. Restricted areas are those areas within a secure area that require increased limited access and a higher degree of security protection. New terminals under construction prior to terminal operations may not be designated secure areas. Construction on existing maritime transportation facilities and punchlist or other type of work requirements on facilities that have been certified under 33 CFR will require a TWIC.
- B. Contractors should allow for application and enrollment for the security threat assessment and issuance of TWIC when submitting a bid.

### **1.03 ESCORTING**

- A. To access restricted Port facilities, all un-credentialed individuals must be accompanied by a person who has been issued a TWIC and trained as an escort at that specific facility. Each restricted facility has their own guidelines for escorting. Having escort training at one facility does not qualify you to escort at other facilities. Prior to conducting escort services for non-TWIC personnel, the escorts are required to contact the Facility Security Officer at the gate for verification they are on the escort list and to document who is being escorted. For required documentation, upon completion of escorting, the escort is to inform the Security officer that the escort is complete. It is the Contractor's responsibility to schedule escort training with the Facility Security Officer.
- B. For more information, refer to the Port Security website at:  
<http://www.portoftacoma.com/shipping/security>
- C. For Project specific information, refer to Section 01 14 00 - Work Restrictions.

### **1.04 ELIGIBILITY FOR TWIC**

- A. Refer to the Transportation Worker Identification Credential website at: <https://www.tsa.gov/for-industry/twic> for information on eligibility and applying for TWIC.

1.05 TWIC USE AND DISPLAY

- A. Each worker granted unescorted access to secure areas of a facility or vessel must present their cards to authorized personnel, who will compare the holder to his or her photo, inspect security features on the TWIC, and evaluate the card for signs of tampering. The Coast Guard will verify TWIC's when conducting vessel and facility inspections and during spot checks using hand-held scanners, ensuring credentials are valid.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

**PART 1 - GENERAL**

1.01 SCOPE

- A. The accompanying Drawings and Specifications show and describe the location and type of Work to be performed under this project. Work is more specifically defined on the drawings listed in Section 00 01 15.
  - 1. The Work under this contract is to provide, furnish and install all labor, materials and equipment required to complete the work, installed, tested, and ready for use, and as described in these documents.
  - 2. The Pier 3 Cranes Climate Control System Upgrade consists of:
    - a. A project manager to manage the day-to-day project activities. A control drawing package with floorplan locations, controller points, bill of materials & material submittal. Procurement, installation, and low voltage wiring for each crane (one Global controller with expandable Input/Output modules with Hand, Off, Auto Switches, two Space Temperature sensors for redundancy, to be used in averaging function, one Outside Air Temperature Sensor, one Connection to Network Switch, one Monitoring of PLC enable input). For each rooftop Air Handling Unit (3) per crane will need control of Existing AHUs and (1) Return Air Temperature Sensor.
  - 3. The system will also include Design Built Programming sequence & Configuration of DDC controllers, Point to point checkout of controllers, Startup & testing new control system installed As-Built drawing package, Web based graphics package

1.02 LOCATION

- A. The work is located at:
  - Pier 3, West Sitcum Terminal
  - Tacoma, WA 98421

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 SUMMARY**

- A. This Section specifies work sequence and constraints.
- B. The purpose of the milestones, sequence and limitations of construction are to ensure that the Contractor understands the requirements and limitations on its work by the specific characteristics of the Contract, schedules and conducts work in a manner consistent with achieving these purposes, and complies with the construction schedule, the specific sequence, constraints, milestones and limitations of work specified.
- C. Sequence of construction. Plan the sequence of construction to accommodate all the requirements of the specifications. The Contract Price shall include all specified requirements as described in this Section.

### **1.02 CONTRACTOR ACCESS AND USE OF PREMISES**

- A. Activity Regulations
  - 1. Ensure Contractor personnel deployed to the project become familiar with and follow all regulations or restrictions established by the Engineer.
- B. Working Facility
  - 1. The Facility will remain in operation for the duration of construction. The Contractor shall conduct all items of the Work in such a manner as to prevent interference with the normal operations of the Facility.
  - 2. TWIC Escorting Requirements:
    - a. TWIC escort personnel are not permitted work assignments outside of observing non-TWIC workers.
    - b. TWIC escort personnel may observe a maximum of five non-TWIC workers.
    - c. All contractor personnel who are to receive escort training must coordinate to attend a single classroom date
  - 3. All work to take place from 7am-5pm, Monday - Friday
- C. Work Site Regulations
  - 1. Keep within the limits of work and assigned avenues of ingress and egress. Do not enter any areas outside the designated work location unless previously approved by the Engineer. The Contractor must comply with the following conditions:
    - a. Restore all common areas to a clean and useable condition that permits the resumption of Tenant operations after the Contractor ceases daily work.
    - b. Be responsible for control and security of Contractor-owned equipment and materials at the work site. Report to Port Security (phone (253) 383-9472) any missing/lost/stolen property.
    - c. Ensure all materials, tools and equipment will be removed from the site or secured within the designated laydown area at the end of each shift.

### **1.03 CONSTRAINTS - GENERAL**

- A. Constraints for Work at Site

1. Other:

- a. Schedule - Vessel schedule may impact crane availability and cranes may be in use. Port of Tacoma will work with Husky Terminal and schedule crane outages for the project to be on schedule but emergency situations may arise.

**PART 2 - PRODUCTS**

**PART 3 - EXECUTION**

**END OF SECTION**



## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. Procedures for preparation and submittal of applications for progress payments.

### 1.02 PAYMENT PROCEDURES

- A. Monthly pay estimates shall clearly identify the work performed for the given time period based on the approved Schedule of Values.
  - 1. At the Pre-construction meeting, the Engineer and the Contractor shall agree upon a date each month when payment applications shall be submitted.
- B. For each pay estimate the Contractor shall submit the following:
  - 1. Completed Contractor invoice and updated Schedule of Values tracking sheet as required by Division 01 or as established by the Engineer.
  - 2. Baseline Project Schedule and narrative updated as required by Section 01 32 16 of the Project Manual.
  - 3. Completed "Amounts Paid to Subcontracts and Suppliers" showing total contract amount, amount paid this estimate, total paid to date, and balance owing.
  - 4. Completed "Conditional Release and Waiver of Liens and Claims."
- C. Prior to submitting a payment application, the Contractor and Engineer shall meet each month to review the work accomplished to determine the actual quantities including labor, materials and equipment charges to be billed.
  - 1. Prior to the payment application meeting, the Contractor shall submit to the Engineer all measurement documentation as referenced in these contract documents; to include all measurement by weight, volume or field.
  - 2. For all change work being done on a force account basis, the Contractor shall submit prior to meeting with Engineer all Force Account back-up documentation as required to process the payment application where Force Account work is being billed. The Engineer and the Contractor shall review the documentation at the payment application meeting to verify quantities and review the work accomplished.
  - 3. The Contractor shall bring a copy of all documentation to the pay application meeting with the Engineer.
  - 4. The Contractor shall submit the updated baseline project schedule for review prior to submitting the payment application to ensure the payment processing is not held up due to necessary schedule revisions.
- D. Following the Engineers' review, the Contractor shall submit the agreed upon pay estimate electronically, with complete supporting documentation attached, using Adobe PDF file format to [cpinvoices@portoftacoma.com](mailto:cpinvoices@portoftacoma.com).
- E. Following the Engineers' review, the Contractor shall submit the agreed upon pay estimate electronically, with complete supporting documentation, using e-Builder®.

### 1.03 PAYMENT PRICING

- A. Pricing for the various lump sum or unit prices in the Bid Form, as further specified herein, shall include all compensation to be received by the Contractor for furnishing all tools, equipment, supplies, and manufactured articles, and for all labor, operations, and incidentals appurtenant to the items of work being described, as necessary to complete the various items of the work in accordance with the requirements of the Contract Documents.
- B. Pricing also includes all costs of compliance with the regulations of public agencies having jurisdiction, including safety and health requirements of the Occupational Safety and Health Administration of the U.S. Department of Labor (OSHA).
- C. No separate payment will be made for any item that is not specifically set forth in the Bid Form, and all costs therefore shall be included in the prices named in the Bid Form for the various appurtenant items of work.
- D. All other work not specifically mentioned in the measurement and payment sections identified below shall be considered incidental to the work performed and merged into the various unit and lump sum prices bid. Payment for work under one item will not be paid for under any other item.
- E. The Port of Tacoma reserves the right to make changes should unforeseen conditions necessitate such changes. Where work is on a unit price basis, the actual quantities occasioned by such changes shall govern the compensation.

### 1.04 LUMP SUM MEASUREMENT

- A. Lump sum measurement will be for the entire item, unit of Work, structure, or combination thereof, as specified and as indicated in the Contractor's submitted bid.
  - 1. If the Contractor requests progress payments for lump sum items, such progress payments will be made in accordance with an approved Schedule of Values. The quantity for payment for completed work shall be an estimated percentage of the lump sum amount, agreed to between the Engineer and Contractor, payable in monthly progress payments in increments proportional to the work performed in amounts as agreed between the Engineer and the Contractor.

### 1.05 MEASUREMENT OF QUANTITIES FOR UNIT PRICES

- A. Measurement Standards:
  - 1. All Work to be paid for at a contract price per unit measurement, as indicated in the Contractor's submitted bid, will be measured by the Engineer in accordance with United States Standard Measures.
- B. Measurement by Weight:
  - 1. Reinforcing steel, steel shapes, castings, miscellaneous metal, metal fabrications, and similar items to be paid for by weight shall be measured by scale or by handbook weights for the type and quantity of material actually furnished and incorporated into the Work.

2. Unless shipped by rail, material to be measured and paid for by weight shall be weighed on sealed scales regularly inspected by the Washington State Department of Agriculture's Weights and Measures Section or its designated representative. Measurement shall be furnished by and at the expense of the Contractor. All weighing, measuring, and metering devices shall be suitable for the purpose intended and shall conform to the tolerances and specifications as outlined in Washington State Department of Transportation Standard Specifications, Division 1, General Requirements, Article 1-09.2, Weighing Equipment.
  3. Provide or utilize platform scales of sufficient size and capacity to permit the entire vehicle or combination of vehicles to rest on the scale platform while being weighed. Combination vehicles may be weighed as separate units provided they are disconnected while being weighed. Scales shall be inspected and certified as often as the Engineer may deem necessary to ascertain accuracy. Costs incurred as a result of regulating, adjusting, testing, inspecting, and certifying scales shall be borne by the Contractor.
  4. A licensed weighmaster shall weigh all Contractor-furnished materials. The Engineer may be present to witness the weighing and to check and compile the daily record of such scale weights. However, in any case, the Engineer will require that the Contractor furnish weight slips and daily summary weigh sheets. In such cases, furnish a duplicate weight slip or a load slip for each vehicle weighed, and deliver the slip to the Engineer at the point of delivery of the material.
  5. If the material is shipped by rail, the certified car weights will be accepted, provided only actual weight of material will be paid for and not minimum car weights used for assessing freight tariff. Car weights will not be acceptable for material to be passed through mixing plants. Material to be measured by weight shall be weighed separately for each bid item under which it is to be paid.
  6. Trucks used to haul material being paid for by weight shall be weighed empty daily and at such additional times as the Engineer may require. Each truck shall bear a plainly legible identification mark. The Engineer may require the weight of the material be verified by weighing empty and loaded trucks on such other scales as the Engineer may designate.
- C. Measurement by Volume:
1. Measurement by volume will be by the cubic dimension indicated in the Contractor's submitted bid. Method of volume measurement will be by the unit volume in place or removed as shown on the Contract Drawings or as specified.
  2. When material is to be measured and paid for on a volume basis and it is impractical to determine the volume by the specified method of measurement, or when requested by the Contractor in writing and accepted by the Engineer in writing, the material may be weighed in accordance with the requirements specified for weight measurement. Such weights will be converted to volume measurement for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Resident Engineer and shall be agreed to by the Contractor before such method of measurement of pay quantities will be accepted.
- D. Measurement by Area: Measurement by area will be by the square dimension shown on the Contract Drawings or as specified. Method of square measurement will be as specified.
- E. Linear Measurement: Linear measurement will be by the linear dimension listed or indicated in the Contractor's submitted bid. Unless otherwise indicated, items, components, or Work to be measured on a linear basis will be measured at the centerline of the item in place.

F. Field Measurement for Payment:

1. The Contractor shall take all measurements by providing equipment, workers, and survey crews as required to measure quantities in accordance with the provisions for measurement specified herein. No allowance will be made for specified tolerances.
2. The Engineer will verify all quantities of Work performed by the Contractor on a unit-price basis, for progress payment purposes.

1.06 REJECTED, EXCESS, OR WASTED MATERIALS

- A. Quantities of material wasted or disposed of in a manner not called for under the Contract; rejected loads of material, including material rejected after it has been placed by reasons of the failure of the Contractor to conform to the provisions of the Contract; material not unloaded from the transporting vehicle; material placed outside the lines indicated on the Contract Drawings or established by the Engineer; or material remaining on hand after completion of the Work, will not be paid for, and such quantities shall not be included in the final total quantities. No additional compensation will be permitted for loading, hauling, and disposing of rejected material.

1.07 MEASUREMENT AND PAYMENT

A. Item #1: Crane 1.

1. Item Description: The Work of this item includes completion of project scope of work for crane 1.
2. Measurement: This item will be measured by [100%].
3. Payment: This item will be paid for based on actual quantities for the period being billed.

B. Item #2: Crane 2.

1. Item Description: The Work of this item includes completion of project scope of work for crane 2.
2. Measurement: This item will be measured by [100%].
3. Payment: This item will be paid for based on actual quantities for the period being billed.

C. Item #3: Crane 3.

1. Item Description: The Work of this item includes completion of project scope of work for crane 3.
2. Measurement: This item will be measured by [100%].
3. Payment: This item will be paid for based on actual quantities for the period being billed.

D. Item #4: Crane 4.

1. Item Description: The Work of this item includes completion of project scope of work for crane 4
2. Measurement: This item will be measured by [100%].
3. Payment: This item will be paid for based on actual quantities for the period being billed.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. Section includes administrative and procedural requirements for handling and processing Contract modifications.

### 1.02 SUBMITTALS

- A. The Contractor shall submit for approval the following documentation to the Port for force account change orders:
  - 1. List of Labor Rates
    - a. For the Contractor and each subcontractor, a list of labor rates for each trade applicable to the scope of work to be performed. These submitted rates shall be broken down to include the base wage, fringes, FICA, SUTA, FUTA, industrial insurance, and medical aid premiums as stated in the General Conditions. The rates shall not contain any travel time, safety, loss efficiency factors, overhead, or profit. Rates shall be submitted for straight time, overtime, and double time in a form acceptable to the Engineer. Contractor shall provide proof of all labor rate costs as required by the Engineer, including the submission of a copy of the most current Workers Compensation Rate Notice from Labor & Industries and a copy of the Unemployment Insurance Tax Rate notice from the Employment Security Department.
      - 1) If labor rates change during the course of the project or additional labor rates become required to complete the work, the Contractor shall submit new rates for approval.
  - 2. List of Equipment.
    - a. Submit for the Contractor and each subcontractor, a list of equipment and rates applicable to the scope of work to be performed. The equipment rates shall conform to the rates shown on Equipment Watch. A separate page from equipment watch detailing the hourly rate shall be submitted as backup documentation for each piece of equipment.
      - 1) If the list of equipment and/or equipment rates changes during the course of the project or additional equipment becomes required to complete the work, the Contractor shall submit a new list and rates for approval.

### 1.03 METHOD TO CALCULATE ADJUSTMENTS TO CONTRACT PRICE

- A. One of the following methods shall be used:
  - 1. Unit Price Method;
  - 2. Firm Fixed Price Method (Lump Sum); or,
  - 3. Time and Materials Method (Force Account).
- B. The Port preferred methods are firm fixed price or unit prices.

### 1.04 MINOR CHANGES IN THE WORK

- A. Engineer will issue a written directive authorizing minor changes in the Work, not involving adjustment to the Contract Sum or the Contract Time.

## 1.05 PROPOSAL REQUESTS

- A. Port-Initiated Proposal Requests: The Engineer will issue a detailed description of proposed changes in the Work that may require adjustment to the Contract Sum or Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications.
1. Work Change Proposal Requests issued by Engineer are not instructions either to stop work in progress or to execute the proposed change.
  2. Contractor shall submit a written proposal within the time specified in the General Conditions. The proposal shall represent the Contractor's offer to perform the requested work, and the pricing set forth within the proposal shall represent full, complete, and final compensation for the proposed change and any impacts to any other Contract Work, including any adjustments in the Contract Time.
    - a. Include a breakdown of the changed work in sufficient detail that permits the Engineer to substantiate the costs.
      - 1) Generally, the cost breakdown should be divided into the time and materials categories listed in the General Conditions under Article 8.02.B for either Lump Sum Proposals or Force Account Proposals.
      - 2) For Unit Price Proposals, include the quantity and description of all work involved in the unit pricing being proposed, along with a not to exceed total cost.
    - b. Include an updated Contractor's construction schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship. Use available total float before requesting an extension of the Contract Time.
- B. Contractor-Initiated Proposals: If latent or differing site conditions require modifications to the Contract, the Contractor may initiate a claim by submitting a request for a change to the Engineer.
1. Notify the Engineer immediately upon finding differing conditions prior to disturbing the site.
  2. Provide follow-up written notification and differing site conditions proposal within the time frames set forth in the General Conditions.
  3. Provide the differing site condition change proposal in the same or similar manner as described above under 1.05.A.
  4. Comply with requirements in Section 00 26 00 Substitution Procedures if the proposed change requires substitution of one product or system for product or system specified.
  5. Proposal Request Form: Use form acceptable to Engineer.

## 1.06 PROCEEDING WITH CHANGED WORK

- A. The Engineer may issue a directive instructing the Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order per the General Conditions, Article 8.01.E.
1. The directive will contain a description of change in the Work and a not-to-exceed amount. It will designate the method to be followed to determine the change in the Contract Sum or the Contract Time.

## 1.07 CHANGE ORDER PROCEDURES

- A. Issuance of Change Order

1. On approval of the Contractor's proposal, and following successful negotiations, the Engineer will issue a Change Order for signature by the Contractor and execution by the Engineer.
  - a. The Contractor shall sign and return the Change Order to the Engineer within **four (4) days** following receipt of the Change Order from the Engineer. If the Contractor fails to return the signed Change Order within the allotted time, the Engineer may issue a Unilateral Change Directive.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 SUMMARY**

- A. This section includes specifications for preparation, format, and submittal of Schedule of Values.
- B. The Schedule of Values will establish unit prices for individual items of work.
- C. The Schedule of Values will be the basis for payment of contract work.

### **1.02 PREPARATION**

- A. To facilitate monthly pay requests, develop the Schedule of Values based on the Contractor's submitted Bid Items. The Schedule of Values shall be used to provide an allocation of the Work for measurement and payment to a level of detail to ensure accurate payment for the Work accomplished. The Schedule of Values is based on unit priced bid items and a breakdown of each lump-sum bid item. The total dollars for the Schedule of Values shall total the bid amount.
- B. Obtain the agreement of the Engineer on the Schedule of Values. No payment will be made prior to an agreed upon Schedule of Values.
- C. Include an updated version of the Schedule of Values as changes occur. Update the Schedule of Values to include:
  - 1. Dollars earned and percent complete for the current progress payment period,
  - 2. Dollars earned and percent complete to-date, excluding the current progress payment period,
  - 3. Total dollars earned and percent complete to-date,
  - 4. Total dollars remaining, and
  - 5. Changes resulting from Change Orders.
- D. The total value of the line items in the Schedule of Values plus any approved Change Orders shall be equal to the current approved contract price.
- E. The value of stored material shall be identified in the Schedule of Values with both a material-purchase activity and a separate corresponding installation activity in the Construction Schedule(s).
- F. Include as exhibits, drawings or sketches as necessary, to better define the limits of pay items that are in close proximity and that have no clear boundary in the Contract Drawings.

### **1.03 SUBMITTAL**

- A. Submit preliminary Schedule of Values within 10 days of the effective date of the Notice to Proceed.
- B. Submit corrected Schedule of Values within 10 days upon receipt of reviewed Schedule of Values.
- C. At the Engineer's request, submit documentation substantiating the cost allocations for line items within the Schedule of Values.

## **PART 2 - PRODUCTS - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### 1.01 SCOPE

- A. The purpose of this section is to provide the framework for communication between the Port and the Contractor by defining the types and timing of administrative tasks, including meetings and other items related to communications.

### 1.02 NOTICE TO PROCEED

- A. Contract execution will be made per the requirements of the Contract Documents. Once the contract has been executed and all pre-work submittals have been received, the Engineer will issue a Notice to Proceed (NTP).
  - 1. In certain instances, the Engineer may issue to the Contractor a Limited NTP for specified elements of the work described in these Contract Documents.
- B. The Contractor shall submit all pre-work submittals within 14 days of contract execution.
  - 1. No contract time extension shall be granted for any delays in issuance of the NTP by the Engineer due to the Contractor's failure to provide acceptable submittals required by the Contract Documents.

### 1.03 COORDINATION

- A. The Contractor shall coordinate all its activities through the Engineer.
- B. The Contractor shall coordinate construction operations as required to execute the Work efficiently, to obtain the best results where installation of one part of the Work depends on other portions.

### 1.04 PROJECT MEETINGS

- A. Pre-Construction Meeting
  - 1. After execution of the contract, but prior to commencement of any work at the site, a mandatory one time meeting will be scheduled by the Engineer to discuss and develop a mutual understanding relative to the administration of the safety program, preparation of the Schedule of Values, change orders, RFI's, submittals, scheduling prosecution of the work. Major subcontractors who will engage in the work shall attend.
  - 2. Suggested Agenda: The agenda will include items of significance to the project.
  - 3. Location of the Pre-Construction Meeting will be held at the Port of Tacoma Administration Building located at One Sitcum Plaza.

## **PART 2 - PRODUCTS - NOT USED**

## **PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 SUMMARY**

- A. The Port and Contractor shall use the Port Contract Management application (e-Builder®) for electronic information exchange throughout the duration of the Contract, as later described.
  - 1. e-Builder® is a web-based application accessed via the web.
  - 2. The Contractor will receive up to two separate user accounts for access to e-Builder®.
  - 3. The joint use of this system is to facilitate and coordinate the electronic exchange of Requests for Information, Submittals, Change Order Proposals, Pay Applications, and project specific correspondence.

### **1.02 USER ACCESS LIMITATIONS**

- A. Contractor's access to e-Builder® is granted and controlled by the Engineer.
  - 1. The users assigned by the Contractor to use e-Builder® shall be competent and experienced with the practices commonly employed in the industry for electronically submitting requests for information, submittals, product data, shop drawings and related items as required by the contract and the methods commonly used for project correspondence transmission and filing.
  - 2. Any users assigned by the Contractor whom the Engineer determines is incapable of performing the prescribed tasks in an accurate, competent and efficient manner will be removed upon request from the Engineer. The qualifications and identity of a replacement user shall be submitted within 24 hours for consideration by the Engineer. Once accepted by the Engineer, the user account will be modified accordingly.

### **1.03 CONTRACTOR TECHNOLOGY REQUIREMENTS**

- A. The Contractor is responsible for providing and maintaining web enabled devices capable of running the desktop version of the e-Builder® website effectively.

### **1.04 CONTRACTOR SOFTWARE REQUIREMENTS**

- A. The Contractor is responsible for providing and maintaining the following:
  - 1. An office suite that is Microsoft Office 2013 compatible for generation and manipulation of correspondence.
  - 2. A program capable of editing, annotating and manipulating Adobe pdf files for inserting the Contractor's review stamp, clouding and adding notation to the files as necessary for review by the Engineer.

### **1.05 CONTRACTOR RESPONSIBILITY**

- A. Provide all the equipment, internet connections, software, personnel and expertise required to support the use of e-Builder® as described in the Contract documents.

### **1.06 PORT RESPONSIBILITY**

- A. Provide the Contractor with the following:
  - 1. All forms necessary for application to obtain permissions to access e-Builder® as described above.
  - 2. Information, basic user guides and requirements on methods for using e-Builder®.

3. Instruction for the Contractor's staff utilizing e-Builder®.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION**

**3.01 UTILIZATION OF E-BUILDER®**

- A. The Contractor shall provide required information in a timely manner that also supports the project schedule and meets the requirements of the Contract.
- B. The Contractor shall provide and maintain competent and qualified personnel to perform the various tasks required to support the work within e-Builder®.
- C. The Port will not be liable for any delays associated from the usage of e-Builder® including, but not limited to: slow response time, Port maintenance and off-line periods, connectivity problems or loss of information. Under no circumstances shall the usage of e-Builder® software be grounds for a time extension or cost adjustment to the contract.

**END OF SECTION**

## **PART 1 GENERAL**

### 1.01 SUMMARY

- A. This section includes the requirements to provide a preliminary schedule and construction progress schedule, bar chart type.

### 1.02 SUBMITTALS

- A. Within 10 days following execution of the contract, submit a baseline project schedule defining planned operations.
- B. If the baseline project schedule requires revision after review, submit revised baseline project schedule within 10 days.
- C. Within 20 days after review of baseline project schedule, submit draft of proposed complete baseline project schedule for review.
- D. Submit updated progress schedule monthly to the Engineer with each pay application as required in Section 01 20 00 Price and Payment Procedures.

### 1.03 QUALITY ASSURANCE

- A. Scheduler: Contractor's personnel or Consultant specializing in Critical Path Method (CPM) scheduling with one year's minimum experience in scheduling construction work of a complexity comparable to this Project, and having use of computer facilities capable of delivering a detailed graphic printout within 48 hours of request.

### 1.04 SCHEDULE FORMAT

- A. The baseline project schedule shall be produced using the CPM format.
- B. Listings: In chronological order according to the start date for each activity. Identify each activity with the applicable specification section number.
- C. Sheet Size: Multiples of 11 x 17 (280 x 432 mm).

## **PART 2 PRODUCTS - NOT USED**

## **PART 3 EXECUTION**

### 3.01 BASELINE SCHEDULE

- A. Prepare baseline project schedule in the form of a horizontal bar chart.
- B. The baseline project schedule shall include all the activities listed in the Schedule of Values and be directly related to items listed in the Bid Form. The Contractor is encouraged to add sufficient activities to facilitate a clear understanding of the means and methods planned for the various work items.
- C. Show complete sequence of construction by activity, with dates for beginning and completion of each element of construction and critical path. At a minimum it shall include and show the following:
  - 1. A time scale showing the elementary work items needed to complete the work;
  - 2. Estimated time durations for each activity, defined as any single identifiable work step within the project;
  - 3. A graphical network diagram showing the logical sequence of activities, their precedence relationships, and estimated float or leeway available for each;

4. The different categories of work as distinguished by crew requirements, equipment requirements, and construction materials; and
  5. The different areas of responsibility, such as distinctly separate or subcontracted work, and identifiable subdivisions of work.
- D. It shall be maintained and updated as necessary to accurately reflect past progress and the most probable future progress.
  - E. Activities shown shall include submittals, milestones, and sufficient task breakdown for major components of work.
  - F. Identify work of separate stages and other logically grouped activities.
  - G. Provide sub-schedules to define critical portions of the entire schedule.
  - H. Provide separate schedule of submittal dates for shop drawings, product data, samples, owner-furnished products, products identified, and dates reviewed submittals will be required from the Engineer. Indicate decision dates for selection of finishes.

### 3.02 PROGRESS SCHEDULE

- A. From the regularly-maintained baseline project schedule, progress schedules showing a three-week look-ahead, one-week look-back, shall be submitted and distributed at the weekly progress meetings. The progress schedule shall represent a practical plan to complete the work shown within the contract work window presented. At a minimum, the presentation, typically a Gantt-style chart, shall convey the task durations, a logical work sequence, task interdependencies, and identify important or critical constraints.
- B. Submittal and distribution of progress schedules will be understood to be the Contractor's representation that the scheduled work meets the requirements of the contract documents and that the work will be executed in the manner and sequence presented, and over the durations indicated.
- C. The scheduling, coordination, and execution of construction in accordance with the contract documents are the responsibility of the Contractor. The Contractor shall involve, coordinate, and resolve scheduling with all subcontractors, material suppliers, or others affected in development of the progress schedules.
- D. The progress schedule shall be used for coordination purposes for inspection and testing purposes as well as validation of work progress against the baseline schedule.

### 3.03 UPDATING SCHEDULE

- A. Maintain schedules to record actual start and finish dates of completed activities.
- B. Indicate progress of each activity to date of revision, with projected completion date of each activity.
- C. Identify activities modified since previous submittal, major changes in Work, and other identifiable changes.
- D. Indicate changes required to maintain Date of Substantial Completion.
- E. Submit reports required to support recommended changes.
- F. Contractor shall submit an updated progress schedule with each pay application and include a written narrative describing the overall progress of the work. The narrative shall include the following key aspects:



1. Progress in the last period.
2. Critical Path progress and schedule concerns.
3. Changes to schedule logic or sequencing of the work.

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 SUMMARY**

- A. The work includes the requirements for health and safety provisions necessary for all work at the site for this project. The work also includes compliance with all laws, regulations and ordinances with respect to safety, noise, dust, fire and police action, civil disobedience, security or traffic.
- B. Some of the work tasks may place workers in the potential position of coming into contact with regulated building materials, waste, or environmental media. Detailed information regarding the known nature and extent of refuse and regulated materials in the project area is included in Section 00 31 26 Existing Hazardous Material Information.
- C. The Contractor shall monitor site conditions for indications of identified and other potentially hazardous, dangerous, and/or regulated materials (suspicious material). Indicators of suspicious material include, but are not limited to, refuse, oily sheen or coloring on soil or water, or oily or chemical odors. If suspicious materials are encountered, the Contractor shall stop all work in that area and notify the Engineer immediately.
- D. The Contractor is alerted to the presence of odorous conditions during excavation and stockpiling of materials due to hydrogen sulfide and possibly other odorous gases. Section 00 31 26 Existing Hazardous Material Information describes odorous conditions encountered during site investigations. The Contractor shall take appropriate health and safety measures to assess concentrations of these gases, and mitigate as required. Mitigation measures shall include the use of personal protective equipment, if required.

### **1.02 SUBMITTALS**

- A. Prior to Notice to Proceed, the Contractor shall provide a site specific Health and Safety Plan (HASP), which meets all the requirements of local, state and federal laws, rules and regulations. The HASP shall address all requirements for general health and safety and shall include, but not be limited to:
  - 1. Description of work to be performed and anticipated chemical and/or physical hazards associated with the work;
  - 2. Map of the site(s) illustrating the location of the anticipated hazards and areas of control for those hazards (including containments, exclusion/work zones, and contaminant reduction/decontamination zones);
  - 3. Hazardous material inventory and safety data sheets (SDSs) for all chemicals which will be brought on site;
  - 4. Signage appropriate to warn site personnel and visitors of anticipated site hazards;
  - 5. Engineering controls/equipment to be used to protect against anticipated hazards;
  - 6. Personal protective equipment and clothing including head, foot, skin, eye, and respiratory protection;
  - 7. Procedures which will be used for:
    - a. Lockout/Tagout,
    - b. Fall protection,
  - 8. Site housekeeping procedures and personal hygiene practices;

9. Administrative controls;
10. Emergency plan including locations of and route to nearest hospital;

### 1.03 POTENTIAL PHYSICAL AND OTHER HAZARDS

- A. The Work of the Contractor is described elsewhere in these specifications. Precautions to prevent all anticipated physical and other hazards, including heavy equipment and vessels, shall be addressed in the HASP.
- B. Specific aspects of construction resulting in physical hazards anticipated for this project include, but are not limited to the following:
  1. Work over or adjacent to water, presenting hazards of falling into water, hypothermia from exposure to the elements, and drowning;
- C. Other anticipated physical hazards:
  1. Cold stress, such as that potentially caused during times when temperatures are low, winds are high, especially when precipitation occurs during these conditions;
  2. Trips and falls.

## **PART 2 - PRODUCTS**

### 2.01 SAFETY SIGNAGE

- A. The Contractor shall provide signage at strategic locations within the project site to alert jobsite workers and visitors of the remediation work, associated hazards, and required precautions.

### 2.02 PRODUCTS SPECIFIED FOR HEALTH AND SAFETY

- A. Provide the equipment and supplies necessary to support the work as described in the site-specific HASP. Equipment and supplies may include, but are not limited to:
  1. All chemicals to be used on site;
  2. A hazardous materials inventory and SDSs for the chemicals brought on site;
  3. Enclosure equipment (for dust and asbestos fiber control);
  4. Fencing and barriers;
  5. Warning signs and labels;
  6. Trenching equipment;
  7. Fire extinguishers;
  8. Equipment to support hot work;
  9. Equipment to support lockout/tagout procedures;
  10. Scaffolding and fall protection equipment;
  11. Personal protective equipment (hard hats, foot gear, skin, eye, and respiratory protection);
  12. Area and personnel exposure monitoring equipment;
  13. Demolition equipment and supplies;
  14. Decontamination equipment and supplies;
  15. First aid equipment;

16. Spill response and spill prevention equipment; and
17. Field documentation logs/supplies.

### **PART 3 - EXECUTION**

#### **3.01 WORK AREA PREPARATION**

- A. Contractor shall comply with health and safety rules, regulations, ordinances promulgated by the local, state, and federal government, the various construction permits, and other sections of the Contract Documents. Such compliance shall include, but not be specifically limited to: any and all protective devices, equipment and clothing; guards; restraints; locks; latches; switches; and other safety provisions that may be required or necessitated by state and federal safety regulations. The Contractor shall determine the specific requirements for safety provisions and shall have inspections and reports by the appropriate safety authorities to be conducted to ensure compliance with the intent of the regulations.
- B. Contractor shall inform employees, subcontractors and their employees of the potential danger in working with any potentially regulated materials, equipment, soils and groundwater at the project site.
  1. The Contractor shall not proceed with jobsite activities that might result in exposure of employees to hazardous materials, including arsenic, until the HASP is reviewed by the Engineer.
  2. In addition, the Engineer will submit a copy of the Contractor's HASP to Ecology for review. Ecology and the Engineer will review but not approve HASP.
- C. All Contractor employees expected to work at the jobsite or individuals entering the jobsite shall read the Contractor HASP before they enter the jobsite, and will sign a statement provided by the Contractor that they have read and understand the HASP. A copy of the Contractor's HASP shall be readily available at the site at all times the work is being performed.
- D. The Contractor's HASP shall be amended as needed by the CIH or CSP to include special work practices warranted by jobsite conditions actually encountered. Special practices could include provisions for decontamination of personnel and equipment, and the use of special equipment not covered in the initial plan.
- E. Contractor shall perform whatever work is necessary for safety and be solely and completely responsible for conditions of the job site, including safety of all persons (including employees of the Engineer, Engineer's Representative, and Contractor) and property during the Contract period. This requirement applies continuously and is not limited to normal working hours.
- F. The Engineer's review of the Contractor's performance does not include an opinion regarding the adequacy of, or approval of, the Contractor's safety supervisor, the site-specific HASP, safety program or safety measures taken in, on, or near the job site.
- G. Accidents causing death, injury, or damage must be reported immediately to the Engineer and the Port Security Department in person or by telephone or messenger. In addition, promptly report in writing to the Engineer all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site, giving full details and statements of witnesses.
- H. If a claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing within 24 hours after occurrence, to the Engineer, giving full details of the claim.

### 3.02 SITE SAFETY AND HEALTH OFFICER

- A. Contractor shall provide a person designated as the Site Safety and Health Officer, who is thoroughly trained in rescue procedures, has a minimum current 40-hour HAZWOPER certification (minimum), and trained to use all necessary safety equipment, air monitoring equipment, and gas detectors. The person must be available and/or present at all times while work is being performed, and conduct testing, as necessary.
- B. The Site Safety and Health Officer shall be empowered with the delegated authority to order any person or worker on the project site to follow the safety rules. Failure to observe these rules is sufficient cause for removal of the person or worker(s) from this project.
- C. The Site Safety and Health Officer is responsible for determining the extent to which any safety equipment must be utilized, depending on conditions encountered at the site.

### 3.03 GENERAL SAFETY GUIDELINES FOR HAZARDOUS GASES

- A. The generally accepted procedure to protect the worker from the effects of the dangers from hazardous gases is through the use of four safeguard measures:
  - 1. Test the atmosphere: Before entering a trench, underground vault, or any other excavation, the atmosphere shall be tested to detect any adverse environmental conditions with a gas detector instrument. Test instruments shall be properly maintained and calibrated. The test shall be conducted from top to bottom of the excavation or every four (4) feet.
  - 2. Ventilate all confined spaces: Before entry and during the entire time workers are in the confined space. Forced ventilation is the generally accepted procedure.
  - 3. Use appropriate safety equipment: All personnel shall be trained to operate the appropriate safety equipment that are to be utilized during the course of their work. It is the responsibility of the Contractor's Site Safety and Health Officer to ascertain that all safety equipment is being used when appropriate.
  - 4. Provide backup safety personnel: Prior to any personnel entering an excavation or confined space, a separate individual shall be positioned outside the space.
- B. Safety Monitoring Instrumentation: The Safety and Health Officer shall have appropriate instruments (detector[s]) to test for oxygen deficiency and for the presence of methane gas, hydrogen sulfide, and/or other known or suspected vapors and gases. The Site Safety and Health Officer shall periodically calibrate the instruments, regularly test the excavation or space areas and other work areas for safe working conditions, and ensure that appropriate safety equipment is available.

### 3.04 SUPPLEMENTAL SAFETY PROGRAM FOR GASES

- A. Supplemental to the Contractor's regular safety program, the Contractor shall develop and institute procedures to inform all workers at the site of the potential for the presence of methane and other landfill gases emanating from the natural decomposition of refuse buried at or near the job site, and the importance of safety precautions to ensure the safety of workers and the public.
- B. Recommended Precautions: In addition to conforming to safety rules and regulations of governmental authorities having jurisdiction, the Contractor shall conform to the following minimum precautionary measures:

1. Frequently monitor for all possible hazardous gases, oxygen deficiency and other known or suspected vapors and gases.
  2. Prohibit smoking in or near open excavations, exposed refuse, and in the vicinity of underground pipe laying activities. Smoking will be permitted only in those areas designated by the Site Safety and Health Officer.
  3. In the event toxic gas is present in sufficient quantities to trigger a gas detection alarm, the Contractor shall immediately evacuate all personnel from the area until determined safe by the Site Safety and Health Officer.
  4. Do not use explosives.
  5. Do not leave refuse exposed overnight, unless otherwise approved by the Engineer. Any refuse exposed during construction activities shall be covered with at least a 6-inch layer of earth, tarps, or membrane.
  6. Do not weld in trenches, enclosed areas, or over refuse unless performed in areas tested and approved by the Site Safety and Health Officer.
  7. Construction equipment used in excavation activities and/or refuse removal operations shall be equipped with vertical exhaust and spark arresters.
  8. Electric motors utilized in excavation areas and below ground shall be explosion-proof.
  9. As construction progresses, all pipe openings and valves shall be closed as soon as installed to prevent the migration of gases through the pipeline system.
- C. Suggested Measures: If not already included in the Contractor's standard safety practices, the Contractor shall add the following measures to their safety program:
1. Workers shall be cautioned on the possibility of collapsing excavations during construction operations near and in open excavations particularly in refuse-filled areas. Anyone working near the edge of deep excavations should be secured with a safety belt, harness, or limit line to preclude the possibility of falling into the opening. Refuse filling operations and compaction is quite variable and therefore may not provide the same slope stability as excavations in native soils.
  2. Any personnel working near the edge of well excavations or similar construction should wear a harness securely attached to a lanyard. The lanyard shall be made as short as possible and securely fastened to a safe object.
  3. Safe and suitable ladders that project 2 feet above the top of the trench shall be provided for all trenches over 4 feet in depth. A minimum of one ladder shall be provided for each 25 feet of open trench, and be so located that workers in the trench need not move more than 25 feet to a ladder.
  4. No worker shall be allowed to work alone in an excavation. An individual shall be positioned outside the excavation, but within eyesight of the workers in the excavation, and assist them should an emergency develop.
  5. Work upwind of an excavation where possible, unless the excavation is constantly monitored and declared safe.
  6. Workers should avoid contact with exposed refuse where possible.
  7. No excavation or drilled hole greater than 2 feet deep shall be left unattended or open overnight unless it is securely covered in a manner acceptable to the Engineer.

8. Fire extinguishers with a rating of at least A, B, and C shall be available onsite.
9. Startup and shutdown of equipment shall be avoided in areas of exposed refuse.
10. Personnel in an open excavation or in the presence of landfill gas shall be fully clothed with appropriate personal protection equipment. Workers shall immediately vacate the excavation if gases are detected therein, and shall not be permitted to re-enter the excavation unless satisfactory precautionary measures are implemented.

### 3.05 SPILL PREVENTION AND CONTROL

- A. The Contractor shall be responsible for prevention, containment and cleanup of spilling petroleum and other chemicals/hazardous materials used in the Contractor's operations. All such prevention, containment and cleanup costs shall be borne by the Contractor.
- B. The Contractor is advised that discharge of oil, fuel, other petroleum, or any chemicals/hazardous materials from equipment or facilities into state waters or onto adjacent land is not permitted under state water quality regulations.
- C. In the event of a discharge of oil, fuel or chemicals/hazardous materials into waters, or onto land with a potential for entry into waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of all spilled material and used cleanup materials.
- D. The Contractor shall, at a minimum, take the following measures regarding spill prevention, containment and cleanup:
  1. Fuel hoses, lubrication equipment, hydraulically operated equipment, oil drums and other equipment and facilities shall be inspected regularly for drips, leaks or signs of damage, and shall be maintained and stored properly to prevent spills. Proper security shall be maintained to discourage vandalism.
  2. All land-based chemical, oil and products' storage tanks shall be diked, contained and/or located so as to prevent spills from escaping into the water. Dikes and containment area surfaces shall be lined with impervious material to prevent chemicals or oil from seeping through the ground and dikes.
  3. All visible floating sheen shall be immediately contained with booms, dikes or other appropriate means and removed from the water prior to discharge into state waters. All visible spills on land shall be immediately contained using dikes, straw bales or other appropriate means and removed using sand, sawdust or other absorbent material, which shall be properly disposed of by the Contractor. Waste materials shall be temporarily stored in drums or other leak-proof containers after cleanup and during transport to disposal. Waste materials shall be disposed offsite in accordance with applicable local, state and federal regulations.
  4. In the event of any oil or product discharges into public waters, or onto land with a potential for entry into public waters, the Contractor shall immediately notify the Port Security at their listed 24-hour response number:
    - a. Port Security: 253-383-9472
- E. The Contractor shall maintain the following materials (as a minimum) at each of the project sites:
  1. Oil-absorbent booms: 100 feet;



2. Oil-absorbent pads or bulk material, adequate for coverage of 200 square feet of surface area;
3. Oil-skimming system; and
4. Oil dry-all, gloves, and plastic bags.

**END OF SECTION**

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**PART 1 - GENERAL**

1.01 SUMMARY

A. This Section discloses procedures to follow if unknown regulated materials are encountered.

1.02 NOTIFICATION AND SUSPENSION

A. In the event the Contractor detects the presence of potentially regulated materials not previously identified in this specification, the Contractor shall stop work and immediately notify the Port. Following such notification by the Contractor, the Port shall in turn notify the various governmental and regulatory agencies concerned with the presence of regulated materials, if warranted. Depending upon the type of materials identified, the Port may suspend work in the vicinity of the discovery under the provisions of General Conditions.

1. Following completion of any further testing necessary to determine the nature of the materials involved, the Port will determine how the material shall be managed. Although the actual procedures used in resuming the work shall depend upon the nature and extent of the regulated material, the following alternate methods of operation are foreseen as possible:
  - a. Contractor to resume work as before the suspension.
  - b. Contractor to move its operations to another portion of the work until measures to eliminate any hazardous conditions can be developed and approved by the appropriate regulatory agencies.
  - c. The Port to terminate or modify the Contract accordingly, for unforeseen conditions.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 PERMITS, CODES, AND REGULATIONS**

- A. The following permits/approvals have been applied for (or are on file) and incorporated into the Contract:
  - 1. State Environmental Policy Act (SEPA) Compliance
  - 2. Shoreline Management Act / Critical Areas Compliance
  - 3. Hydraulic Code Compliance
  - 4. Section 404 of CWA and Section 10 of RHA Compliance
  - 5. Section 106 of NHPA Compliance
- B. Conform with the requirements of listed permits and additional or other applicable permits, codes, and regulations as may govern the Work.
- C. Obtain and pay fees for licenses, permits, inspections, and approvals required by laws ordinances, and rules of appropriate governing or approving agencies necessary for proper completion of Work (other than those listed under item 1.01.A above and Special Inspections called for by the International Building Code).
- D. Conform with current applicable codes, regulations and standards, which is the minimum standard of quality for material and workmanship. Provide labor, materials, and equipment necessary for compliance with code requirements or interpretations, although not specifically detailed in Drawings or specifications. Be familiar with applicable codes and standards prior to bidding.
- E. Process through Engineer, request to extend, modify, revise, or renew any of the permits (listed in 1.01.A above). Furnish requests in writing and include a narrative description and adequate Drawings to clearly describe and depict proposed action. Do not contact regulatory agency with requests for permit extensions, modifications, revisions, or renewals without the prior written consent of the Engineer.

### **1.02 VARIATIONS WITH CODES, REGULATIONS AND STANDARDS**

- A. Nothing in the Drawings and specifications permits Work not conforming to codes, permits, or regulations. Promptly submit written notice to the Engineer of observed variations or discrepancies between the Contract Documents and governing codes and regulations.
- B. Appropriate modifications to the Contract Documents will be made by Change Order to incorporate changes to Work resulting from code and/or regulatory requirements. Contractor assumes responsibility for Work contrary to such requirements if Work proceeds without notice.
- C. Contractor is not relieved from complying with requirements of Contract Documents which may exceed, but not conflict with requirements of governing codes.

### **1.03 COORDINATION WITH REGULATORY AGENCIES**

- A. Coordinate Work with appropriate governing or regulating authorities and agencies.
- B. Provide advance notification to proper officials of Project schedule and schedule revisions throughout Project duration, in order to allow proper scheduling of inspection visits at proper stages of Work completion.

- C. Regulation coordination is in addition to inspections conducted by Engineer. Notify Engineer at least 48 hours in advance of scheduled inspections involving outside regulating officials, to allow Engineer to be present for inspections.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 – EXECUTION - NOT USED**

**END OF SECTION**

**PART 1 - GENERAL**

1.01 SUMMARY

- A. This section includes requirements relating to referenced standards.

1.02 QUALITY ASSURANCE

- A. For products or workmanship specified by reference to a document or documents not included in the Project Manual, also referred to as reference standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard of date of issue specified in this section, except where a specific date is established by applicable code.
- C. Should specified reference standards conflict with Contract Documents, request clarification from the Engineer before proceeding.
- D. Neither the contractual relationships, duties, or responsibilities of the parties in Contract nor those of the Engineer shall be altered by the Contract Documents by mention or inference otherwise in any reference document.

**PART 2 - PRODUCTS - NOT USED**

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

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## **PART 1 - GENERAL**

### **1.01 QUALITY CONTROL FOR COMPLIANCE:**

- A. The Contractor shall perform such detailed examination, inspection, quality control and assurance of the Work as to ensure that the Work is progressing and is being completed in strict accordance with the Contract Documents. The Contractor shall plan and lay out all Work in advance of operations so as to coordinate all Work without delay or revision. The Contractor shall be responsible for inspection of portions of the Work already performed to determine that such portions are in proper condition to receive subsequent Work. Under no conditions shall a portion of Work proceed prior to preparatory work having been satisfactorily completed. The Contractor shall ensure that the responsible Subcontractor has carefully examined all preparatory work and has notified the Contractor (who shall promptly notify the Port in writing) of any defects or imperfections in preparatory work that will, in any way, affect completion of the Work.

### **1.02 QUALITY ASSURANCE - CONTROL OF INSTALLATION**

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Engineer before proceeding.
- D. Comply with specified standards as minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Perform Work by persons qualified to produce required and specified quality.
- F. Verify that field measurements are as indicated on shop Drawings or as instructed by the manufacturer.
- G. Secure Products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, or disfigurement.

### **1.03 TOLERANCES**

- A. Monitor fabrication and installation tolerance control of Products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from Engineer before proceeding.
- C. Adjust Products to appropriate dimensions; position before securing Products in place.

### **1.04 TESTING SERVICES**

- A. Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities.
  - 1. Neither observations by an inspector retained by the Port, the presence or absence of such inspector at the site, nor inspections, tests, or approvals by others, shall relieve the Contractor from any requirement of the Contract Documents, nor is any such inspector authorized to change any term or condition of the Contract Documents.

- B. Necessary materials testing shall be performed by an independent testing laboratory during the execution of the Work and paid for by the Port of Tacoma, unless otherwise specified. Access to the area necessary to perform the testing and/or to secure the material for testing, shall be provided by the Contractor.
- C. Testing does not relieve Contractor from performing work to contract requirements.
- D. Re-testing required because of non-conformance to specified requirements will be charged to the Contractor by deducting testing charges from the Contract Sum via Change Order.
- E. Material testing for initial material approval will be performed by an independent, certified laboratory and paid for by the Contractor. These tests must be dated within six (6) months of the submittal date.
- F. Subsequent sampling and testing, required as the work progresses to ensure continual control of materials and compliance with all requirements of the Contract documents, shall be the responsibility of the Port, except as required by other sections of these Specifications.

#### 1.05 MANUFACTURER'S FIELD SERVICES

- A. When specified in individual specification sections, require material or Product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up equipment, test, and adjust and balance equipment as applicable, and to initiate instructions when necessary.
- B. Submit qualifications of observer to Engineer 30 days in advance of required observations. Observer subject to approval of Engineer.
- C. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

#### **PART 2 - PRODUCTS - NOT USED**

#### **PART 3 - EXECUTION - NOT USED**

**END OF SECTION**

## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This section includes requirements relating to the following:
  - 1. Access roads
  - 2. Parking
  - 3. Construction parking controls
  - 4. Traffic Control
  - 5. Flares and lights
  - 6. Haul routes
  - 7. Maintenance
  - 8. Removal, repair
  - 9. Mud from site vehicles

## **PART 2 - PRODUCTS**

### 2.01 SIGNS, SIGNALS, AND DEVICES

- A. Post Mounted and Wall Mounted Traffic Control and Informational Signs, as specified.
- B. Traffic Cones and Drums, Flares and Lights: As approved by local jurisdictions.
- C. Flag Person Equipment: As required by local jurisdictions.

## **PART 3 - EXECUTION**

### 3.01 PREPARATION

- A. Clear areas, provide surface and storm drainage of road, parking, area premises, and adjacent areas.

### 3.02 ACCESS TO SITE

- A. Contractor shall conduct all business through the gate assigned by the Engineer.
  - 1. The Contractor may be required to relocate entry and related work areas as required by Port Operations.
- B. Provide unimpeded access for emergency vehicles. Maintain 20 foot (6 m) width driveways with turning space between and around combustible materials.
- C. Provide and maintain access to fire hydrants free of obstructions.

### 3.03 PARKING

- A. All Contractor's employee cars and work vehicles will be parked on-site as designated by the Engineer.

### 3.04 CONSTRUCTION PARKING CONTROL

- A. Control vehicular parking to prevent interference with public traffic and parking, access by emergency vehicles, and Port operations.
- B. Prevent parking on or adjacent to access roads or in non-designated areas.

### 3.05 FLARES AND LIGHTS

- A. Use flares and lights during hours of low visibility to delineate traffic lanes and to guide traffic.

### 3.06 HAUL ROUTES

- A. Confine construction traffic to designated haul routes.
- B. Provide traffic control at critical areas of haul routes to regulate traffic, to minimize interference with public traffic.

### 3.07 MAINTENANCE

- A. Maintain traffic and parking areas in a sound condition free of excavated material, construction equipment, Products, mud, snow, and ice.
- B. Maintain existing paved areas used for construction. Promptly repair breaks, potholes, low areas, standing water, and other deficiencies, to maintain paving and drainage in original, or specified, condition.

### 3.08 REMOVAL, REPAIR

- A. Repair existing facilities damaged by use, to original condition.
- B. Repair damage caused by installation.

### 3.09 PUBLIC STREET AND ONSITE ROADWAY CLEANING

- A. The Contractor shall be responsible for preventing dirt and dust escaping from trucks and other vehicles operating on or departing the project site by sweeping, covering dusty loads, washing truck tires, and all other reasonable methods.
- B. When trucks and other equipment are operating on paved public streets and site roadways/paved surfaces, the Contractor will be required to clean said streets, roadways, and other paved surfaces at least daily, and at other times if required by the Engineer.
- C. In the event that the above requirements are violated and no action is taken by the Contractor after notification of infraction by the Engineer, the Port reserves the right to have the streets, roadways, and other paved surfaces in question cleaned by others and have the expense of the operation charged to the Contractor.

**END OF SECTION**

## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This section includes the requirements to provide product data under the applicable specification section.

### 1.02 SUBMITTALS

- A. Product Data Submittals: Submit manufacturer's standard published data. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- B. Shop Drawing Submittals: Prepared specifically for this Project; indicate utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- C. Sample Submittals: Illustrate functional and aesthetic characteristics of the product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
  - 1. For selection from standard finishes, submit samples of the full range of the manufacturer's standard colors, textures, and patterns.

## **PART 2 - PRODUCTS**

### 2.01 NEW PRODUCTS

- A. Provide new products unless specifically required or permitted by the Contract Documents.

### 2.02 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Use any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: Use a product of one of the manufacturers named and meeting specifications, no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named.

## **PART 3 - EXECUTION**

### 3.01 TRANSPORTATION AND HANDLING

- A. Coordinate schedule of product delivery to designated prepared areas in order to minimize site storage time and potential damage to stored materials.
- B. Transport and handle products in accordance with manufacturer's instructions.
- C. Transport materials in covered trucks to prevent contamination of product and littering of surrounding areas.
- D. Promptly inspect shipments to ensure that products comply with requirements, quantities are correct, and products are undamaged.
- E. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage.
- F. Arrange for the return of packing materials, such as wood pallets, where economically feasible.

### 3.02 STORAGE AND PROTECTION

- A. Designate receiving/storage areas for incoming products so that they are delivered according to installation schedule and placed convenient to work area in order to minimize waste due to excessive materials handling and misapplication.
- B. Store and protect products in accordance with manufacturers' instructions.
- C. Store with seals and labels intact and legible.
- D. Store sensitive products in weather tight, climate controlled, enclosures in an environment favorable to product.
- E. For exterior storage of fabricated products, place on sloped supports above ground.
- F. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.
- G. Prevent contact with material that may cause corrosion, discoloration, or staining.
- H. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- I. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

**END OF SECTION**

## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This section includes information on warranty, operation and maintenance manuals, and as built documentation.
- B. Prior to requesting final inspection, the Contractor shall assure itself that the project is complete in all aspects.

## **PART 2 - PRODUCTS**

## **PART 3 - EXECUTION**

### 3.01 FINAL DOCUMENTS

- A. Project As-Built Drawings
  - 1. Project As-Built Drawings shall be compiled by the Contractor and submitted to the Engineer for translation to the Record Drawings on a monthly basis.
  - 2. Drawings shall be kept current and shall be done at the time the material and equipment is installed. Annotations to the record documents shall be made with an erasable colored pencil conforming to the following color code:
    - a. Additions - Red
    - b. Deletions - Green
    - c. Comments - Blue
    - d. Dimensions - Graphite
  - 3. Project As-Built Drawings must be complete and accepted by the Engineer before Final Completion is issued.
  - 4. As-Built Drawings shall be in accordance with horizontal and vertical control as shown on the drawings.
- B. The following Certificates shall be submitted by the Contractor prior to Final Completion:

### 3.02 CLEAN-UP

- A. Definition: Except as otherwise specifically provided, "clean" (for the purpose of this Article) shall be interpreted as meaning the level of cleanliness generally provided by commercial building maintenance subcontractors using commercial quality building maintenance equipment and materials.
- B. General: Prior to completion of the work, remove from the job site all tools, surplus materials, equipment, scrap, debris, and waste. Conduct final progress cleaning as described above.
- C. Timing: Schedule final cleaning as approved by the Engineer to enable the Port to occupy a completely clean project.

**END OF SECTION**

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## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This section includes requirements relating to the following:
  - 1. Examination, preparation, and general installation procedures

## **PART 3 - EXECUTION**

### 2.01 EXAMINATION

- A. Verify that existing site conditions are acceptable for subsequent work. Start of work means acceptance of existing conditions.
- B. Examine and verify specific conditions described in individual specification sections.
- C. Take field measurements before confirming product orders or beginning fabrication, to minimize waste due to over-ordering or misfabrication.
- D. Verify that utility services are available, of the correct characteristics, and in the correct locations.

### 2.02 PREPARATION

- A. Clean substrate surfaces prior to applying next material or substance.
- B. Apply manufacturer required or recommended substrate primer, sealer, or conditioner prior to applying any new material or substance in contact or bond.

### 2.03 GENERAL INSTALLATION REQUIREMENTS

- A. Install products as specified in individual sections, in accordance with manufacturer's instructions and recommendations, and so as to avoid waste due to necessity for replacement.
- B. Make vertical elements plumb and horizontal elements level, unless otherwise indicated.
- C. Install equipment and fittings plumb and level, neatly aligned with adjacent vertical and horizontal lines, unless otherwise indicated.
- D. Make consistent texture on surfaces, with seamless transitions, unless otherwise indicated.
- E. Make neat transitions between different surfaces, maintaining texture and appearance.

### 2.04 PROTECTION OF INSTALLED WORK

- A. Protect installed work from damage by construction operations.
- B. Provide special protection where specified in individual specification sections.
- C. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.
- D. Provide protective coverings at walls, projections, jambs, sills, and soffits of openings.
- E. Protect finished floors, stairs, and other surfaces from traffic, dirt, wear, damage, or movement of heavy objects, by protecting with durable sheet materials.
- F. Remove protective coverings when no longer needed; reuse or recycle plastic coverings if possible.

### 2.05 ADJUSTING

- A. Adjust operating products and equipment to ensure smooth and unhindered operation.
-

**END OF SECTION**

## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. This section includes information for progress and final cleaning and restoration of damaged work prior to final inspection.

## **PART 2 - PRODUCTS**

### 2.01 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

## **PART 3 - EXECUTION**

### 3.01 PROGRESS CLEAN-UP

- A. The Contractor shall clean the project site and work areas daily, including common areas. Enforce requirements strictly. Dispose of materials lawfully.
  - 1. Comply with all requirements for removal of combustible waste materials and debris.
  - 2. Containerize unsanitary waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations.
    - a. Use containers intended for holding waste materials for the type of material to be stored.
  - 3. Coordinate progress cleaning for joint use areas where Contractor and other contractors are working concurrently.
- B. Site: Maintain Project site free from waste materials and debris.
- C. Work Areas: Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the work.
  - 1. Remove liquid spills promptly.
  - 2. Where dust would impair proper execution of the Work, broom-clean or vacuum the entire area, as appropriate.
- D. Installed Work: Keep installed work clean. Clean installed surfaces according to written instructions of manufacturer or fabricator of product installed, using only cleaning materials specifically recommended. If specific cleaning materials are not recommended, use cleaning materials that are not hazardous to health or property and that will not damage exposed surfaces.
- E. Concealed Spaces: Remove debris from concealed spaces before enclosing the space.
- F. Exposed Surfaces in Finished Areas: Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- G. Waste Disposal: Do not bury or burn waste materials on-site. Do not wash waste materials down sewers or into waterways. Comply with waste disposal requirements in Section \_\_\_\_\_.

- H. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration until Substantial Completion.
- I. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to ensure operability without damaging effects.
- J. Limiting Exposures: Supervise construction operations to assure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

### 3.02 FINAL CLEANING

- A. General: Perform final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.

### 3.03 REPAIR OF WORK

- A. Complete repair and restoration operations before requesting inspection for determination of Substantial Completion.
- B. Repair or remove and replace defective construction. Repairing includes replacing defective parts, refinishing damaged surface, touching up with matching materials, and properly adjusting operating equipment. Where damaged or worn items cannot be repaired or restored, provide replacements. Remove and replace operating components that cannot be repaired. Restore damaged construction and permanent facilities used during construction to specified condition.
  - 1. Touch up and otherwise repair and restore marred or exposed finishes and surfaces. Replace finishes and surfaces that already show evidence of repair or restoration.
    - a. Do not paint over "UL" and other required labels and identification, including mechanical and electrical nameplates. Remove paint applied to required labels and identification.
  - 2. Replace parts subject to operating conditions during construction that may impede operation or reduce longevity.

**END OF SECTION**

**END OF SECTION**

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## **PART 1 - GENERAL**

### 1.01 SUMMARY

- A. Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
  - 1. Substantial Completion procedures
  - 2. Final completion procedures
  - 3. Warranties
  - 4. As-Built Drawings

### 1.02 ACTION SUBMITTALS

- A. Contractor's List of Incomplete Items: Initial submittal at Substantial Completion.

### 1.03 PROJECT SUBMITTALS

- A. Submittal of Project Warranties
- B. Record Drawings
  - 1. Miscellaneous Record Submittals: See other Specification Sections for miscellaneous recordkeeping requirements and submittals in connection with various construction activities.
- C. Schedule of Maintenance Material Items: For maintenance material submittal items specified in other Sections.

### 1.04 SUBSTANTIAL COMPLETION PROCEDURES

- A. Contractor's List of Incomplete Items: Prepare and submit a list of items to be completed and corrected.
- B. Submittals Prior to Substantial Completion: Complete the following a minimum of 10 days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request:
  - 1. Certificates of Release: Obtain and submit releases from authorities having jurisdiction permitting Port unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
  - 2. Submit closeout submittals specified in individual Sections, including specific warranties, operation and maintenance manuals, workmanship bonds, maintenance service agreements, final certifications, and similar documents.
  - 3. Submit maintenance material submittals specified in individual Sections, including tools, spare parts, extra materials, and similar items, and deliver to location designated by the Contract Document or Engineer. Label with manufacturer's name and model number where applicable.
  - 4. Submit test/adjust/balance records.
  - 5. Submit changeover information related to Port's occupancy, use, operation, and maintenance.

- C. Procedures Prior to Substantial Completion: Complete the following a minimum of 10 days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request:
1. Make final changeover of permanent locks and deliver keys to Port
  2. Complete startup and testing of systems and equipment
  3. Perform preventive maintenance on equipment used prior to Substantial Completion
  4. Instruct Port's personnel in operation, adjustment, and maintenance of products, equipment, and systems
  5. Advise Port of changeover in heat and other utilities
  6. Terminate and remove temporary facilities from Project site
  7. Complete final cleaning requirements
- D. Submit a written request for inspection to determine Substantial Completion a minimum of DD days prior to the date the work will be completed and ready for final inspection and tests. On receipt of request, Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements. Engineer will prepare the Notice of Substantial Completion after inspection or will notify Contractor of items, either on the Contractor's list or additional items identified by the Engineer, that must be completed or corrected before notice will be issued.
1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
  2. Results of completed inspection will form the basis of requirements for final completion.

#### 1.05 PUNCH LIST (LIST OF INCOMPLETE ITEMS)

- A. Organization of List: Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of Construction.
1. Organize list of spaces in sequential order.
  2. Organize items applying to each space by major elements.

#### 1.06 FINAL COMPLETION PROCEDURES

- A. Submittals Prior to Final Completion: Before requesting final inspection for determining final completion, complete and submit the following:
1. Submittal of all remaining items, including as-built documents, final completion construction photographic documentation, damage or settlement surveys, surveys, and similar final record information and all other submittals defined in the Contract Documents.
  2. List of Incomplete Items: Submit copy of Engineer's Substantial Completion inspection list of items to be completed or corrected (Punch List). Copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
- B. Inspection: Submit a written request for final inspection to determine acceptance a minimum of 7 days prior to date the work will be complete and ready for final inspection and tests. On receipt of request, the Engineer will either proceed with inspection or notify contractor of unfulfilled requirements.



1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

C. Execution of all Change Orders.

#### 1.07 FINAL ACCEPTANCE PROCEDURES

A. Submittals Prior to Final Acceptance:

1. Receipt and approval of application for final payment; due within seven (7) days of receipt of Final Completion by the Engineer;
2. Contractor's signed waiver and release of claims on the Engineer provided form;
3. Contractor's submittal of list of all suppliers and subcontractors and the total amounts paid to each on the Engineer provided form; and
4. Contractor's submittal of a list of all subcontractors and suppliers requiring Affidavits of Wages paid on the Contract and certify that each of companies will submit an approved Affidavit of Wages paid to the Port within 30 days.

B. The Engineer will issue the Final Acceptance Memo upon receipt of the required submittals.

### **PART 2 - PRODUCTS**

#### 2.01 CONTRACTOR'S WARRANTY

- A. The Contractor warrants the labor, materials and equipment delivered under the contract to be free from defects in design, material, or workmanship, and against damage caused prior to final inspection. Unless otherwise specified, this warranty extends for a period of one (1) year from the date of Substantial Completion.
1. Time of Submittal: Submit written warranties on request of Engineer for designated portions of the Work where commencement of warranties other than date of Substantial Completion is indicated, or when delay in submittal of warranties might limit the Port's rights under warranty.
  2. Partial Occupancy: Submit properly executed warranties within 15 days of completion of designated portions of the Work that are completed and occupied or used by Port or Port tenants during construction.
  3. Submit Warranties to the Engineer as a submittal, as described in 01 33 00 – Submittal Procedures.
  4. Provide additional copies of each warranty in Operation and Maintenance Manuals as described in 01 78 23 – Operation and Maintenance Manuals.
- B. In the event of equipment failure, during such time or in such a location that immediate repairs are mandatory, the Contractor shall respond promptly (within 48 hours), irrespective of day of the week. If the Contractor is not available, the Port will affect repairs. The Contractor shall then reimburse the Port for parts and labor necessary to correct deficiencies as defined within the warranty clause and time.

#### 2.02 AS-BUILT DRAWINGS

- A. Project As-Built Drawings: Maintain one set of marked-up paper copies of the Contract Drawings and Shop Drawings, incorporating new and revised drawings as modifications are issued.

- B. Project As-Built Drawings shall be compiled by the Contractor and submitted to the Engineer for translation to the Record Drawings on a monthly basis.
  - 1. The Project As-Built Drawings will be submitted on paper full-sized (ANSI D) copy.
  - 2. Drawings shall be kept current and shall be done at the time the material and equipment is installed. Annotations to the record documents shall be made with an erasable colored pencil conforming to the following color code:
    - a. Additions – Red
    - b. Deletions – Green
    - c. Comments – Blue
    - d. Dimensions – Graphite
  - 3. Project As-Built Drawings must be complete and accepted by the Engineer before Final Completion is issued.
  - 4. As-Built Drawings shall be in accordance with horizontal and vertical control as shown on the drawings.

### **PART 3 – EXECUTION**

#### **3.01 MAINTENANCE OF AS-BUILT DRAWINGS**

- A. The Contractor shall maintain at the Project site, in good order for ready reference by the Engineer, one complete copy of the Contract Documents, including Addenda, Change Orders, other documents issued by the Port, a current Progress Schedule, and approved Submittals. The Contractor shall also generate and keep on site all documents and reports required by applicable permits.
- B. The Contractor's As-Built Drawings shall be updated to record all changes made during construction. The location of all existing or new underground piping, valves and utilities, and obstructions located during the Work shall be appropriately marked until the Contractor incorporates the actual field dimensions and coordinates into the as-built drawings. The as-built drawings shall be updated at least weekly and before elements of the Work are covered or hidden from view. After the completion of the Work, the as-built drawings shall be provided to the Port.

**END OF SECTION**

## **PART 1 – GENERAL**

### 1.01 SUMMARY

- A. Operation and Maintenance Manual Submittal

### 1.02 SUBMITTALS

- A. Operation and Maintenance Data:
  - 1. For equipment, or component parts of equipment put into service during construction and operated by the Port, submit completed documents within ten days after acceptance.
  - 2. Submit [ ] copy of completed documents [ ] days prior to final inspection. This copy will be reviewed and returned after final inspection, with Engineer comments. Revise content of all document sets as required prior to final submission.
  - 3. Submit [ ] sets of revised final documents in final form by Final Completion.

## **PART 2 - PRODUCTS**

### 2.01 OPERATION AND MAINTENANCE MANUALS

- A. For large equipment (such as pumps, generators, machinery), the following information (minimum of 3 printed copies, plus one electronic copy on CD) shall be furnished for all items on the Project requiring operational and/or maintenance procedures and for any additional items indicated by the Engineer. Printed information shall be organized by the Contractor into appropriately sized 3-ring binders (no larger than 3”). The binders shall be sized for material approximately 8-1/2 by 11 inches, and the material in the binders shall not protrude beyond the covers. The binder(s) shall be divided with coversheets for each major item of equipment. The cover sheets shall be typewritten to indicate the name, type of equipment, and location(s) within the Project where installed. A neatly typewritten index shall be provided. Electronic information shall be in PDF format (additional formats where specified) and shall be organized with folders with appropriate file names so information is easily accessible:
  - 1. Equipment Maintenance Summary:
    - a. Provide the following information (as applicable, indicate ‘N/A’ where an item does not apply) in Excel spreadsheet format:
      - 1) Asset Number (to be provided by the Engineer at a later date)
      - 2) Description
      - 3) Plan Sheet Number
      - 4) Parcel Number
      - 5) Vendor
      - 6) Manufacturer
      - 7) Model Year
      - 8) Serial Number
      - 9) Warranty – Start Date; Finish Date
      - 10) Required Preventative Maintenance
      - 11) Purchase Price

- 12) Make
  - 13) Model
  - 14) Fuel Used
  - 15) Capacity
2. Lubrication Information: This shall consist of the manufacturer's recommendations regarding the lubricants to be used and the lubrication schedule to be followed. Lubricants shall be described in detail, including type, recommended manufacturer, and manufacturer's specific compound to be used.
  3. Control Diagrams: Diagrams shall show internal and connection wiring and as-built wiring diagrams (where applicable).
  4. Start-up Procedures: These instructions consist of equipment manufacturer's recommendations for installation, adjustment, calibration, and troubleshooting.
  5. Operating Procedures: These instructions consist of the equipment manufacturer's recommended step-by-step procedures for starting, operating, stopping the equipment under specified modes of operation, and for long-term shut-down (moth-balling).
  6. Preventative Maintenance Procedures: These instructions consist of the equipment manufacturer's recommended steps and schedules for maintaining the equipment.
  7. Overhaul Instructions: These instructions consist of the manufacturer's directions for the disassembly, repair and reassembly of the equipment and any safety precautions that must be observed while performing the work.
  8. Parts List: This list consists of the generic title and identification number of each component part of the equipment. This list shall include weights of individual components of each item of equipment weighing over 100 pounds.
  9. Spare Parts List: This list consists of the manufacturer's recommendations of number of parts which should be stored by the Port and any special storage precautions which may be required.
  10. Exploded View: Exploded or cut views of equipment shall be provided if available as a standard item of the manufacturer's information. When exploded or cut views are not available, plan and section views shall be provided with detailed callouts.
  11. Specific Information: Where items of information not included in the above list are required, they will be provided as described in the specifications for the equipment.
  12. Complete identification, including model and serial numbers.
  13. Submittal information, as specified in Section 01 33 00 Submittal Procedures.
  14. Warranty Information: This information consists of the name, address, and telephone number of the manufacturer's representative to be contacted for warranty, parts, or service information.
  15. Provide DVDs, and audio-visual training materials utilized in the manufacturer's instruction program for the Port.
  16. All operation and maintenance information shall be comprehensive and detailed and shall contain information adequately covering all normal operation and maintenance procedures.

17. All information shall be specific for the items of equipment installed on the project. Material not directly applicable shall be removed, omitted, or clearly marked as inapplicable.
  18. If manufacturer's standard brochures and manuals are used to describe operating and maintenance procedures, such brochures and manuals shall be modified to reflect only the model or series of equipment used on this project.
  19. Extraneous material shall be crossed out neatly or otherwise annotated or eliminated. It shall be the responsibility of the Contractor to ensure that all operation and maintenance materials are obtained. Material submitted must meet the approval of the Engineer prior to project final acceptance.
- B. For small equipment and products (such as furnishings or equipment not requiring routine maintenance), the following information (minimum of 3 printed copies, plus one electronic copy on CD) shall be furnished for all items on the Project requiring operational and/or maintenance procedures and for any additional items indicated by the Engineer. Printed information shall be organized by the Contractor into appropriately sized 3-ring binders (no larger than 3"). The binders shall be sized for material approximately 8-1/2 by 11 inches, and the material in the binders shall not protrude beyond the covers. The binder(s) shall be divided with coversheets for each major item of equipment. The cover sheets shall be typewritten to indicate the name, type of equipment, and location(s) within the Project where installed. A neatly typewritten index shall be provided. Electronic information shall be in PDF format (additional formats where specified) and shall be organized with folders and appropriate file names so as to make the information easily accessible:
1. Product Summary:
    - a. Provide the following information (as applicable, indicate 'N/A' where an item does not apply) in Excel spreadsheet format:
      - 1) Asset Number (to be provided by the Engineer at a later date)
      - 2) Description
      - 3) Plan Sheet Number
      - 4) Parcel Number
      - 5) Vendor
      - 6) Manufacturer
      - 7) Model Year
      - 8) Serial Number
      - 9) Warranty – Start Date; Finish Date
      - 10) Purchase Price
      - 11) Make
      - 12) Model
    2. Operating Procedures: These instructions consist of the manufacturer's recommended step-by-step procedures for use of the product.
    3. Maintenance Procedures: These instructions consist of the equipment manufacturer's recommended steps and schedules for maintaining the product.

4. Specific Information: Where items of information not included in the above list are required, they will be provided as described in the specifications for the equipment.
5. Complete identification, including model and serial numbers.
6. Submittal information, as specified in Section 01 33 00 Submittal Procedures.
7. Warranty Information: This information consists of the name, address, and telephone number of the manufacturer's representative to be contacted for warranty, parts, or service information.
8. Provide DVDs, and audio-visual training materials utilized in the manufacturer's instruction program for the Port.
9. All operation and maintenance information shall be comprehensive and detailed and shall contain information adequately covering all normal operation and maintenance procedures.
10. All information shall be specific for the items of equipment installed on the project. Material not directly applicable shall be removed, omitted, or clearly marked as inapplicable.
11. If manufacturer's standard brochures and manuals are used to describe operating and maintenance procedures, such brochures and manuals shall be modified to reflect only the model or series of equipment used on this project.
12. Extraneous material shall be crossed out neatly or otherwise annotated or eliminated. It shall be the responsibility of the Contractor to ensure that all operation and maintenance materials are obtained. Material submitted must meet the approval of the Engineer prior to project final acceptance.

**PART 3 - EXECUTION - NOT USED**

**END OF SECTION**